A-1985 Stillwater
(Pine Tree Meadows)

BEFORE THE MUNICIPAL COMMISSION

OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Robert J. Ford	Vice Chairman
Harold J. Dahl	Member
Idor A. Pederson	Ex-Officio Member
Don L. Cafferty	Ex-Officio Member

IN THE MATTER OF THE PETITION) TO ANNEX CERTAIN LAND TO THE) CITY OF STILLWATER A-1985)	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

THIS PROCEEDING under Minnesota Statutes Chapter 414, as amended, for annexation to the City of Stillwater of certain property located in the Township of Stillwater, Washington County, Minnesota, more particularly described herein, came on for hearing before the Minnesota Municipal Commission in the City of Stillwater in the County Office Building on the 9th day of September, 1971 at 10:00 A. M. Robert W. Johnson, Chairman of the Minnesota Municipal Commission, presided at the hearing. In attendance were Commissioners Robert J. Ford, Idor A. Pederson, County Commissioner, and Don L. Cafferty, County Commissioner, as Ex-Officio Members.

Said Petition had been received by the Minnesota Municipal Commission on April 7, 1971 and objections to said annexation were received from the Township on May 18, 1971. The petitioner was represented by the City Attorney for the City of Stillwater, Harold D. Kimmel, and the Township was represented by James D. Gibbs. Continued hearings were called through due notice to all parties, and on September 21, 1971 a motion to intervene in said proceedings was received from Minnesota Public Interest Research Group and was granted by the Commission on that date.

On December 10, 1971 a motion was made by the petitioner to receive a petition to expand said proceeding to include additional property, a petition for inclusion of the same having been submitted by the property owner Paul D. Emerson, and consent of the original petitioner having also been filed. Said motion was granted by the commission on that date.

On March 21, 1972 a combined hearing in this proceeding was held with Proceeding No. A-2056, at which time said proceedings were consolidated for the purposes of taking testimony, and at said proceeding the Commission, upon due notice to all parties concerned, made its Order expanding the hearing to include in the proceeding consideration of the possibility of annexation of property located in Stillwater Township lying south of Minnesota State Trunk Highway No. 96. Thereafter continued hearings were called on said consolidated proceeding through due notice from time to time.

The Commission, having considered the testimony of witnesses, the exhibits received in evidence, and all of the evidence, the files and records herein, and being fully advised in the premises, makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Due, timely and adequate legal notice of the hearing ordered by the Minnesota Municipal Commission was served and filed.

2. Due, timely and adequate objection to the proposed annexation of the property herein described was filed by the Town of Stillwater, Washington County, Minnesota, by its Town Board.

3. The area proposed for annexation is hereafter fully described and is located adjacent to and abuts the corporate limits of the City of Stillwater, County of Washington, Minnesota.

4. That all of the property owners in the area proposed for annexation have joined in or consented to the proposed annexation.

5. That the City of Stillwater, according to the 1970 United States Census, had a population of 10,191; that the property included in the original annexation proceeding at the time of the initial hearing on this proceeding, hereafter referred to as the Wild Pines property, had a population of 5; that the property owned by Paul D. Emerson, hereafter referred to as the Emerson property, proposed to be included in this proceeding had a population of 7; that the Wild Pines property, if developed in accordance with the proposed plans for the same submitted in this proceeding, would have a projected population of 525 people;

that no projection or specific plans for the development of the Emerson property were available or had been made.

6. That the present zoning of both the Wild Pines property and the Emerson property are for single family residential development, and the pattern of development of property located within the City of Stillwater adjacent to the same is consistent with that zoning, and such development is consistent with comprehensive plans for the development of the property developed by the Metropolitan Council; that the ultimate zoning control of said property is presently under the jurisdiction of Washington County, and that the Town of Stillwater has zoning, housing, building codes and sub-division regulations; that adequate ordinances covering the same subjects are in existence and would be operable within the limits of the City of Stillwater.

7. That each of said properties are within the watershed of Long Lake, a portion of which lake is located within the City of Stillwater and a portion of which is located within the Town of Stillwater; that the natural drainage of a portion of the Wild Pines property is into a ponding area located on the Emerson property, and annexation of the Emerson property to the City of Stillwater would facilitate dealing with the problems of storm water drainage in the Long Lake watershed.

8. That municipal services of the City of Stillwater or proposed improvements, including water, sewer, fire and police protection street improvements and maintenance, and recreation facilities, are adequate to provide such services to the Wild Pines and Emerson properties, although detailed plans for service to the Emerson property as to sewers have not been developed.

9. That the 1971 assessed valuation of the City of Stillwater was $5,315,660.00 and the municipal mill rate for the City of Stillwater for that year was 120.23; that the assessed valuation of the Wild Pines property is $ 1695.00 and the assessed valuation of the Emerson property is $ 1648.00; That the 1971 mill rate for the Town of Stillwater was 29.22; that the bonded indebtedness of the City of Stillwater for the year 1971 of all types was $4,550,000.00.

10. That the proposed annexation of the Wild Pines property and the development of the same can be adequately provided for by School District 834, the school district within which all of said property is located.

11. That since no projected development of the Emerson property has been proposed, the effect of its development upon school development can not be projected at the present time.

12. That the annexation of both of said parcels will not place a hardship upon the Town of Stillwater relative to its ability to continue to carry on its functions of government.

13. That it is to the best interests of the annexing municipality and all of the property proposed for annexation that said property be annexed to the City of Stillwater in that the needed government services can best be provided through annexation, and that even though plans for development of the Emerson property are not presently available, annexation to the City of Stillwater would be desirable in that the property is about to become urban in character.

14. That expansion of the annexation to include the Emerson property is desirable in order to improve the symmetry of the area proposed for annexation and to include within said municipality the control of the County Road included with or adjacent to the property proposed for annexation.

15. That the areas proposed for annexation are described as follows:

Wildpines property:

> All that part of the N½ of NW¼ of Section 32, Township 30 North, Range 20 West described as follows: Commencing at a point on the South line of said North Half of the NW¼ of said Section 32 where said line intersects the west line of the County Road No. 5, also known as Olive Street cut-off road; thence proceeding northeasterly along said west line of said road a distance of 360 feet to the point of beginning of the tract to be described; thence northwesterly at right angles to the west line of said road for a distance of 215 feet; thence Northeasterly on a line parallel to the West line of said road for a distance of 240 feet; thence Southeasterly on a line at right angles to the last mentioned line for a distance of 215 feet more or less to the West line of said road; thence Southwesterly along the west line of said road 240 feet more or less to the point of beginning.
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> SE¼ of NE¼ of Sec. 31, and all that part of the S½ of NW¼ of Sec. 32, described as follows, viz: Beginning at a point where

the South line of the S½ of NW¼ of Sec. 32 intersects the center line of the Stillwater & St. Paul road, and running thence Northeasterly along the center line of said road to a point Two rods North of said South line of the S½ of NW¼ of said Sec. 32; thence Westerly parallel with and two rods distant Northerly from said South line 22 Rods to a point; thence Northeasterly on a line parallel with the center line of said road to the North line of the S½ of NW¼ of said Sec. 32; thence Westerly on said North line to the Northwest corner of said S½ of NW¼ of said Sec. 32; thence Southerly on the West line of said S½ of NW¼ of said Sec. 32 to the Southwest corner thereof; thence Easterly on the South line of said S½ of NW¼ of said Sec. 32 to the place of beginning, all of said lands being in Tp. 30, Rge. 20 West; excepting therefrom the North 208.7 feet of the South 241.7 feet of the East 196.4 feet of the NE¼ of Sec. 31; and the North 208.7 feet of the South 241.7 feet of the West 221 feet of the NW¼ of Sec. 32, Tp. 30, Rge. 20.

Emerson property:

All that part of the South Half of the Northwest Quarter (S½ of NW¼) of Section Thirty-two (32), Township Thirty (30) North, Range Twenty (20) West, described as follows:

Beginning at a point where the S½ of the NW¼ of Section 32 intersects the center line of the Stillwater and St. Paul road; running thence Northeasterly along the center line of said road to a point two (2) rods North of said South line of the South ½ of the Northwest ¼ of said Section 32; thence Westerly parallel with and 2 rods distant northerly from said South line twenty-two (22) rods to a point; thence Northeasterly on a line parallel with the center line of said road to the North line of the South ½ of the Northwest ¼ of said Section 32; thence Westerly on said North line to the Northwest corner of said Section; thence Easterly on said North line to the Northeast corner of the South ½ of the Northwest ¼ of Section 32; thence Southerly on the East line of said South ½ of the Northwest ¼ of Section 32 to the Southeast corner thereof; thence Easterly on the South line of said South ½ of the Northwest ¼ of said Section 32 to the place of beginning.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission duly acquired and now has jurisdiction on this annexation proceeding.

2. The area proposed for annexation is so conditioned and so located as to be properly subject to the municipal government of the City of Stillwater, Washington County, Minnesota.

3. There is no need for the continuance of any township government within the area proposed for annexation.

4. The City of Stillwater, Washington County, Minnesota, is capable and is best situated to provide the governmental services presently needed and those services which will become necessary in the future in the area proposed for annexation.

5. The proposed annexation to the City of Stillwater, Washington County, Minnesota will not materially affect the capability of the Township of Stillwater to continue its normal operation.

6. The annexation of the area to the City of Stillwater, Washington County, Minnesota would be in the best interests of the area affected.

7. An Order should be issued by the Minnesota Municipal Commission annexing to the City of Stillwater the real estate located in Washington County, Minnesota and described herein.

ORDER

IT IS HEREBY ORDERED: That the real estate situated in the County of Washington, State of Minnesota, described as follows be and the same is hereby annexed to the City of Stillwater, Minnesota, the same as if it had been originally made a part thereof:

> All that part of the N½ of NW¼ of Section 32, Township 30 North, Range 20 West described as follows: Commencing at a point on the South line of said North Half of the NW¼ of said Section 32 where said line intersects the west line of the County Road No. 5, also known as Olive Street cut-off road; thence proceeding northeasterly along said west line of said road a distance of 360 feet to the point of beginning of the tract to be described; thence northwesterly at right angles to the west line of said road for a distance of 215 feet; thence Northeasterly on a line parallel to the West line of said road for a distance of 240 feet; thence Southeasterly on a line at right angles to the last mentioned line for a distance of 215 feet more or less to the West line of said road; thence Southwesterly along the west line of said road 240 feet more or less to the point of beginning.
>
> SE¼ of NE¼ of Sec. 31, and all that part of the S½ of NW¼ of Sec. 32, described as follows, viz: Beginning at a point where the South line of the S½ of NW¼ of Sec. 32 intersects the center line of the Stillwater & St Paul road, and running thence Northeasterly along the center line of said road to a point Two rods North of said South line of the S½ of NW¼ of said Sec. 32; thence Westerly parallel with and two rods distant Northerly from said South line 22 rods to a point; thence Northesterly on a line parallel with the center line of said road to the North line of the S½ of NW¼ of said Sec. 32; thence Westerly on said North line

to the Northwest corner of said S½ of NW¼ of said Sec. 32; thence Southerly on the West line of said S½ of NW¼ of said Sec. 32 to the Southwest corner thereof; thence Easterly on the South line of said S½ of NW¼ of said Sec. 32 to the place of beginning, all of said lands being in Tp. 30, Rge. 20 West; excepting therefrom the North 208.7 feet of the South 241.7 feet of the East 196.4 feet of the NE¼ of Sec. 31; and the North 208.7 feet of the South 241.7 feet of the West 221 feet of the NW¼ of Sec. 32, Tp. 30, Rge. 20.

- and -

All that part of the South Half of the Northwest Quarter (S½ of NW¼) of Section Thirty-two (32), Township Thirty (30) North, Range Twenty (20) West, described as follows:

Beginning at a point where the S½ of the NW¼ of Section 32 intersects the center line of the Stillwater and St. Paul road; running thence Northeasterly along the center line of said road to a point two (2) rods North of said South line of the South ½ of the Northwest ¼ of said Section 32; thence Westerly parallel with and 2 rods distant Northerly from said South line twenty-two (22) rods to a point; thence Northeasterly on a line parallel with the center line of said road to the North line of the South ½ of the Northwest ¼ of said Section 32; thence Westerly on said North line to the Northwest corner of said Section; thence Easterly on said North line to the Northeast corner of the South ½ of the Northwest ¼ of Section 32; thence Southerly on the East line of said South ½ of the Northwest ¼ of Section 32 to the Southeast corner thereof; thence Easterly on the South line of said South ½ of the Northwest ¼ of said Section 32 to the place of beginning.

IT IS FURTHER ORDERED: That until the next state or federal census the population of Stillwater shall be increased to 10,203 for all purposes.

IT IS FURTHER ORDERED: That all other assets and obligations of the Town of Stillwater shall remain the property and responsibility of the Township.

Dated this 30th day of October, 1972

MINNESOTA MUNICIPAL COMMISSION
304 Capitol Square Building
St. Paul, Minnesota 55101

Howard L. Kaibel, Jr.
Executive Secretary

M E M O R A N D U M

This memorandum accompanies the Minnesota Municipal Commission Findings of Fact, Conclusions of Law and Order approving A-1985 "Wild Pines" and outlines the Commission's intentions with regard to A-2056 "Feely-Hooley" which was consolidated with A-1985 for purpose of hearings. The commission has decided to postpone final action on A-2056 which has been expanded to include all of Stillwater Township south of Highway 96 for a period of 30 days in order to give the governments involved one more opportunity to work out an agreement for orderly annexation. The purpose of this memorandum after reviewing the background of these proceedings is to explain our reluctance to grant piecemeal annexations, to examine the advantages of orderly annexation and finally to outline the commission's alternatives if some agreement cannot be reached.

BACKGROUND

During the last two years the commission has spent an enormous amount of time and resources considering petitions involving community planning and development in the Stillwater Township area west of the City of Stillwater and the Village of Oak Park Heights. We have held exhaustive hearings involving over a thousand pages of transcribed testimony and more than a hundred exhibits. Many additional hours have been spent in informal meetings aimed at resolving these conflicts by agreement of the parties.

PIECEMEAL ANNEXATIONS

In February of this year the commission issued a memorandum in connection with a Farmington annexation which contains language that bears repeating in the Stillwater situation:

> "However, we wish to emphatically express our intention to discourage further piecemeal annexations in the Farmington area. A long range boundary solution is needed. Procedures, such as orderly annexation, are available to bring about long range solutions.
>
> 'Local officials must accept the fact that boundary changes are necessary and will occur, and in good faith work for changes that will benefit the people of the entire area. We have yet to see evidence of this kind of attitude."

We have reached the same conclusion with redoubled emphasis in the Stillwater area. All of the planners called as expert witnesses at the hearings regardless of other disagreements were unanimous in recommending orderly annexation over the piecemeal approach. The Washington County Planning Commission and the staff of the Metropolitan Council even urged denial of the pending petitions for this reason. While we have not taken the drastic step of denying the pending petitions solely on this basis, the commission will give increased weight to such recommendations in the future.

The pending petitions were begun in good faith and have been presented and argued at considerable expense without notice of a commission policy discouraging them. They deserve consideration on their merits. The housing development involved in A-1985 "Wild Pines" is already under construction. The Metropolitan Sewer Board has ordered the area to be sewered by the City of Stillwater and much of the sewer collection system has already been constructed. Denial or further delay on this petition appears to the commission to be unreasonable under the circumstances.

The commission is required under the statute to solicit and weigh the recommendations of the Planning Commission and the Metropolitan Council and hereby gives notice that such testimony opposing piecemeal annexation will be accorded increased consideration in any future proceedings in the Stillwater area.

ORDERLY ANNEXATION

The Minnesota State Legislature established "orderly annexation" procedures in 1969 in order to provide a vehicle for the alleviation of the problems described above. It has numerous advantages for all concerned:

Planning - Foresighted city fathers know that they must plan today for city growth which will take place ten or twenty years in the future. They must decide for example how big water and sewer mains should be to serve future growth as they can't come back every few years to dig up and replace them. They are faced with a complex variety of these decisions in every area of municipal services such as water and sewer plant capacity or whether and where to build the next fire station. Orderly annexation gives them an opportunity to plan for such growth while not annexing any area until the growth actually occurs.

Orderly - Annexations frequently involve areas which contain a variety of land uses. Some residential and commercial property owners have an immediate need for municipal services while others such as farmers have no need for such services and won't for many years. Orderly annexation guarantees farmers and others that their land will not be included in city boundaries until they decide to develop or subdivide their property until they need city services and until the city can provide them.

Flexibility - The commission is limited in most annexations to approving or denying the petition and has no power to deal with the myriad of problems caused by each boundary adjustment. Orderly annexation allows the communities involved to fashion a comprehensive agreement passed by both governments

which contains assurances, guarantees, complicated financial and other arrangements which can solve these problems. These agreements can set up timetables for boundary extension and joint planning and zoning arrangements for the orderly annexation area. The communities can provide specific remedial advantages in their agreement for persons who would otherwise be hardest hit by annexations such as deferred assessments for water and sewer extensions past homes that have only recently invested considerably in wells or cesspools.

Security - Citizens and property owners have called and written the commission imploring us to tell them what will be their future governmental situation. We can only tell them whether they are involved in a pending petition without any prediction as to whether it will be approved or whether they may be involved in a future petition. Under orderly annexation these citizens would be able to determine where and when city growth is projected to occur and would be able to plan their lives and businesses accordingly.

Services - Most municipalities have a rigid policy of refusing to extend certain services beyond their borders even on a contract basis unless the persons involved will agree to petition for annexation. Under orderly annexation there will no longer be any need for such a policy as cities will be assured that as the areas proposed for orderly annexation require full city services their borders will be extended.

Cooperation - Repeated annexation battles involving hard fought hearings tend to generate bitterness and enmity. Such hearings cause deep seated divisions within communities and between public officials which make essential community wide cooperation impossible to achieve. Orderly annexation substitutes and tends to generate cooperation.

Taxes - In most annexations everyone's taxes go up immediately to the city level regardless of whether they are receiving municipal services. Under orderly annexation no one is annexed until services are available and anyone who is annexed is guaranteed a gradual increase in taxes from the town mill rate to the city mill rate over a three to five year period depending on the time required to provide them with full municipal services.

This is only an abbreviated and overly generalized statement of the advantages of orderly annexation to everyone concerned. These are the reasons that the Metropolitan Council staff, the Washington County Planning Commission and the planners hired by each of the communities involved have unanimously recommended orderly annexation. The initiation is up to the local governing bodies. We note that the Stillwater City Council has enacted a proposal for orderly annexation. If that proposal is unacceptable to the Town Board, they have yet to submit a counter proposal.

COMMISSION ALTERNATIVES

The commission under the statute has no power to require orderly annexation. We have postponed our decision in A-2056 for thirty days in the sincere hope that the communities involved will be able to make some progress toward this broader solution.

If no progress is made we will be left with taking some action on the pending petition. The statute gives the commission only a limited power to expand a proposed annexation in order to include additional property which is about to become urban or suburban in character and to preserve or improve the symmetry of municipal boundaries. We have expanded the hearing on this petition to consider all of the area south of Highway 96 and have thoroughly considered testimony as to how we might improve on the pending petition in some limited way. But we stress that any expansion which we might order would not in any way approach a solution to boundary problems in this area. We can only improve on the petition before us - a solution is up to the communities involved.