

BEFORE THE MINNESOTA MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Robert W. Johnson
F. Robert Edman

Vice-Chairman
Secretary

IN THE MATTER OF THE PETITION OF THE CITY OF BLOOMINGTON TO
ANNEX THE TOWNSHIP OF BURNSVILLE, DAKOTA COUNTY, MINNESOTA.

The petition of the City of Bloomington for the proposed annexation of the township of Burnsville described in said petition and located within Dakota County was filed with the Minnesota Municipal Commission on the 31st day of August, 1961. The petition came for a hearing before the Minnesota Municipal Commission on October 9, 10, 11, and 12, 1961, August 1 and August 30th, September 19th, October 24th, November 14th, December 18th, 1962, in the Burnsville High School, in the Dakota County Court House, Hastings, Minnesota after publication and posting of the proper notices pursuant to the authority and responsibility under M.S.A. Section 414.01 et seq. as amended by Laws 1961, Chapter 645.

APPEARANCES WERE MADE BY:

David Grannis, Jr. and Vance Grannis, Jr. of Grannis and Grannis, Schult Building, South St. Paul, Minnesota, Attorneys for Burnsville and Inver Grove Townships;

Richard E. Kyle and Frank Graham of Briggs, Morton, Kyle and Macartney, West First National Bank Building, St. Paul, Minnesota, Attorneys for Independent School District 191;

J. G. Pidgeon, City Attorney for the City of Bloomington;

A. Leonard Bentson, Lakeville, Minnesota, Attorney for Lakeville Township;

Martin H. Otto, Route #1, Box 203, Savage, Minnesota, Attorney for Orchard Gardens Area (Burnsville-Bloomington hearing);

Luther Stalland, 1400 Rand Tower, Minneapolis 2, Minnesota, Attorney for Eagan Township;

Mr. Edward B. McMenemy, 1st National Bank Building, Hastings, Minnesota, Attorney for Lebanon Township;

Mr. Gerald Kalina, Lakeville, Minnesota, Attorney for Village of Lakeville;

The Minnesota Municipal Commission also has before it the separate petition to incorporate the Township of Burnsville into the Village of Burnsville filed by certain freeholders of the community supported by the Burnsville town board.

A third incorporation petition from freeholders of the Orchard Gardens area of Lakeville and Burnsville townships (Docket I-5) was also filed with the Commission and came before the Commission on December 11, 1961, at the County Court House in Hastings, Minnesota. This petition later was denied on April 2, 1962.

On October 10, 1962, the Commission notified certain property owners in Lakeville, Lebanon, and Eagan Township by proper legal notice served on each of the property owners that the Commission was considering adding their property to the Burnsville incorporation request. A hearing was held October 24, 1962, and continued to November 14, 1962. Evidence was taken and testimony was heard from all those appearing and indicating a desire to be heard. Certain exhibits were received in evidence. The Commission having carefully considered all of the evidence included in all of the testimony, exhibits and being fully advised in the premises and upon all of the files and records now makes the following FINDINGS OF FACT and CONCLUSION OF LAW AND ORDER:

FINDINGS OF FACT

I

The population of the City of Bloomington was 50,417 according to the 1960 federal census and 54,000 in October, 1961.

II

The area of Bloomington is approximately 25,040 acres.

III

The approximate assessed valuation of Bloomington is \$30,800,000 including the valuation of the Blackdog plant.

IV

Population and construction in Bloomington has increased five fold in the past decade.

V

Sufficient space is available to accommodate expansion in Bloomington for the foreseeable future.

VI

That the City of Bloomington is located within Hennepin County.

VII

That Bloomington not only has adequate area within which to expand, but also enjoys a well balanced tax base and the addition of the proposed area is not necessary to Bloomington and its expanding population for its continued economic strength.

VIII

Bonded indebtedness for the City of Bloomington on October 10, 1961, was approximately \$20,700,000 which approximately \$18,500,000 consisted of revenue bonds or direct assessment bonds for sewage and water.

IX

On October 9, 1961, it was stipulated by and between the parties to the petition of Bloomington to annex all of the township of Burnsville and the parties to the petition for the incorporation of all of Burnsville that the testimony and exhibits of the annexation hearings and incorporation hearings could be taken simultaneously and that the records would therein be the record for consideration with the same force and affect in each proceeding. Pursuant to the stipulation it was so ordered.

X

That the granting of this petition would place an undue burden on the City of Bloomington to attempt to plan and control the Burnsville area while it is experiencing the problems of growth and expansion within its present boundaries.

XI

The area of Burnsville Township is 16,640 acres.

XII

The population of Burnsville in August, 1961, as supported by the census attached to the petition was 3,908.

XIII

The Burnsville 1961 assessed valuations were: Platted land \$1,031,892 and unplatted lands \$10,081,520. Included in the unplatted assessed valuation is the Northern States Power Blackdog Plant . . . \$7,700,000.

XIV

A reasonable population projection for Burnsville Township is 28,000 people by 1980.

XV

There has been during the past 18-month period an accelerated effort on the part of Burnsville Township area to plan for governmental services.

XVI

That if the people in the Burnsville area are given the proper form of government, they have the necessary assessed valuation and now show that they have the ability to plan for and take care of the governmental services needed by the residents living in the area.

XVII

That the Township of Burnsville is located within Dakota County.

XVIII

Burnsville Township had no bonded indebtedness on October 10, 1961.

XIX

Burnsville fire protection is provided under contract by the Savage Fire Department.

XX

Burnsville police protection is provided by the Dakota County Sheriff's office and two elected constables.

XXI

Burnsville has neither a central water system or a central sewage disposal system.

XXII

Burnsville Township is zoned into residential, industrial, and commercial areas.

XXIII

The township form of government is inadequate to protect the public health, safety and welfare of the people living within the Burnsville area.

XXIV

That Hennepin County is governed to a large measure by special legislation applying to counties within which is located a city of the first class.

XXV

That having a city with boundaries including territory within Hennepin and Dakota County would cause a great many administrative problems for the city and its officials.

XXVI

That the Minnesota River and a huge valley separate Bloomington City and the area they sought to annex.

XXVII

That the river and the valley separating the areas of Bloomington and Burnsville serve as a great physical handicap to efficient administration of a single municipal government in providing government services to the residents located within the proposed area.

XXVIII

That there is no community of interest between the areas.

CONCLUSIONS OF LAW

1. The property described in the annexation petition is now or is about to become urban or suburban in character.

2. To provide adequate protection for public health, safety and welfare of the Burnsville area in reference to plat control or land development which may be expected to occur within a reasonable length of time annexation is not necessary.

3. Annexation is not necessary to protect the public health, safety, and welfare of the residents of the City of Bloomington.

4. The Burnsville area has the resources to provide necessary services to the residents of the area.

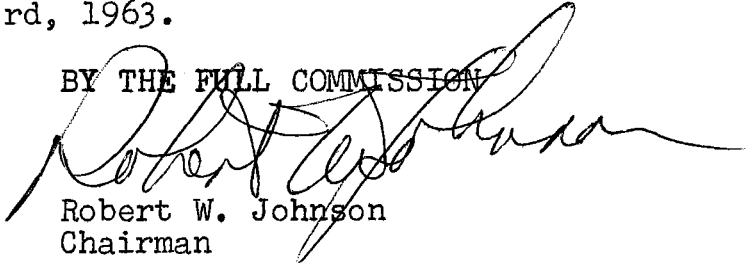
5. The Burnsville area has a sufficient amount of unincorporated property experiencing a rapid population growth, as well as an adequate tax base so that governmental services can be provided by incorporation as effectively and efficiently as by annexation.

O R D E R

Upon the petition for the City of Bloomington for the annexation of the township of Burnsville, Dakota County, State of Minnesota, which came on hearing before the Minnesota Municipal Commission on October 9th, 10th, 11th, and 12th, 1961, and August 1st and 30th, September 19th, October 24th, November 14th, and December 18th, 1962.

At which time evidence was taken, testimony heard, and exhibits received after which time briefs were submitted by all parties. Upon all the findings and records herein the Commission being fully advised in the premises. IT IS ORDERED: That such petition for annexation of Burnsville Township described within be and the same, hereby be denied in all things effective February 3rd, 1963.

BY THE FULL COMMISSION



Robert W. Johnson
Chairman

MEMORANDUM OPINION

Upon the petition of the City of Bloomington for the annexation of the Township of Burnsville, Dakota County, State of Minnesota, we reject the petition by the City of Bloomington to annex Burnsville Township. The testimony described in the petition is before the Commission as the result of the combined hearing on a separate petition for incorporation of the township by freeholders of the township and the petition by the City of Bloomington.

The Chairman of the County Board of Dakota County and the County Auditor have participated in all hearings and meetings of the Commission regarding this annexation petition. Normally the ex-officio officers participate only in incorporation hearings. However, because of the decision to consolidate the records of all hearings in the Burnsville area, the ex-officio members have been included by the Commission in all Dakota County deliberations.

It was obvious to the Commission at the time of the first hearings on Burnsville that the incorporation petition had been initially filed strictly as a defensive measure. This fact was testified to by the township officials. When Burnsville was first notified of the Commission's jurisdiction under Section 5 of the Act, we were informed by the County Planning Commission that the area was not ready for incorporation.

The Blackdog and Bloomington annexation actions, however, moved the community out of its lethargy. In an extraordinary series of community meetings starting in the fall of 1961, and continuing to this day, the community was alerted to the fact that rapid growth was upon them and if they were to retain their entity, that they must look beyond their boundaries and that they must organize and plan for the orderly development of their community.

It is obvious to the Commission that change of governmental structure will not in itself result in better services and planning unless it is accompanied by citizen participation such as we have seen in Burnsville.

In addition, the past 18 months have shown a very gratifying activity on the part of the officials of Burnsville Township. They have hired an engineer and a planner. They have strengthened their planning commission, they have held extraordinary meetings, they have rallied together and studied and planned, and have succeeded in showing the Commission that they do have the willingness and ability to plan for their growth. They have further shown the Commission that they can provide all the governmental services the residents in their area have a right to expect under the township form of government.

The efforts of the people in the area and their willingness to work together and plan for their future needs have created a definite situation which now justifies the Commission in denying the Bloomington petition for annexation. The Commission realized that the people in the area needed planning and services when the hearings first were completed, but we were not satisfied that the people in the area were aware of this responsibility or whether they were willing to or able to assume it. They now have proven their worth and it has been through this effort that the Commission is now finally willing to pass the responsibility fully to them by denying the petition for annexation by the City of Bloomington.

All parties at the Burnsville incorporation and annexation agreed that the area involved can be considered urban or suburban in character. They all agreed that continued growth is inevitable as evidenced by the population growth of 1950 from 583 to over 5,716 in 1962 as documented by Metropolitan Planning Commission report of August 1, 1962. This growth is expected to continue with the completion of the new Interstate

Freeway 35W, the proposed new Cedar Avenue Expressway, abundant amount of desirable land plus a historically strong southward thrust of population.

At no time during the hearings did Bloomington ever contend that they needed the additional Burnsville property to take care of their future residential expansion. Bloomington, for instance, did not appear at the Eden Prairie hearings to request any land for expansion.

Whereas the Commission has committed itself to a strong policy of allowing annexation to existing municipalities instead of incorporation where such a choice is available, there are of necessity certain exceptions. This is one of the exceptions.

The philosophy of the Commission in regard to annexation has previously been stated and repeated in previous orders and memorandum opinions. A municipality with experience, ability, tax base, and the need for additional land can generally serve the residents in the area with governmental services more effectively and more economically.

In this case, however, as has been pointed out in the findings of fact we have here two situations which collectively create an exception to the annexation rule

1. The area proposed to be annexed is located in a county other than the one in which the annexing city is in. These two counties operate under separate systems, each of which requires city participation. There are two different types of welfare systems, separate law enforcement, court systems, different assessing procedures, together with separate election procedures -- public health nurses, extension service, jail facilities and other differences. These complexities in and of themselves would create difficulties in administration and in effective carrying out of governmental duties, to say nothing of the cost of duplication of record systems.

2. The second major exception is the physical location of the area proposed to be annexed. It is separated from the proposed annexing city by a river and a huge valley. For any resident of Burnsville to drive to the closest portion of Bloomington he must drive $3\frac{1}{2}$ to 4 miles. This would cause additional expense to furnishing of the services.

There is no community of interest between the two communities and no prospect of any being developed. School, church, and postal lines all separate the two areas. Testimony supporting annexation called for branch fire equipment, road equipment, and other emergency equipment to be located in the area. All of these matters and others would continue to keep the areas from establishing any community of interest.

There was no showing where such major services such as water and sewer could be furnished any more economically or effectively by annexation.

These factors, together with the showing that the annexing city has an adequate taxbase of its own, that it has adequate room for expansion, that the health, welfare and safety of the residents of Bloomington would not be jeopardized by the denial of the petition are sufficient to create the exception to the general rule favoring annexation.

The Municipal Commission repeats, however, that it still considers itself precluded by law from approval of incorporations except where there is a sufficient amount of unincorporated property experiencing a rapid population growth, as well as an adequate tax base, so that the resulting newly created municipality can furnish governmental services as effectively and efficiently as that which can be obtained by annexation.

Burnsville has shown that it meets all the requirements of the above Commission policy statement and that the denial of Bloomington's annexation petition would not be detrimental to the common good of this portion of the metropolitan area.

Dated this 22nd day of January, 1963
BY THE FULL COMMISSION

F. Robert Edman, Secretary

No. Dakota County
Interim Order

BEFORE THE MINNESOTA MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Joseph Robbie
Robert W. Johnson
F. Robert Edman
Carl D. Onischuk
Henry Gackstetter

Chairman
Vice-Chairman
Secretary
Ex-officio
Ex-officio

IN THE MATTER OF THE SEPARATE PETITIONS TO INCORPORATE THE ENTIRE TOWNSHIPS OF BURNSVILLE, EAGAN, LAKEVILLE AND INVER GROVE, AND PROCEEDINGS TO REVIEW THESE TOWNSHIPS PURSUANT TO SECTION 5 OF LAWS 1959, CHAPTER 686, AS AMENDED.

A P P E A R A N C E S:

David Grannis, Jr., of Grannis and Grannis, Schult Building, South St. Paul, Minnesota, Attorney for Burnsville and Inver Grove Townships;

Richard E. Kyle, of Briggs, Morton, Kyle and Macartney, West First National Bank Building, St. Paul, Minnesota, Attorney for Independent School District 191;

J. G. Pidgeon, City Attorney for the City of Bloomington;

A. Leonard Bentson, Lakeville, Minnesota, Attorney for Lakeville Township;

Martin H. Otto, Route #1, Box 203, Savage, Minnesota, Attorney for Orchard Gardens Area (Burnsville-Bloomington hearing);

Luther Stalland, 1400 Rand Tower, Minneapolis 2, Minnesota, Attorney for Eagan Township;

M. L. Countryman, Jr., Northern Pacific Railway Company, Law Department, St. Paul 1, Minnesota, Attorney for Northern Pacific Railway Company;

Roger C. Miller, City Attorney, South St. Paul, Minnesota;

Louise Miller O'Neil, 701 Summit Avenue, St. Paul, Minnesota; (Inver Grove hearing)

Norman E. Biorn, Pioneer Building, St. Paul, Minnesota, (Inver Grove hearing)

Arthur F. Gillen, Drovers Bank Building, South St. Paul, (Inver Grove hearing)

INTERIM MEMORANDUM OPINION

I. INTRODUCTORY

We have before the Minnesota Municipal Commission the separate petitions to incorporate the entire townships of Burnsville, Eagan, and Inver Grove. We have recently denied a petition to incorporate the proposed Village of Orchard Gardens from a small portion of the unincorporated property of Burnsville and Lakeville Townships. The City of Bloomington has petitioned to annex all of Burnsville.

Additionally, the Commission is required by Section 5 of the Minnesota Municipal Commission Act¹ to examine all townships with more than 2,000 of population according to the 1960 decennial census, and to determine whether all or a part of these townships will best be served by incorporation, annexation or to remain as a township. The Commission held a Section 5 hearing in Lakeville Township. The terms of Section 5 also apply to Burnsville, Eagan and Inver Grove Townships.

Extensive public hearings have been completed subject to being reconvened if this Commission determines that additional evidence is required.² The Lakeville hearing was recessed until May 8th to permit the Township to place in the record, additional information regarding a possible merger with the Village of Lakeville.

II. BLACK DOG ANNEXATION

We are cognizant of the fact that the annexation of the Black Dog Plant of Northern States Power Company by the City of Bloomington in August, 1961, pursuant to an exception contained in Section 3, Subdivision 2, of the Municipal Commission Act, has triggered the petitions to incorporate each of these townships which are all located in the northern tier of Dakota County. This provision by which Bloomington annexed Black Dog specifies that "territory abutting on any municipality and not included in any other municipality

1 - Laws 1959, Chapter 686, as amended, coded and hereafter cited as MSA, Ch. 414.

2 - Bloomington annexation, October 9 & 10; Burnsville, October 11 & 12, 1961; Eagan, January 10, 1962; Lakeville, February 8, 1962, and Inver Grove, February 6, and April 17, 1962.

may be annexed to the municipality without an order of the Commission . . . if the land is platted or, if unplatted, does not exceed 200 acres, (and if) the owner or a majority of owners in number . . . petition the governing body of the municipality to have such land included within the municipality."³ The annexing municipality is only required to file the order with the county auditor, the Secretary of State and the Minnesota Municipal Commission. The Commission has no discretionary authority. Our duty is only ministerial. If the proceedings are in order it is mandatory that the Commission file the annexing order. Upon filing, the annexation becomes final.

(The Report of the Commission on Annexation and Consolidation to the 1959 Minnesota Legislature⁴ recommended the enactment of the Municipal Commission Act which established this Commission. The Report recommended the repeal of the prior statute which included what is now Section 3, Subdivision 2, which furnished the basis for the Black Dog annexation.

The Report of the Commission on Municipal Laws to the 1961 Minnesota Legislature⁴ reviewed the Municipal Commission Act and, upon recommendation of the Municipal Commission, again proposed that this provision be repealed.)

The reason in each case was that Section 3, Subdivision 2, which has been on the statutes for several decades, furnishes an alternative means of annexation without administrative review. It is, therefore, a deviation from the principle upon which the Municipal Commission Act is based. It lends itself to gerrymandered annexations, in order to obtain the necessary approval of the majority of land owners in number, without reference to the orderly development and growth of the communities involved. It, nevertheless, remains in the statute. During the past two years, for instance, forty-two annexations have

3 - MSA 414.03 (2)

4 - The Reports are available from the Legislative Research Committee, State Capitol, St. Paul.

occurred under this provision in White Bear Township in Ramsey County.

The Black Dog annexation is presently in District Court upon appeal, with little chance of final decision in the near future. Therefore, the Commission must consider the competing petitions to bring the swiftly growing Burnsville area under municipal government without knowledge or control of the ultimate disposition of the Black Dog Plant.

It was to avoid this misfortune that the Municipal Commission Act as originally drawn, provided for direct appeal to the Minnesota Supreme Court from annexation and incorporation decisions. This was amended to provide for appeal to the District Court before the Act was passed.

It is obvious that if the Commission limits its examination of the Burnsville petition to incorporate to the territorial limits of Burnsville Township with Black Dog included, we have a vastly different picture as to the capability of Burnsville to finance municipal facilities than if the annexation of Black Dog to Bloomington is sustained.

III. THE METROPOLITAN CONCEPT

The Municipal Commission Act provides separate classifications for the approval of petitions to create new villages within or without the metropolitan area.⁵ The statute provides that Municipal Commission review is the exclusive method of incorporating a village in any county containing a city of the first or second-class, or in any county within any metropolitan area as defined in the Twin Cities Metropolitan Planning Commission Act⁵ or in any other area of Minnesota, if a petition is filed to incorporate a new village, within four miles of the boundary of an existing municipality. In any other area in Minnesota, application of the statutory standards and procedures in determining whether or not to order an incorporation election is vested in the Board of County Commissioners.⁶

5 - MSA 473.02 (5)

6 - MSA 414.02 (1)

The intent is clear. The Legislature expressed recognition of the broad public interest involved in the incorporation of villages which border upon or are immediately adjacent to existing cities or villages. The Report of the Commission on Municipal Annexation and Consolidation to the 1959 Legislature concluded that "It is impossible to study the standards which should be met before a new village or city can be incorporated, without considering the social, economic, and other community aspects involved, or without a thorough understanding of the need for municipal services by those living within the affected area. It is equally impossible to decide if the standards for incorporating a new municipality are met without considering the impact on the surrounding metropolitan complex when the proposed new city or village lies within the metropolis or on the suburban fringe.

"Where uneconomic villages arise, the problem of furnishing municipal services to their people aggravate intelligent planning and all other aspects of government. Multiplying villages like rabbits can out-distance all progress affected by otherwise intelligent planning. These uneconomic villages may be costly to people living in the adjacent area, who must assist in paying for the required municipal services, for the village which is not self-reliant."⁷

In creating the Minnesota Municipal Commission, the Legislature acted to halt the continued fragmentation of local governing authority and the diffusion of tax sources in a metropolitan area which already has a jurisdictional jigsaw puzzle consisting of some 130 cities and villages, 76 townships and countless school districts.

IV. PROCEDURE

The Municipal Commission Act provides that proposed incorporations be heard and determined by the regular members of the Commission and the Chairman of the Board of County Commissioners and County Auditor of the county in which all or a majority of the

7 - Report, Supra, p. 9.

property to be incorporated is located. (Only the three regular Commission members hear and determine petitions for annexation.)⁸ Hence, the ex-officio members participate in determining the petitions for separate incorporation of Burnsville, Eagan, and Inver Grove, but do not have a statutory voice in the Lakeville Section 5 hearings or in deciding the petition of Bloomington to annex Burnsville.

The procedural quirk poses no problem in the present proceedings. The Commission, including the ex-officio members with a vote, unanimously concur in this Memorandum.

This memorandum is in the nature of an interim evaluation of the records now before the Commission from Burnsville, Eagan, Lakeville, and Inver Grove. It will also serve as a guide to these communities as to what the Commission expects in presentation of additional evidence before final disposition is made of the petitions before it from Northern Dakota County.

The Commission is convinced of the unity of interest of the swiftly-growing area of Northern Dakota County. We pause in our deliberations to give these communities an opportunity to consult, to counsel jointly with one another, and to look beyond their present territorial borders and perhaps propose a unified plan, or plans, for the future urban development of their common area in Dakota County. Suggested alternative solutions are necessary to satisfy the growing need for co-ordinated planning to this urban thrust which has leap-frogged the Minnesota River to spread across hitherto rural portions of Dakota County.

V. DEFENSIVE INCORPORATIONS

It is apparent to us from the testimony of the township officials, that these petitions to incorporate separate townships individually, are defense mechanisms to avoid annexation to adjacent villages and incorporations of small portions of the townships. This results in part from understandable fear by the townships of a nibbling process whereby municipalities annex small tracts without

invoking Commission jurisdiction to obtain built-up property which adds to their tax bases.⁹

The Commission does not deem incorporation to avoid annexation to be sufficient cause for creating a new municipality or to be legally permissible. Incorporation and annexation petitions should be decided on their merits based upon a determination of the common good of the people living within the entire affected area. This is not restricted to the area included in the petition.

Defensive incorporations have plagued local government in virtually every state experiencing substantial urban growth. Incorporations to avoid annexation, to protect special land uses, to obtain liquor licenses for the promoters, to protect the name-identity of a township, to protect vested business interest from proper regulation by an adequate municipal government, or to preserve rural living in an urban setting are contrary to the public interest.

The Minnesota system of administrative review to prevent this type of incorporation has received national acclaim. In California, Governor Edmund G. Brown's Study Commission on Metropolitan Problems has recommended a similar system for California with its eight metropolitan areas.

9 - This fear is no longer justified. Inver Grove Township has received the following letter from David R. Leslie, Assistant Attorney General, April 6, 1962:

"We acknowledge receipt of your request for an opinion and have carefully reviewed the law in Minnesota on the question of priority of proceedings for the annexation or incorporation of an area of land.

"Based on the facts you have given to us, it appears that State ex rel. Herrier vs. Village of Spring Lake Park, 245 Minn. 302. 71 N. W. (2d) 812, adopting the majority rule in this country is directly in point and is clearly dispositive of the question you ask.

"This case holds that since two municipal authorities trying to exercise jurisdiction over the same area, cannot both prevail or exercise jurisdiction over the same area, exclusive jurisdiction vests in the municipal authority first acting and proceeding properly under the power granted."

This advice from the Attorney General protects against annexations by ordinance from Burnsville, Eagan, Lakeville or Inver Grove while these proceedings are pending.

In the March, 1962, edition of the NATIONAL CIVIC REVIEW, the official publication of the National Municipal League which pioneered City Manager Government, Dr. Thomas H. Reed¹⁰ urged three effective measures for dealing with the problems of urban areas:

- (1) Conferring on an administrative board the power to hear and determine proposals for annexation of incorporated places as well as unincorporated territory, in accordance with criteria set forth in the statute;
- (2) Creation of two-level systems of government in which existing municipalities retain their identity and many of their present powers and duties while matters of concern to the metropolitan area as a whole are entrusted to an area-wide agency; and
- (3) Establishment of high standards of area, population and economic resources which any community within the limits of a metropolitan area must possess before it can apply for incorporation.

The Municipal Commission Act was a direct response by the Minnesota Legislature in 1959 to problems which now impel Dr. Reed's first and third recommendations for other metropolitan areas.

The fact that 22 of the 45 villages which incorporated in the seven-county Twin Cities metropolitan area from 1950 to 1959 contained less than 1,000 people, and that we now have over 130 municipalities in this area, prompted the creation of the Municipal Commission.¹¹

VI. INCORPORATION POLICY

The Municipal Commission considers itself to be precluded by law and by sound public policy from the approval of incorporation elections within the metropolitan area which are proposed as a defense against annexation without strict compliance with statutory guide lines. We favor larger solutions to the problems created by swift urban growth.

10 - Dr. Thomas H. Reed is a government consultant and noted expert on metropolitan problems. He was one of the authors of the National Municipal Leagues' Pioneer Study, The Government of Metropolitan Areas (1930). He has made metropolitan surveys for Allegheny County, Pennsylvania, St. Louis, Missouri, and Atlanta and Fulton County, Georgia, and drafted the charter for the consolidated city of Baton Rouge and East Baton Rouge Parish, Louisiana. The article in the NATIONAL CIVIC REVIEW is his address before the National Conference on Government of the National Municipal League, Miami Beach, Florida, December 2, 1961.

11 - See the Report of the Commission on Municipal Annexation and Consolidation, supra, pp. 12-14, for a review of incorporation activities which led to the adoption of the Municipal Commission Act.

In general, urban experience indicates that the remaining unincorporated land within metropolitan districts should be annexed to existing cities and villages as the need arises for municipal services except where there remains within one unified portion of the metropolis a sufficient amount of unincorporated property experiencing a rapid population growth to provide an adequate economic base so that the resulting newly created municipality can furnish governmental services as effectively and efficiently as they could be obtained by annexation.

In Minnesota, the Municipal Commission Act provides for incorporation of townships subject to statutory standards.

While all of the townships under consideration in Northern Dakota County are deemed to be urban or suburban in character under Section 5 of the Act because they all have populations of 2,000 or more, this does not mean that they are automatically entitled to incorporate as new villages within their existing boundaries.

The Commission has the responsibility under Section 5 of the law to determine if the area will best be served in whole or in part by annexation, incorporation, or status quo. The Commission is authorized by Section 2 relating to incorporation "to alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated . . ."

We interpret our Legislative charge to require the Commission to examine areas such as Northern Dakota County in their entirety for anticipated growth, tax base, need for future governmental services, community of interest, and other factors, to weigh the merits of respective proposals.

Unfortunately none of the presentations made by the petitioners to date have looked beyond their present township limits to find areas of common interests with their neighbors.

In addition, none of the petitions heard by the Commission have presented convincing testimony or arguments to show that separate incorporation within present township boundaries will "protect the public health, safety and welfare" any better as a result of change

in governmental status. All indications point to maintenance of the status quo in planning for future growth if separate incorporation is granted within present township boundaries.

In our judgment, all of the townships in the northern tier of Dakota County, including Inver Grove, Burnsville, Eagan, parts of Lakeville, and Lebanon, are at the same approximate level of suburban activity. They all can anticipate common future population growth and possess a unity of interest in providing adequate controls to protect the public interest in land development and plat and subdivision control. They may prosper by exploring in common the sharing of their joint tax base, in supplying their people with adequate water supply, sanitary sewage disposal, police and fire protection, platting and zoning, and the other services which are rapidly required in a swiftly-urbanizing area.

Northern Dakota County can anticipate almost revolutionary growth and change within the next 40 years. The territory has all the necessary attributes for sound growth and development. Industry and commercial interests will find attractive plant sites, river transportation, railroads, natural gas supplies, availability of power, excellent highways and bridges, natural drainage, water, ~~and~~ and easy accessibility to both Minneapolis and St. Paul. In addition, the rolling countryside provides a desirable setting for suburban, low density home development.

However, unless there is common approach to the uniform use of these assets, the entire area will suffer from urban sprawl.

Northern Dakota County has an opportunity never afforded before to any peripheral area in the Twin Cities metropolitan district since Minneapolis and St. Paul were established as major cities.

Previous incorporation practice has permitted the tax base to be fragmented by self-starting incorporations which selfishly appropriate new industries whose taxes should be shared on a broader base or incorporate for any of the dubious reasons previously cited. Under the statutes prior to 1959, it would be impossible to look at the over-all picture, to evaluate the common interest of the entire

unincorporated area of Northern Dakota County, or to consider the broad public interest.

But Northern Dakota County can avoid the needless proliferation which has hampered local government by creation of small municipalities with little mission or purpose and without an adequate tax base to serve their people. These neighbors -- Burnsville, Eagan, Lakeville, and Inver Grove -- have an opportunity which is unique nationally to join hands and plan before the people arrive, instead of growing like Topsy and trying to deal with the consequences later.

Few areas in our national history have been planned before they have grown. As we enter a period when 75% of our national population will soon live in metropolitan centers, we must avail ourselves of the opportunity to reduce expense and increase social, economic, property and aesthetic values by planning in advance instead of backwards.

It required, for instance, a municipal financial crisis in Canada to cause formation of the Municipal Board of Ontario which several years later ordered creation of the municipality of metropolitan Toronto.

The warning flag should be up in the Twin Cities area that the needless additional proliferation of small units of local government unable to finance their own services or solve their own problems will sap the vitality of local government. There can be no relief from spiraling property taxes until we find the most economical, efficient and effective means of providing municipal services and utilities.

The Municipal Commission will shoulder its responsibility by approving no incorporation of a new municipality until it is convinced by reasonable proof that the proposed entity has an adequate tax base, a reasonable prospect of providing necessary services when it is completely organized, is not a part of a larger entity which would more adequately sustain municipal responsibilities, and would not be served better by annexation.

We have studied a map and overlays prepared by the Dakota County Engineer and Planning Commission showing political subdivisions, major rivers and lakes and basic roads and railroads; county commissioner's districts; school districts; natural water sheds; metropolitan sewerage regions; telephone service; electric, utility and pipe lines; and franchises of natural gas distributing companies.

We have examined tables showing the average taxable assessed valuation per pupil in a school district, classification of real estate (Full and True Values, 1954-1960); and Per Capita Valuations (Taxable Assessed Valuation, 1950-1956 and 1958-1960).

All of these factors indicate the value to be obtained if local officials in the Burnsville-Eagan-Lakeville-Inver Grove area will confer and explore their common interests.

The record of each proceeding before us, our own observation of the crisis of local government in metropolitan areas, the literature on the subject in this metropolis, our own study of the precise area involved, and the dual projection of growth required public services all cause us to believe that local public officials in the northern area of Dakota County should suggest to us more comprehensive proposed solutions as constructive alternatives to annexation.

The interest shown at the hearings in Burnsville, the surrounding area, and throughout the metropolitan district, convinces us that one of the important accomplishments of the Legislature in adopting the Municipal Commission Act is the increase in the alertness and intensity of interest of the people living in the areas which are rapidly becoming urban or suburban in character. We applaud the alert interest of the people who have attended and participated in these hearings. Order and direction prevail in Minnesota in the fields of annexation and incorporation which are the subject of confusion and sometimes chaos in other jurisdictions. We express the hope that this keen interest in local government will cause the people living in the affected area in the northern part of Dakota County to present us with other and larger alternatives before we finally determine the petitions before us.

For the reasons set forth in this opinion, we afford the people of Burnsville, Eagan, Lakeville and Inver Grove an opportunity to counsel jointly and to suggest additional alternatives before we determine their separate petitions to incorporate. If the communities do not propose additional alternatives as recommended, the Commission may then proceed of its own motion under Section 5 and the general provisions of the Municipal Commission Act.

May 1, 1962.

BY THE FULL COMMISSION:

Joseph Robbie
Chairman

OPINION BY:

Joseph Robbie,
Chairman