

M E M O R A N D U M

The Minnesota Municipal Board, after more than two years of carefully analyzing the facts and issues, has ordered the annexation of Fayal Township to the City of Eveleth and various portions of Missabe Mt. Township to the Cities of Eveleth, Virginia, and Gilbert. This decision will provide for orderly, urban growth in this part of the Range. Although the various orders detail the rationale for the individual decisions, several issues can best be examined within the framework of this memorandum. These include the referendum, Differding Point, and the cooperative efforts between the various units of government.

Prior to 1973, annexation referenda included only those areas to be annexed. During that year, the Legislature broadened the referendum standard to include those areas that the Board determined to be "...primarily and substantially interested in or affected by..." the annexation. Since the adoption of this criterion, the Municipal Board has only been required to apply this standard on one occasion; however, that annexation involved a tiny, unpopulated parcel and offers virtually no precedential value in this proceeding. Therefore, the Board's interpretation of the statutory mandate is based upon a careful analysis of legislative intent.

The Board has decided that separate referenda should be held for each annexation. Further, those persons entitled to vote shall reside in:

- 1) The areas to be annexed.
- 2) The annexing municipalities.
- 3) Additionally, Missabe Mt. Township voters shall be permitted to vote in the three referenda.

In making the decision just outlined, the Board considered the following:

- 1) The referenda should be distinct. To permit both townships and all three cities to vote in all three referenda would unfairly dilute the voting impact of those most deeply affected by the outcome.
- 2) An exception had to be made in the case of Missabe Mt. Township voters whose interest in each proceeding is very clear. Since Missabe Mt. Township is to be divided, unlike any of the other governmental units involved, the impact of each annexation directly and substantially affects the entire township.
- 3) Under prior, more restrictive law, the area to be annexed had the right to vote in annexation referenda. Broader language was certainly not meant to exclude them. Under any circumstances, if any area is "primarily and substantially interested in or affected by the Board order," it is the area to be annexed.
- 4) The new language permits the Board to take into account the impact of an annexation beyond the area immediately annexed. Given the enormous responsibilities each municipality will assume upon annexation, the cities clearly fit within the meaning of the amended language.

Differding Point, in Fayal Township, is a peninsula which extends into Ely Lake. It is closer geographically to the City of Gilbert than to Eveleth, and, further, it is almost cut off from the remainder of Fayal by the lake. Still, the Board had decided to annex all of Fayal Township, including Differding Point, to Eveleth.

Several reasons led to the Board's decision. Differding Point and Fayal Township residents and the Fayal Town Board demonstrated that all of Fayal Township, including Differding Point, shares a strong community of interests, including social, political, economic, and educational. Fayal Township is a cohesive entity. Further, Differding Point residents view Eveleth as their urban center; that is, the city upon which they rely to provide the recreational, social, religious, and other opportunities available in an urban area. Also, Eveleth indicated that it

will be able to service this area. Finally, Gilbert noted that they would be amenable to assisting Eveleth service Differding Point if problems later developed.

Gilbert's cooperative approach exemplified the final point; Range cities are working closely together to resolve mutual problems. The Range is experiencing substantial and intensive growth. Development is occurring rapidly, and urban services and structure are needed. Throughout much of this lengthy proceeding, the cities and townships have cooperated. Indeed, final resolution of many issues was a product of this cooperation.

Future cooperation also is important and likely. The three cities and townships are discussing joint powers arrangements, and Arrowhead Regional Development Commission, in cooperation with the cities, is reviewing the possibility of municipal consolidation.

STATE OF MINNESOTA

# Office Memorandum

DEPARTMENT MUNICIPAL BOARD

TO : Parties of Record

DATE: June 23, 1978

FROM : William A. Neiman  
Executive Director

PHONE: 296-2428 (612)

SUBJECT: ✓ A-2910 Gilbert Supplemental Order  
Dated June 13, 1978, Adjusting Population

The date and effective date on the above-described order  
are hereby amended to read:

~~June-13, 1978~~

June 2, 1978

Please adjust your records accordingly.

WAN:lj

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

|                   |                   |
|-------------------|-------------------|
| Thomas J. Simmons | Chairman          |
| Robert W. Johnson | Vice Chairman     |
| Gerald J. Isaacs  | Member            |
| Alvin S. Hall     | Ex-Officio Member |
| Edwin H. Hoff     | Ex-Officio Member |

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|                                   |                        |
|-----------------------------------|------------------------|
| IN THE MATTER OF THE RESOLUTION ) | FINDINGS OF FACT,      |
| FOR THE ANNEXATION OF CERTAIN )   | CONCLUSIONS OF LAW,    |
| LAND TO THE CITY OF GILBERT )     | AND SUPPLEMENTAL ORDER |

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On February 24, 1976, a resolution by the City of Gilbert was received by the Minnesota Municipal Board requesting annexation of certain land to the City of Gilbert. Hearings were held and testimony and exhibits were received. On July 28, 1976, the Minnesota Municipal Board issued an Order annexing certain land to the City of Gilbert and ordering a public election. The public election was duly held on September 14, 1976. The election results were in favor of annexation to the City of Gilbert 856 to 262 and, the annexation was therefore, effective as of August 13, 1976, pursuant to a memorandum issued by the Board dated October 12, 1976. The Board pursuant to a request by the City of Gilbert and after due and careful consideration of the evidence, hereby makes and files the following Findings of Fact, Conclusions of Law and Supplemental Order.

FINDINGS OF FACT

1. Pursuant to Minnesota Statutes 414.01, Subd. 14, the Minnesota Municipal Board received a request from the City of Gilbert on April 7, 1977, to adjust the population to reflect the increase resulting from the annexation effective August 13, 1976, Minnesota Municipal Board docket A-2910.

2. The City of Gilbert has submitted to the Board that an actual canvas was conducted from house to house by the city clerk and a city councilwoman.

3. The canvas showed a count of 104 persons and a listing showing the last name and number of total residents in each home was filed with the Minnesota Municipal Board on April 7, 1977.

CONCLUSIONS OF LAW

1. Minnesota Statutes 414.01, Subd. 14, permits the Board to establish the population of the enlarged municipality.

2. An order should be issued by the Board adjusting the population of the City of Gilbert.

SUPPLEMENTAL ORDER

IT IS HEREBY ORDERED: That the population of the City of Gilbert be, and the same hereby is, increased by 104 persons to 2,667 persons for all purposes until the next Federal Census.

IT IS FURTHER ORDERED: That there is no population decrease in Missabe Mountain Township because the township no longer exists.

IT IS FURTHER ORDERED: That the effective date of this order is June 13, 1978.

Dated this 13th day of June, 1978.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101

  
William A. Neiman  
Executive Secretary



STATE OF MINNESOTA  
MUNICIPAL BOARD

Suite 165 Metro Square  
7th & Robert Streets  
St. Paul, Minnesota 55101  
October 12, 1976

TO: Parties of Record

FROM: William A. Neiman  
Executive Secretary

SUBJECT: Municipal Board Docket Number A-2610 Gilbert  
Municipal Board Docket Number A-2500 Eveleth  
Municipal Board Docket Number A-2621 Virginia

This is to inform you that pursuant to Municipal Board orders in the above-described matters, annexation elections were duly held on the 1<sup>st</sup> day of September 1976, in accordance with Minnesota Statutes 414.031, Subdivision 5.

The election results were as follows and the Gilbert and Virginia annexations, are, therefore, effective as of August 13, 1976:

|                      | <u>For Annexation</u> | <u>Against Annexation</u> |
|----------------------|-----------------------|---------------------------|
| City of Gilbert      | 847                   | 208                       |
| Missabe Mt. Township | <u>9</u>              | <u>54</u>                 |
| Totals:              | <u>856</u>            | <u>262</u>                |
| City of Eveleth      | 1,447                 | 536                       |
| Fayal Township       | 80                    | 1,149                     |
| Missabe Mt. Township | <u>3</u>              | <u>58</u>                 |
| Totals:              | <u>1,530</u>          | <u>1,743</u>              |
| City of Virginia     | 3,545                 | 633                       |
| Missabe Mt. Township | <u>2</u>              | <u>61</u>                 |
| Totals:              | <u>3,547</u>          | <u>694</u>                |

WAN:PDL:b

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

|                   |                   |
|-------------------|-------------------|
| Thomas J. Simmons | Chairman          |
| Robert W. Johnson | Vice Chairman     |
| Gerald J. Isaacs  | Member            |
| Edwin Hoff        | Ex-Officio Member |
| Dr. Alvin Hall    | Ex-Officio Member |

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IN THE MATTER OF THE RESOLUTION FOR )        ORDER  
ANNEXATION OF CERTAIN LAND TO THE )        FOR  
CITY OF GILBERT )        ELECTION  
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Pursuant to the Minnesota Municipal Board Order dated July 28, 1976, annexing certain property to the City of Gilbert the Minnesota Municipal Board hereby makes and issues its:

ORDER FOR ELECTION

IT IS HEREBY ORDERED THAT:

1. The election shall be held on September 14, 1976 in accordance with Minnesota Statutes 414.031, Subd. 5.
2. The hours of the election shall be between 7:00 a.m. and 8:00 p.m.
3. The polling places and election judges shall be as follows:

Election Judges:

Robert Kivela (Gilbert City Clerk) who shall serve as Chief Election Judge and shall appoint one assistant judge at each polling place in the City of Gilbert and submit their names in writing to the Municipal Board before the election.

John Schlotec (Missabe Mountain Township Clerk) shall serve as an Election Judge and appoint one assistant judge at each Polling place in the Township of Missabe Mountain and submit their names in writing to the Municipal Board before the election.



POLLING LOCATIONS:

CITY OF GILBERT

|              |   |  |
|--------------|---|--|
| 1st Precinct | - | City Hall<br>Gilbert, Minnesota                                |
| 2nd Precinct | - | Gilbert Curling and<br>Recreational Building                   |
| 3rd Precinct | - | Emmanuel Lutheran Church<br>Sparta Location<br>City of Gilbert |

MISSABE MT. TOWNSHIP

|              |   |  |
|--------------|---|--|
| 1st Precinct | - | Ida Jacobson residence<br>Genoa Location |
|--------------|---|--|

4. The judges shall conduct the election so far as practicable in accordance with the laws regulating special elections.

5. Only voters residing within the area which is substantially interested in or affected by the Board's Order dated July 28, 1976, shall be entitled to vote. This area is: City of Gilbert and the Township of Missabe Mountain.

6. The Chief Election Judge shall cause a copy of the order herein, a copy of the order dated July 28, 1976, and a Notice of Election to be posted not less than 20 days before the election in three public places in the area described herein and submit proof thereof to the Executive Secretary of the Municipal Board.

7. The Chief Election Judge shall cause a Notice of Election to be published for two successive weeks before the election in the newspaper qualified as a medium of official and legal publication of general circulation in the area described herein and submit proof thereof to the Executive Secretary of the Municipal Board.

8. The Chief Election Judge shall prepare the ballot, which shall bear the words "For Anenxation to the City of Gilbert" and

"Against Annexation to the City of Gilbert" with a square before each of the phrases in one of which the voter shall make a cross to express his or her choice.

9. The ballots and election supplies shall be provided by the annexing municipality.

10. The Election Judges shall prepare and submit to the Executive Secretary of the Minnesota Municipal Board a verified election certificate declaring the time and place of election and the results of their canvass of the ballots.

IT IS FURTHER ORDERED: That the annexation herein be effective upon filing of this Order as provided by Minnesota Statutes 414.031, Subd. 6, provided that a majority of the votes cast were "For Annexation".

Dated this 13<sup>th</sup> day of August, 1976

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
Saint Paul, Minnesota 55101



William A. Neiman  
Executive Secretary

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

|                   |                   |
|-------------------|-------------------|
| Thomas J. Simmons | Chairman          |
| Robert W. Johnson | Vice Chairman     |
| Gerald J. Isaacs  | Member            |
| Dr. Alvin Hall    | Ex-Officio Member |
| Edwin H. Hoff     | Ex-Officio Member |

|                                       |                            |
|---------------------------------------|----------------------------|
| IN THE MATTER OF THE RESOLUTION FOR ) | <u>FINDINGS OF FACT,</u>   |
| ANNEXATION OF CERTAIN LAND TO THE )   | <u>CONCLUSIONS OF LAW,</u> |
| CITY OF GILBERT )                     | <u>AND ORDER</u>           |

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on April 28, 1976 at Gilbert, Minnesota. The hearing was conducted by Chairman Thomas Simmons pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance was County Commissioner Edwin Hoff, ex-officio member of the Board. The City of Gilbert appeared by and through Roland Wivoda and the City of Eveleth appeared by and through Bruce Rasmussen, the City of Virginia appeared by and through Vernon Saxhaug, and the Townships of Fayal and Missabe Mt. by and through Harold Frederick. 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 February 24, 1976, a resolution by Gilbert was received by the Minnesota Municipal Board requesting the Board to order annexation of the area hereinafter described. This resolution contained all the information required by statute including a description of the territory subject to annexation which is as follows:

AS TO MISSABE MOUNTAIN TOWNSHIP:

1. The East One-Half of Sections 10, 15, and 22, all lying in T58N, R17W,
2. The West One-Half of Section 27, T58N, R17W,

3. The East One-Quarter of Section 33, T58N, R17W
4. All of those parcels of land lying outside of the Gilbert limits in the following Sections; 25, 36, 35, 34, all in T58N, R17W;

AS TO FAYAL TOWNSHIP

1. All of Section 1, T57N, R17W
2. All of Section 2, T57N, R17W
3. All of Section 3, T57N, R17W, except that part of said Section 3 lying upon and forming the Southern shoreline of Ely Lake.
2. Due timely and adequate legal notice of the hearing was published, served and filed.

3. Geographic Features

- a. The area subject to annexation is unincorporated and abuts the City of Gilbert.
- b. The total area of the territory subject to annexation is 2,837 acres (Missabe Mt.) 1,224 acres (Fayal).
- c. The degree of contiguity of the boundaries between the annexing municipality and the proposed annexed property is as follows:  
a substantial percentage with Missabe Mountain. Fayal is unknown.

The natural terrain of the area including major watersheds, soil conditions, rivers, alkes and major bluffs is as follows:  
includes mining uses, lakes, land suitable for development in Fayal and mining uses and land suitable for development in Missabe Mt. Township.

4. Population Data

- a. The City of Gilbert
  - 1) Past population growth: 2,200 in 1970
  - 2) Present population: Estimated at 3,000
  - 3) Projected population: Continued growth
- b. The area subject to annexation

| <u>Fayal</u>   | <u>Missabe Mt.</u>                |
|--|-----------------------------------|
| 1) Past population growth: Steady increase around lake | Very slow                         |
| 2) Present population: About 1,000                     | 50 - 150                          |
| 3) Projected population: Continued increase            | Increase when development occurs. |

5. Development Issues

- a. What, if any, are the comprehensive plans for the development of the property proposed for annexation and/or the annexing

municipality, including development projected by the state planning agency. Certain private developers, in cooperation with Gilbert, plan residential development in certain portions of the area to be annexed. The area will be included as part of Gilbert's comprehensive plan which is being developed.

b. What land use controls are presently being employed.

1) In the City of Gilbert

a) Zoning - Yes

b) Subdivision regulations - Unknown

c) Housing and building codes - Unknown, except insofar as state law applies

d) Other

2) In the area to be annexed:

a) Zoning - Yes, by the county.

b) Subdivision regulations - Unknown

c) Housing and building codes - Unknown

d) Other

c. Does the city require future growth space? Yes. If so, will the area subject to annexation provide the City of Gilbert with necessary growth space? Yes, particularly for residential development to respond to a growing population.

d. The present pattern of physical development is:

1) In the City of Gilbert:

a) Residential - Yes

c) Commercial - Yes

b) Industrial - Yes

d) Institutional - Yes

2) In the area subject to annexation:

a) Residential - Yes

c) Commercial - Very limited

b) Industrial - Unknown,  
other than mining uses

d) Institutional - Unknown

e. What will be the effect, if any, of the annexation on adjacent communities? Minimal, since growth space has been and is being provided for neighboring communities.

## 6. Governmental Services

a. Presently, the Townships of Missabe Mt. and Fayal provides the area subject to annexation with the following services:

- |  |  |
|--|--|
| 1) Water - Unknown   | 4) Police Protection - Unknown except that part of Fayal receives protection from Gilbert; Missabe Mt. unknown |
| 2) Sewer - Unknown   |  |
| 3) Fire Protection - Missabe Mt. receives protection from Gilbert; Fayal unknown | 5) Street Improvements - Unknown   |
|  | 6) Street Maintenance - Unknown  |
|  | 7) Recreational - Unknown  |
|  | 8) Other   |

b. Presently, the City of Gilbert provides its citizens with the following services:

- |                            |                              |
|----------------------------|------------------------------|
| 1) Water - Yes             | 5) Street Improvements - Yes |
| 2) Sewer - Yes             | 6) Street Maintenance - Yes  |
| 3) Fire Protection - Yes   | 7) Recreational - Yes        |
| 4) Police Protection - Yes | 8) Other - Garbage, Library  |

c. Presently, the City of Gilbert provides the area subject to annexation with the following services:

- |   |                                  |
|---|----------------------------------|
| 1) Water - Yes, In parts Of Fayal and Missabe Mt. | 5) Street Improvements - Unknown |
| 2) Sewer - Unknown                                | 6) Street Maintenance - Unknown  |
| 3) Fire Protection - Yes, on a contractual basis. | 7) Recreational - Unknown        |
| 4) Police Protection - Yes, to part of Fayal      | 8) Other                         |

d. Plans to extend municipal services to the area subject to annexation include the following: Police and fire will service the area immediately. Other services can be extended as development requires them, and developers will assume much of the necessary cost.

e. There are existing or potential pollution problems which are: pollution of Lost Lake.

The following additional services will help resolve this situation: the City, which would be the source of pollution, will be responsible for maintaining the lake.

## 7. Fiscal Data

- a. In the City of Gilbert the mill rate is 61.61.
- b. In the area subject to annexation, the assessed valuation is \$182,578 (Missabe Mt.) - \$762,042 (Fayal), the mill rates are: Missabe Mt. 2.35 and Fayal 9.32.

c. Will the annexation have any effect upon area school districts?  
No.

8. Is annexation to the City of Gilbert the best alternative

a. Could governmental services be better provided for by incorporation of the area subject to annexation? No, there is no urban core.

b. Could governmental services be better provided for by condolidation or annexation of the area with an adjacent municipality other than Gilbert? Alternatives were specifically considered. The result, described in "9", is to deny any annexation of Fayal and reduce the area in Missabe Mountain.

c. Could Fayal or Missabe Mt. Townships provide the services required? No, no evidence was submitted showing this.

d. Can Fayal or Missabe Mt. Townships continue to function without the area subject to annexation, and, if not, could it be incorporated separately or combined with some other governmental unit? That portion of Missabe Mountain Township not annexed is included in two other annexation orders disposing of the entire township.

9. Alteration of Boundaries

a. The area subject to annexation should be decreased because certain properties in Missabe Mt. and all the properties within Fayal Township would be served better by the cities of Eveleth and Virginia. The decreased area is:

In Missabe Mountain Township, Township 58 North, Range 17 West, those parts of Sections 25, 27, 34, 35 not already within Gilbert all of Section 36, the Eastern 1/4 of Section 33, and the Southeast quarter of Section 22.

10. A majority of property owners in the area to be annexed have not petitioned the Minnesota Municipal Board requesting annexation.

#### CONCLUSIONS OF LAW

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

2. The area subject to annexation is now or is about to become urban

or suburban in character.

3. Municipal government is required to protect the public health, safety and welfare in the area subject to annexation.

4. The best interest of the City of Gilbert and the area subject to annexation will be furthered by annexation.

5. There is a reasonable relationship between the increase in revenue for the City of Gilbert and the value of benefits conferred upon the area subject to annexation.

6. This annexation proceeding has not been initiated by a petition of a majority of property owners, and, therefore, this Minnesota Municipal Board order is subject to an annexation election to be described herein. Voters residing in the City of Gilbert and in Missabe Mountain Township reside in the area which is primarily and substantially interested in and affected by the pending annexation.

7. An order should be issued by the Minnesota Municipal Board annexing the area described herein.

O R D E R

IT IS HEREBY ORDERED: That the property hereinafter described is situated in the County of St. Louis, State of Minnesota be and the same is hereby annexed to the City of Gilbert, Minnesota, the same as if it had been originally made a part thereof:

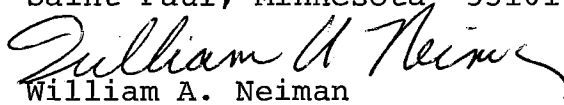
In Missabe Mountain Township, Township 58 North, Range 17 West, those parts of Sections 25, 27, 34, 35 not already within Gilbert all of Section 36, the Eastern 1/4 of Section 33, and the South-east quarter of Section 22.

IT IS FURTHER ORDERED: On September 14, 1976 a public election to be conducted as provided by law, shall be held in that area which is substantially interested in or affected by this order. This area is: The City of Gilbert and the Township of Missabe Mt. Any resident of these jurisdictions who is eligible to vote at a township or municipal election may vote in the referendum.

IT IS FURTHER ORDERED: That the effective date of this order is July 28, 1976.

Dated this 28 day of July, 1976

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
Saint Paul, Minnesota, 55101

  
William A. Neiman  
Executive Secretary