

A-2158 (OA) WORTHINGTON ORDERLY ANNEXATION

BEFORE THE MUNICIPAL COMMISSION

OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Harold J. Dahl	Vice Chairman
Robert J. Ford	Member
John E. Fenstermacher	Ex-officio Member
Raphael Honerman	Ex-officio Member

IN THE MATTER OF THE RESOLUTIONS OF THE)	
TOWNS OF WORTHINGTON AND LORAIN AND THE CITY)	
OF WORTHINGTON DESIGNATING CERTAIN TERRITORY)	FINDINGS OF FACT,
AS IN NEED OF ORDERLY ANNEXATION AND REQUESTING)	CONCLUSIONS OF LAW,
IMMEDIATE ANNEXATION OF A PART THEREOF.)	<u>AND ORDER</u>

The above entitled matter came on for hearing before the Minnesota Municipal Commission on October 4, 1972, in the City of Worthington, Minnesota. Howard L. Kaibel, Jr., Executive Secretary of said Commission, presided at the hearing, and ex-officio members John E. Fenstermacher and Raphael Honerman were in attendance. The Town of Worthington was represented by and through its attorney, Newton A. Johnson, Fairmont, Minnesota. The City of Worthington was represented by and through its municipal attorney, Marc F. LaVelle, LaVelle and Darling, Attorneys at Law, Dolan Building, Worthington, Minnesota, and its special counsel, Bruce A. Rasmussen, 1410 Northwestern Bank Building, Minneapolis, Minnesota. The Town of Lorain was represented by its chairman, Forrest Williams. Evidence was received and the secretary and ex-officio members viewed the premises. All parties and individuals were heard who desired to be heard. The Secretary duly reported the hearing to the Minnesota Municipal Commission.

The Minnesota Municipal Commission, upon all files, records and evidence herein, the report of the Secretary, arguments of

counsel, and being fully advised in the premises, hereby makes and issues its Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. A Joint Resolution of the City of Worthington and the Town of Worthington designating certain territory situated within said town as in need of orderly annexation, and requesting immediate annexation of a part thereof, was received by the Minnesota Municipal Commission on September 7, 1972. A Joint Resolution of the City of Worthington and the Town of Lorain designating certain territory situated within said town as in need of orderly annexation and requesting immediate annexation of a part thereof was received by the Minnesota Municipal Commission on September 7, 1972. Said Resolutions are proper in form, content and execution.

2. The territory designated as in need of orderly annexation is described as follows:

All of that land in T102N, R40W, County of Nobles, State of Minnesota, lying within the following described line, to wit:

Beginning at the NE corner of Sec. 13; thence W on the N line of Sec. 13 to a point 1325 feet E of the NW corner of Sec. 13; thence N on the E line of the SW 1/4 of the SW 1/4 of Sec. 12 to the NE corner thereof; thence W on the N line of the SW 1/4 of the SW 1/4 of Sec. 12 to the NW corner thereof; thence continue W on the extension of said N line a distance of approximately 75 feet to the Westerly right-of-way line of Minnesota Trunk Highway 59; thence Southerly on said right-of-way line to the Northerly right-of-way line of the township road running along the S line of Sec. 11; thence Westerly on said township road right-of-way line approximately 801 feet to a point; thence S and parallel to the E line of Sec. 14 to a point 33 feet N of the E and W 1/4 line of Sec. 14; thence W to the W line of Sec. 14; thence S on said W line to the E 1/4 corner of Sec. 15; thence W on the E and W 1/4 line of Sections 15 and 16 to the center of Section 16; thence S on the N & S 1/4 line of Sections 16, 21, and 28 to the center of Sec. 28; thence E to the E line of the W 1/2 of the SE 1/4 of Sec. 28;

thence S on said E line to the S line of Sec. 28; thence E on said S line to the SE corner of Sec. 28; thence S 50 feet on the W line of Sec. 34; thence E and parallel to the N line of Sec. 34 to a point 300 feet Southeasterly of the Southerly right-of-way line of Minnesota Trunk Highways 59 and 60, measured at right angles to said right-of-way line; thence Northeasterly along a line parallel to said right-of-way line to the intersection of said parallel line and the 1/4 line of Sec. 26; thence E along said 1/4 line to the Westerly right-of-way line of the township road running on the E 1/16 line of Sec. 26; thence S on said right-of-way line to the Southerly right-of-way line of the township road running on the 1/4 line of Sec. 26; thence Easterly on said right-of-way line to the W line of Sec. 25; thence N on said W line to the NW corner of the SW 1/4 of Sec. 25; thence E on the 1/4 line of Sec. 25 to the E line of Sec. 25; thence N on the E line of Sections 25, 24 and 13 to the point of the beginning.

Except that land presently situated within the boundaries of the City of Worthington; and

All of that land in T102N, R39W, County of Nobles, State of Minnesota, lying within the following described line, to wit:

Beginning at the NW corner of Sec. 18; thence S on the W line of Sections 18, 19 and 30 to the W 1/4 corner of Sec. 30; thence E on the E and W 1/4 line to the Easterly right-of-way line of County State Aid Highway 5; thence Northerly on said right-of-way line to its intersection with the Southerly right-of-way line of the Chicago, R.I. & Pacific R.R.; thence Southeasterly along said right-of-way line to its intersection with the N and S 1/4 line of Sec. 30; thence N on said 1/4 line through Sections 30 and 19 to the S 1/4 corner of Sec. 18; thence E on the S line of Sec. 18 to the SE corner thereof; thence N on the E line of Sec. 18 to the NE corner thereof; thence W on the N line of Sec. 18 to the point of the beginning,

Except that land presently situated within the boundaries of the City of Worthington.

3. The territory requested for immediate annexation is described as follows:

All of that land in T102N, R23W, County of Nobles, State of Minnesota, lying within the following described line, to wit:

Beginning at the NE corner of Sec. 13; thence W on the N line of Sec. 13 to a point 1325 feet E of the NW corner of Sec. 13; thence N on the E line of the SW 1/4 of the SW 1/4 of Sec. 12 to the NE corner thereof; thence W on the N line of the SW 1/4 of the SW 1/4 of Sec. 12 to the NW corner thereof; thence continue W on the extension of said N line a distance of approximately 75 feet to the Westerly right-of-way line of Minnesota Trunk Highway 59; thence Southerly on said right-of-way line to the Northerly right-of-way line of the township road running along the S line of Sec. 11; thence Westerly on said township road right-of-way line approximately 801 feet to a point; thence S and parallel to the E line of Sec. 14 to a point 33 feet N of the E and W 1/4 line of Sec. 14; thence W to the W line of Sec. 14; thence S on said W line to the E 1/4 corner of Sec. 15; thence W on the E and W 1/4 line of Sections 15 and 16 to the center of Section 16; thence S on the N and S 1/4 line of Sections 16, 21 and 28 to the center of Sec. 28; thence E to the E line of the W 1/2 of the SE 1/4 of Sec. 28; thence S on said E line to the S line of Sec. 28; thence E on said S line to the SE corner of Sec. 28; thence S 50 feet on the W line of Sec. 34; thence E and parallel to the N line of Sec. 34 to a point 300 feet Southeasterly of the Southerly right-of-way line of Minnesota Trunk Highways 59 and 60, measured at right angles to said right-of-way line; thence Northeasterly along a line parallel to said right-of-way line to the intersection of said parallel line and the 1/4 line of Sec. 26; thence E along said 1/4 line to the Westerly right-of-way line of the township road running on the E 1/16 line of Sec. 26; thence S on said right-of-way line to the Southerly right-of-way line of the township road running on the 1/4 line of Sec. 26; thence Easterly on said right-of-way line to the W line of Sec. 25; thence N on said W line to the NW corner of the SW 1/4 of Sec. 25; thence E on the 1/4 line of Sec. 25 to the E line of Sec. 25; thence N on the E line of Sections 25, 24 and 13 to the point of the beginning;

Except that land presently situated within the boundaries of the City of Worthington; and

All that part of the NE 1/4 of Sec. 13 lying Easterly of the W 500 feet; and

All that part of the NW 1/4 of Sec. 13 lying Westerly of the E 500 feet and Easterly of the W 400 feet; and

The SW 1/4 of the SW 1/4 of Sec. 12 lying Easterly of the W 471 feet and Southerly of the N 99 feet; and

The N 1/2 of the SW 1/4 of Sec. 15; and

The SE 1/4 of Sec. 16; and

The E 1/2 of Sec. 21 lying Northerly of the Northerly right-of-way line of the Town Road situated on the Southerly line of said E 1/2 of Sec. 21; and

The W 80 feet of the SW 1/4 of the SW 1/4 of Sec. 22 lying S of the present corporate limits of the City of Worthington and N of Nobles County Road 9; and

All that part of the W 1/2 of the NE 1/4 of Sec. 28 lying S of the N 856 feet; and

A strip of land 300 feet wide lying Southeasterly of the Southerly right-of-way line of Minnesota Trunk Highways 59 and 60, measured at right angles to said right-of-way line; and

All that part of Sec. 25 lying Southerly of Minnesota State Trunk Highways 59 and 60 and Southerly of the center line of Nobles County Ditch 6; and

All that land within a line beginning at the NE corner of Sec. 24, thence W 320 feet to the E right-of-way line of the C. and N.W. Ry., thence Southwesterly on said right-of-way a distance of 1542.8 feet to a point; thence E and parallel with the N line of Sec. 24 a distance of 1236 feet to a point 840 feet S of the point of the beginning; thence N on the E line of Sec. 24 to the point of the beginning; and including

All of that land in T102N, R39W, County of Nobles, State of Minnesota, lying within the following described line, to wit:

Beginning at the intersection of the W line of Sec. 18 and the Northerly right-of-way of the C. and N.W. Ry.; thence S on the W line of Sections 18, 19 and 30 to the W 1/4 corner of Sec. 30; thence E on the E and W 1/4 line of Sec. 30 to the Easterly

right-of-way line of Nobles County State Aid Highway 5; thence Northerly on said right-of-way line to the Southerly right-of-way line of the Chicago, R.I. & Pacific R.R.; thence Southeasterly along said right-of-way line to its intersection with the N and S 1/4 line of Sec. 30; thence N on said 1/4 line to its intersection with the Northerly right-of-way line of Minnesota Trunk Highway 16; thence Northwesterly along said right-of-way line to its intersection with the E line of the W 1/2 of the SW 1/4 of Sec. 19; thence N on said line to its intersection with the E and W 1/4 line of Sec. 19; thence W on said 1/4 line to its intersection with the Easterly right-of-way line of Nobles County State Aid Highway 5; thence Northerly on said right-of-way line to its intersection with the Southerly right-of-way line of Nobles County State Aid Highway 33; thence Easterly on said right-of-way line to its intersection with the N and S 1/4 line of Sec. 19; thence N on said 1/4 line to the S 1/4 corner of Sec. 18; thence N on the N and S 1/4 line of Sec. 18 a distance of 1010 feet; thence W and parallel to the S line of Sec. 18 a distance of 1,567.51 feet; thence N and parallel to the E line of Sec. 18 a distance of 100 feet; thence W and parallel to the S line of Sec. 18 to the Northerly right-of-way line of the C. & N.W. Ry.; thence Southwesterly along said right-of-way line to the point of beginning,

Except that land presently situated within the boundaries of the City of Worthington.

4. The above matters were consolidated for hearing and came on for hearing on October 4, 1972, at the City of Worthington, Minnesota. Due, proper and adequate notice of said hearing was published, mailed and filed.

5. Much of the territory proposed for immediate annexation as described in Finding of Fact 3 is currently being used for residential, industrial and commercial purposes. Said territory includes approximately 132 non-farm dwellings, the Northeast Industrial Park, commercial belts along Oxford Street and the South Beltline, and a mobile home court.

6. The following described parcels, which are situated within the territory proposed for immediate annexation and within the present boundaries of the City of Worthington, are currently being used for farming. These parcels will become urban or suburban in character in the near future because of their proximity to municipal services and highways, and because of the general growth of the area.

<u>Auditor's Identification Number as of November 1, 1972</u>	<u>Owner - per 1972 Assessment Book</u>	<u>Property Description or Official Number of Document Containing Property Description</u>
1-2	Fred Kinsman	Lots 14 & 15 of Auditor's Plat of SW 1/4 of SW 1/4 of Sec. 12, T. 102N, R. 40W
1	Fabian Scholtes	159843 and 165406 *
58	Ray H. Darling	135357
60	Buren Watland	167344
61	Mary R. Darling	113873
62	Ivor W. Morgan	180198
69A & 69B	Fred C. Kinsman	174171
63	Ray H. Darling	169508
64	Amy D. Jaeger	119479 and 109984
65	P. M. Ackerman	167722
66	Peter R. Kappes	175072
76	Gerrit Febus & Vera C. Febus Walter Febus & Althea Febus Elizabeth Febus	174242 174243 174244
78	Aaron A. Rust, Jr. and Henrietta Rust	175726
79	Bennie Gerdes & Verla Gerdes	157843
114	Carl F. Vogt	174537
116	Ray H. Darling	157076
120	William Duitsman	171848
125	Doris Shanks Steen and John Steen	185360
126	Edgar Paine & Lucille Paine	182165
131	Walter Koostra and Richard Koostra	164762
132	Agnes Haack & Alvina Haack	144902 ***
133 & 134	Thomas E. Dugdale and Dolly Dugdale	140100
135	Robert J. Demuth	184774
130	Ruth Ludlow	164531 **
56	Carl Peters & Edna Peters	125304
58	R. H. Ruesch	135843
59	Emil W.F. Beckmann and Clara L. Beckmann	144442

* Except that land owned by Wayne R. Scholtes and Susan M. Scholtes, according to the 1972 Assessment Book and described in Official Document 170905.

** Except that land described in Official Document 185315.

*** Except that land owned by the City of Worthington and described in Official Documents 171846 and 147968.

7. The population of the territory proposed for immediate annexation is 446, of which 364 is attributable to the part situated within the Town of Worthington, and 82 is attributable to the part situated within the Town of Lorain.

8. The City of Worthington is the county seat of the County of Nobles.

9. The City of Worthington owns and operates the only central sanitary sewerage collection and treatment system in the area herein under consideration. The Jackson-Nobles County Health Department has conducted extensive studies and found serious and extensive problems of water pollution caused by inadequate sanitary sewerage facilities within the territory proposed for immediate annexation. Much of the soil in said territory is not suitable for on-site sewerage disposal systems. The pollution problem can, therefore, best be remedied by provision of central sewer service. The City's facilities have the capacity to serve the territory proposed for immediate annexation, and it is feasible to make the necessary extensions. City officials have demonstrated a willingness to proceed with a program to make such extensions which would be completed within a five year period after annexation.

10. The City of Worthington owns and operates the only central water system in the area herein under consideration. This system has the capacity to provide service to the territory proposed for immediate annexation and it is feasible to make the necessary extensions. City officials have demonstrated their willingness to proceed

with a program to make such extensions which would be completed within a five year period after annexation.

11. The City of Worthington owns numerous parks and operates an extensive recreation program, which is used by residents of the territory proposed for immediate annexation. Although only part of Lake Okabena is included within the present city limits, the City of Worthington has expended \$633,278.85 since 1939 to improve the Lake for recreational purposes for the benefit of residents of the entire region, including the territory proposed for immediate annexation.

12. The City of Worthington contains a municipal hospital which has been designated as a regional hospital and serves the residents of the entire region, including the residents of the territory proposed for immediate annexation. The City contributed over \$100,000.00 toward the recent expansion of the hospital and has loaned money to the hospital to meet current expenses.

13. The City of Worthington is the commercial and financial center of the region, including the territory proposed for immediate annexation. It contains a junior college and a high rise apartment building for senior citizens which benefit the citizens of said territory.

14. The City of Worthington Fire Department serves the territory proposed for immediate annexation.

15. In addition to those services already described, the City of Worthington provides a full range of municipal services, including police protection, street maintenance, street lighting, electrical energy distribution, and garbage collection and disposal. Some of the benefits of these services would be extended to the territory proposed for immediate annexation immediately upon annexation. City officials have demonstrated a willingness to proceed with a

program to provide all services to said territory within a five year period.

16. The present boundaries of the City of Worthington are extremely irregular and irrational, and have caused difficulties in planning for the orderly extension of municipal utilities.

17. The City of Worthington regulates land use within its boundaries by means of its zoning and subdivision ordinances, which are overseen by its Planning Commission. Municipal planning consultants have been engaged to help the City do an effective job of planning for the future.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission duly acquired and now has jurisdiction over the within proceeding.

2. The territory proposed for immediate annexation, as described in Finding 3 herein, is now or is about to become urban or suburban in nature.

3. Said territory contains sources of water pollution which can best be remedied by extension of sanitary sewer service by the City of Worthington.

4. The City of Worthington provides a full range of municipal services which are capable of being expanded so as to provide for the requirements of said territory. The City of Worthington has demonstrated its willingness to undertake such expansion over a five year period.

5. The town form of government is inadequate to cope with the governmental requirements incident to the present and projected urban and suburban development of said territory.

6. The municipal form of government is necessary to provide for the governmental requirements incident to the present and projected urban and suburban development of said territory.

7. There is a strong community interest between the residents of said territory and the residents of the City of Worthington.

8. The Minnesota Municipal Commission should issue its order annexing said territory to the City of Worthington.

9. The Minnesota Municipal Commission should, in its order, establish a rural and an urban service district for the City of Worthington as expanded.

10. The Minnesota Municipal Commission should, in its order, establish the population of the City of Worthington for all purposes until the next federal census.

11. The City of Worthington is entitled to tax the property in and on said territory so as to receive revenues from said property in 1973, and the Minnesota Municipal Commission should order the County Assessor and Auditor to make the necessary adjustments so that this can be accomplished.

. ORDER

IT IS HEREBY ORDERED: That the Minnesota Municipal Commission accepts jurisdiction over annexations within the territory described in Finding of Fact 2 herein.

IT IS FURTHER ORDERED: That the territory described in Finding of Fact 3 herein be and is hereby annexed to the City of Worthington.

IT IS FURTHER ORDERED: That there is hereby established in the City of Worthington a rural service district and an urban service district. The rural service district contains the parcels described in Finding of Fact 6 herein, and the urban service district contains all of the remaining territory situated within the city limits of the City of Worthington as herein expanded. The benefit ratio of the rural service district shall be 40%. The official document numbers refer to documents on file in the office of the Register of Deeds in and for the County of Nobles, and the property descriptions in said documents are hereby incorporated by reference into this Order, as if set forth in full herein.

IT IS FURTHER ORDERED: That the mill rate for the property herein ordered annexed to the City of Worthington shall be increased from the Town rates to the City rate over a period of five years in substantially equal installments.

IT IS FURTHER ORDERED: That the population of the City of Worthington is hereby increased by 446 for all purposes until the next federal census. Of this amount, 364 is contained in the territory annexed from the Town of Worthington, and 82 is contained in the territory annexed from the Town of Lorain.

IT IS FURTHER ORDERED: That the County Auditor of the County of Nobles is hereby ordered to take the procedural actions necessary

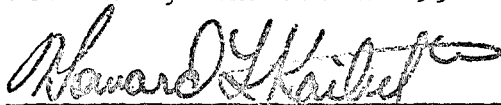
to increase the tax base of the City of Worthington to include the property herein ordered annexed for the purpose of property taxes levied in 1972 and payable in 1973.

IT IS FURTHER ORDERED: That all of the property and obligations of the Town of Worthington and of the Town of Lorain not specifically mentioned in this Order shall remain the property and obligations of said Towns.

IT IS FURTHER ORDERED: That this Order shall be effective immediately upon the issuance of this Order.

Dated this 14th day of November, 1972.

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



Howard L. Kaibel, Jr.
Executive Secretary

MEMORANDUM

The Commission has given much consideration to the question of which governmental unit is entitled to levy taxes due and payable in 1973 on property herein ordered annexed to the City of Worthington. We have concluded that the City of Worthington is so entitled. Our judgment is based on M.S. 275.28, Subd. 1, which states, inter alia, that "the tax lists shall be deemed completed, and all taxes extended thereon, as of November 16, annually".

We believe that our decision in this regard reflects the realities of the situation. It is the City which will have to provide services to the annexed area during the year 1973, and the residents should contribute toward the cost of the services. Further, because this is an annexation by joint agreement, we believe that all of the units involved made out their budgets as though the annexation were an accomplished fact.