

I-60 Pike Bay

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
Paul B. Double	Vice Chair
Lea De Souza Speeter	Vice Chair
Erwin Ostlund	Ex-Officio Member
Glenn Witham	Ex-Officio Member

IN THE MATTER OF THE PETITION)	<u>FINDINGS OF FACT</u>
FOR THE INCORPORATION OF THE)	<u>CONCLUSIONS OF LAW</u>
TOWN OF PIKE BAY PURSUANT TO)	<u>AND ORDER</u>
MINNESOTA STATUTES 414)	<u>AND MEMORANDUM OPINION</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on May 25, 1995 in the Town Hall of the Town of Pike Bay, Minnesota and was continued to August 17, 1995. The hearing was conducted by Lea De Souza Speeter, Vice Chair, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Robert J. Ferderer, Chair; Paul B. Double, Vice Chair; and County Commissioners Glenn Witham and Erwin Ostlund, Ex-Officio Members of the Board. The petitioners appeared by and through Kenneth J. Johnson, Chair of the Pike Bay Town Board; the City of Cass Lake appeared by and through Rebecca Anderson, Attorney at Law. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On March 27, 1995, a copy of a petition for incorporation by the Pike Bay Town Board was filed with the Minnesota Municipal Board. The petition contained all of the information required by statute, including a description of the territory for incorporation, which is as follows:

The property proposed for incorporation is all of the Town of Pike Bay, Cass County, Minnesota.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.

3. The area subject to incorporation, hereinafter referred to as "Town," is unincorporated, and approximately 14,045 acres in size. The Town encircles the City of Cass Lake, hereinafter referred to as "City." The Town abuts the Towns of Frohn, Ten Lakes, Farden, Hart Lake, and Wilkinson.

4. The Town had a 1990 population of approximately 1,420; a population estimate of approximately 1,501 in 1994; and had approximately, 476 households in 1990.

The city had a 1990 population of approximately 923; a population estimate of approximately 907 in 1994; and had approximately 365 households in 1990.

5. Waterways in or adjacent to the Town include Pike Bay, Cass lake, Little Wolf Lake and others as classified by the Department of Natural Resources.

6. Soils & terrain in the Town include water masses, forest, agricultural lands, somewhat poorly drained soils formed

in sandy deposits on outwash plains, stream terraces, and glacial lake basins. The surface layer is dark brown loamy sand about 7 inches deep. The subsurface layer is brown mottled loamy sand 2 inches thick. The subsoil is dark brown mottled loamy sand in upper 9 inches and reddish brown and brown sand in lower 13 inches. The substratum is brown sand. Slopes range from 0 to 3 percent.

7. The Town has approximately 4,248 acres in residential use, approximately 467 acres in commercial use, approximately 3,171 acres in agricultural/forestry use, and approximately 6,157 acres in public use. The majority of the current and anticipated commercial and residential development is or will be adjacent to the City.

Approximately 70.5% of the acreage in the Town is agricultural, woodlands, seasonal recreational or tax exempt.

8. Transportation serving the Town includes State Highway 371, U.S. Highway 2, county and township roads, and the Burlington Northern Railway. The Town has approximately 6.66 to 8.1 miles of township roads. No immediate transportation changes were indicated.

9. The Town has a comprehensive plan, dated June, 1995.

The City has a comprehensive plan in progress with a related zoning ordinance and land use plan. The City presently controls development through several ordinances, including a foundation ordinance, plumbing code, building permit, and

lakeshore ordinance. The City has also designated or reserved approximately 20 acres for commercial and industrial development.

10. There have been no official positions adopted by area planning authorities on the proposed incorporation.

11. The Town has adopted the Cass County, hereinafter referred to as "County," subdivision regulations, official map, shoreland ordinance and sanitation ordinance by reference.

12. The Town provides to its residents: fire protection through a contract with the City, road maintenance, and administrative services.

The Town has a police car, and two part-time police officers from May to November. The officers are on call during the rest of the year.

13. The City presently provides some areas of the Town with city sewer and water (hospital, housing development, school, ballfields, stores, motel). Public water is provided to approximately 26.4% of the residential units and public sewer to approximately 20.5% of the residential units. The City provides salting and sanding of some roads during the winter, through a contract with the Town, fire protection through a contract with the Town, police protection to Teal's Super Value grocery store, and police backup service to the Cass County Sheriff's Department for calls in the Town. Recreational facilities in the City are shared with Town residents.

14. Properties within the Town have individual sewage

systems and wells. The Town is consulting but has no immediate plans to provide sewer or water. The City wastewater treatment facility has capacity to serve land adjacent to the City.

15. Fiscal Data for the Town:

Net Tax Capacity - approximately \$621,433
Local tax rate - 10.640
County tax rate - 39.061
School District tax rate - 72.231
Region V Special Taxing District - 0.139

Fiscal Data for the City:

Local tax rate - 56.311
County tax rate - 39.061
School District tax rate - 67.815
Region V Special Taxing District - 0.169

16. Approximately 50% of the properties in the Town are tax exempt.

17. The Town and the City are in the same School District. The incorporation or denial of the proposed incorporation of the Town would not have any direct impact on the School District.

18. The Town presently surrounds the City. If approved, the City of Pike bay would surround the City of Cass Lake.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. Incorporation is not in the best interests of the Town of Pike Bay or the City of Cass Lake.

3. Municipal government through incorporation of the Town of Pike Bay is not presently required to protect the public health, safety, and welfare in Cass Lake.

4. The Town of Pike Bay has portions of land that are presently urban or suburban or about to become so that are adjacent to a municipality that is providing or is capable of providing additional necessary services to those portions of the Town.

5. The best interests of the area will not be furthered by incorporation.

6. The Minnesota Municipal Board should issue an order denying the petition for incorporation.

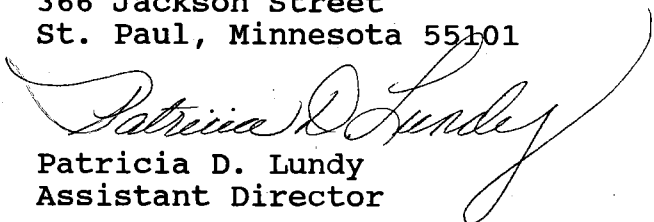
O R D E R

1. IT IS HEREBY ORDERED: That the petition for incorporation described in Findings of Fact 1 herein, is denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is December 12, 1995.

Dated this 12th day of December, 1995.

MINNESOTA MUNICIPAL BOARD
Suite 475, McColl Building
366 Jackson Street
St. Paul, Minnesota 55101


Patricia D. Lundy
Assistant Director

I-60 Pike Bay

M E M O R A N D U M

The Board finds that based on the record and the factors that must be considered under Minnesota Statutes 414.02, Subd. 3, there is no compelling reason or justification to incorporate the Town of Pike Bay, nor would it be in the best interests of the area.

Both entities agree they have challenges ahead in meeting the needs of their citizens. If the incorporation were approved, it would result in placing two cities, one surrounding the other, in competition with one another. There would be potential for duplication of services and higher costs.

Instead, the Board strongly urges the town and the city to sit down and plan for their future together. The parties have the opportunity to study and craft a joint agreement for orderly annexation which could result in less cost and long-term benefit to all.

The Board encourages the parties to begin planning and cooperating as soon as possible for the best interests of the entire community and its citizens.

12/12/95
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IN THE MATTER OF THE PETITION)
FOR THE INCORPORATION OF THE)
TOWN OF PIKE BAY PURSUANT TO)
MINNESOTA STATUTES 414)

ADDENDUM TO MEMORANDUM
BY CO-VICE CHAIR, PAUL DOUBLE

RE: Minnesota Municipal Board Hearing of October 4, 1995
City of Cass Lake, Township of Pike Bay Incorporation Hearing

It is important that the dialogue regarding the incorporation petition of the Township of Pike Bay be made a part of the record so as to provide a foundation for the future of similar requests as well as to show the need for an additional option to deal with potential conflicts between a city and a township seeking incorporation as a protection from annexation. While the final vote was unanimous in rejecting the incorporation petition, it is believed by board members that the Minnesota Municipal Board decision is short term unless the government units themselves commence active dialogue regarding their futures and the best solutions for their community as a whole rather than the individual, political subdivisions.

The option put forth by this writer was based on the theory that the Township of Pike Bay is by their own public vote an urban township. In accordance with the 414 Statutes, they now have no recourse to annexation on demand from the City of Cass Lake. I believe the board could anticipate that annexation without consensus of both the Township of Pike Bay and City of Cass Lake will result in litigation. The tax base for the township will continue to deteriorate with annexation. Annexation activity is dependent on the makeup of the City Council of the City of Cass

Lake and their respective attitude can and will create the atmosphere of either community resolution or conflict. The responsibility and commitment to resolve this rests in their hands inasmuch as the 414 Statute clearly provides initiating authority as a city power with little actual legal recourse for the township to maintain their existing geographic boundaries. The incorporation of the Township of Pike Bay was the only current means available to them to protect their political subdivision from annexation.

The alternative proposal put forth during the discussions was that the Township of Pike Bay would be incorporated as the City of Pike Bay thus putting this political entity on a parity with the City of Cass Lake. As such, both the parties could then be directed by the Minnesota Municipal Board order under Statute 414.041 to consolidate for a long term solution process as equal players thus providing a neutral ground for constructive dialogue as both entities have much to gain or lose. The two year process to develop a comprehensive plan and then place it before the people places the long term future in the hands of the affected public. It is unfortunate the statute today does not allow a town and city to merge except through the often hostile annexation process. Incorporation first is the only vehicle available in statute for the board to implement merger dialogue to combine two government units in a process as equal players and to expand their vision of the community.

While the preceding process was not approved, it is believed that the City of Cass Lake now has an awesome responsibility to heal the wounds, provide the forum, promote the well being and to encourage improved relations with the Township of Pike Bay. The decision made at this hearing will only be the right decision if the leaders of Cass Lake accept the challenge and aggressively provide the arena for cooperation, understanding the need to remove from the process the fear of a neighbor who at their beck and call may annex the lands of another entity regardless of the desire of the people affected or others who may be indirectly impacted. It is hoped that both parties understand their responsibility so that the Municipal Board is not required to address again their failure to have good communications and constructive dialogue with their best neighbor.

Paul B. Double, Vice Chair