

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Edwin Kobler	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR THE)
ANNEXATION OF CERTAIN LAND TO THE CITY)
OF WINONA PURSUANT TO MINNESOTA STATUTES)
414)

ORDER RECINDING
MOTION FOR EXPANSION

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on June 29, 1979, at Winona, Minnesota and continued from time to time. The hearing was conducted by Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners James Papenfuss and Edwin Kobler, ex-officio members of the Board. The City of Winona appeared by and through George Robertson, Jr., the Township of Winona appeared by and through Kent Gernander, and the petitioners appeared by and through Harold J. Libera. 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, and Order.

FINDINGS

I. That on May 29, 1980 upon its own motion, the Minnesota Municipal Board expanded the area under consideration before it in Municipal Board File A-3489 to include the entire Town of Winona.

II. That the Municipal Board issued a final interim order on July 31st, 1980, approving the annexation of the property originally petitioned for annexation in Minnesota Municipal Board File A-3489.

III. That pursuant to stipulation of counsel for the parties of record the letter of February 24th, 1981 of David R. Sollenberger, City Manager of the City of Winona and accompanying letter and documents was made a part of the record before the Board.

IV. That the City of Winona had conducted a subsequent fiscal analysis of the annexation of the entire Town of Winona to the City of Winona and found that at present such an annexation would result in a net deficit position for the City of Winona.

V. That the City of Winona based upon the revised fiscal analysis determined that the total annexation of the Township of Winona is not appropriate at this time.

VI. That the Municipal Board in expanding the area under consideration to include the entire Township, did so to facilitate discussions between the City and the Township which were focusing upon the total annexation of the Town of Winona to the City of Winona.

O R D E R

I. IT IS HEREBY ORDERED: That the motion of the Minnesota Municipal Board to expand the area under consideration before it in Municipal Board File A-3489 is recinded without prejudice and the Municipal Board's file on this matter is hereby closed.

II. IT IS FURTHER ORDERED: That the effective date of this order is May 21st, 1981.

Dated this 21st day of May, 1981

MINNESOTA MUNICIPAL BOARD
Suite 165 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101


Terrence A. Merritt
Executive Director

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Edwin Kobler	Ex-Officio Member
James Papenfuss	Ex-Officio Member

IN THE MATTER OF THE PETITION)
FOR ANNEXATION OF CERTAIN LAND)
TO THE CITY OF WINONA PURSUANT))
TO MINNESOTA STATUTES 414)

ORDER DENYING DEMAND
FOR REHEARING AND
MOTION TO
VACATE ORDER

In accordance with notice mailed to the parties of record, a meeting before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, and Rules of Practice was held, on September 11, 1980, at St. Paul, Minnesota to consider the Demand for Rehearing and Motion to Vacate Order. The meeting was conducted by Thomas J. Simmons, Chairman. Also in attendance were Municipal Board Members Robert W. Johnson and Robert J. Ferderer and County Commissioners Edwin Kobler and James Papenfuss, ex-officio members of the board.

After due and careful consideration of the Demand for Rehearing and Motion to Vacate Order, together with all records, files and proceedings, the Minnesota Municipal Board unanimously makes and files the following Findings and Order denying Demand for Rehearing and Motion to Vacate Order.

FINDINGS

I. That the Municipal Board issued a final interim order on July 31, 1980, approving the annexation of the property originally petitioned for annexation in Minnesota Municipal Board File A-3489.

II. That on August 15, 1980 the Municipal Board received a Demand for Rehearing and Motion to Vacate Order.

III. That the evidence proposed to be adduced at the rehearing would be merely cumulative of the evidence previously brought before the Municipal Board.

IV. That Municipal Board Rule of Practice 19 requires that proposed amendments to alleged errors of the Municipal Board's findings of fact, decision and order must be set forth in the petition; no proposed amendments were contained in the Demand for Rehearing and Motion to Vacate Order.

V. That the Municipal Board issued its Order on July 31, 1980 and Minnesota Statute 414.01, Subdivision 12, is operative thereon as a matter of law.

VI. That the Municipal Board unanimously reaffirmed its interim Order for A-3489

issued on July 31, 1980.

O R D E R

I. IT IS HEREBY ORDERED: that the Demand for Rehearing and Motion to Vacate Order is hereby denied.

II. IT IS FURTHER ORDERED: that Municipal Board Interim Order for A-3489 issued on July 31, 1980 is reaffirmed.

III. IT IS FURTHER ORDERED: that the effective date of this order is September 11, 1980.

Dated this 11th day of September, 1980.

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director

M E M O R A N D U M

The Municipal Board, though denying the Township's Demand for Rehearing and Motion to Vacate Order, wishes to reaffirm its support of the discussions between the Town of Winona and the City of Winona as they relate to the annexation of the Town of Winona by the City of Winona.

These discussions were precipitated by a continuance of the Municipal Board's meeting of October 2, 1980 on A-3489 for six months to allow the Town and City an opportunity to attempt to develop an Orderly Annexation agreement.

These discussions were shifted by the Town from a discussion of Orderly Annexation to a discussion of the total annexation of the Town of Winona to the City of Winona. After extensive discussion between the staff of the City and the Town Board, the Town Board submitted to the City and the Municipal Board a proposed agreement to accomplish the annexation of the majority of Winona Township to the City of Winona, with a portion proposed to be transferred to Wilson Township and a portion to be annexed to the City of Goodview. The City of Winona has reviewed the proposal. The City manager set up a meeting for August 11, 1980 between the Winona Town Board and the Winona City Council. This meeting was rescheduled for early October, 1980 because of the unavailability of several members of the City Council.

These discussions should continue to enable the Town of Winona and the City of Winona to address and resolve this important issue.

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
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Robert J. Ferderer	Member
James Papenfuss	Ex-Officio Member
Edwin Kobler	Ex-Officio Member

IN THE MATTER OF THE PETITION)
FOR ANNEXATION OF CERTAIN LAND)
TO THE CITY OF WINONA)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on June 29, 1979, at Winona, Minnesota and continued from time to time. The hearing was conducted by Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners James Papenfuss and Edwin Kobler, ex-officio members of the Board. The City of Winona appeared by and through George Robertson, Jr., the Township of Winona appeared by and through Kent Gernander, and the petitioners appeared by and through Harold J. Libera. 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

I. On February 5, 1979, a copy of a petition for annexation by all the property owners was filed with the Minnesota Municipal Board. The petition contained all the information required by statute including a description of the territory subject to annexation which is as follows:

All that part of the following described land which lies Southerly of the Southerly boundary line of Highway #43 as now located:

A part of the Easterly One Half of Lot Thirty-eight (38), Plat of the Subdivision of the South Half (S 1/2) of Section Thirty-five (35), and South Half (S 1/2) of Northeast Quarter (NE 1/4) of Section Thirty-five (35), Township One Hundred Seven (107), Range Seven (7), West, more particularly bounded and described as follows, to-wit:

Commencing at a point in the center of the West Burns Valley Road, so called, 17.67 chains (measuring along the center line of said road) Easterly from the West line of Section Thirty-five (35), Township One Hundred Seven (107), Range Seven (7) West, thence running Easterly along the center line of said Road 17.67 chains to a point 4.77 chains West of the North and South Quarter line of said Section, thence South and parallel with said Quarter line 26 chains to the South bank of a certain creek there situated, commonly called the Burns Valley Creek, thence Westerly along the South bank of said Creek to a point 5 chains (measur-

ing along said creek) Easterly from the point where the South line of said Section intersects the South bank of said Creek, thence in a straight line Northerly to the place of beginning, being located upon and forming a part of the Southwest Quarter (SW 1/4) of Section Thirty-five (35), Township One Hundred and Seven (107) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, excepting therefrom the parcel staked and sold to the Minnesota State Highway Department for improvements of Highway #43 consisting of approximately 1.8 acres, and except that parcel conveyed to Joseph R. Watkowski and Sheila M. Watkowski, husband and wife, by deed dated November 13, 1952, and recorded January 2, 1953, in Book 219 of Deeds, page 38.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Winona Township on April 30, 1979. The Municipal Board upon receipt of this objection conducted further proceedings in accordance with M.S. 414.031, as required by M.S. 414.033, Subd. 5.

II. On May 29, 1980, the Minnesota Municipal Board on its own motion moved to expand the area under consideration before it to the following described property:

The Entire Town of Winona

This interim order only addresses itself to that property described in Findings of Fact I herein, and does not dispose of the remaining area under consideration before the Board.

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

IV. Geographic Features

- A. The area subject to annexation is unincorporated and abuts the City of Winona.
- B. The total area of the City of Winona is approximately 8,400 acres. The total area of the territory subject to annexation is approximately 24.8 acres.
- C. The perimeter of the area to be annexed is 18% bordered by the municipality.
- D. The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is bordered on the south by East Burns Valley Creek. The area is divided into two gently sloping areas.

V. Population Data

A. The City of Winona:

- 1. In 1979, there were 26,782 residents.
- 2. The present estimated population is 26,782.

B. The area subject to annexation:

- 1. In 1979, there were 0 residents.
- 2. The present estimated population is 0.

C. The Township of Winona:

- 1. The present estimated population is approximately 657.

VI. Development Issues

- A. The pattern of physical development, including land already in use, in the process of being developed, and remaining for various uses.

1. Area in Use

a. In the City of Winona:

- | | |
|-----------------------------|---|
| 1. Residential: 1,346 acres | 4. Industrial: 429 acres |
| 2. Institutional: 858 acres | 5. Agricultural: 40 acres |
| 3. Commercial: 217 acres | 6. Vacant land: 2,426 acres
of which 326 acres are usable,
with the remainder either
bluffside, river environment
and public parks. |

b. In the area subject to annexation:

- | | |
|------------------------------|--|
| 1. Agricultural: 19.74 acres | 2. Vacant land: approximately
5.1 acres |
|------------------------------|--|

- c. In the Township of Winona are the following uses: Residential, Institutional, Commercial, Industrial, Agricultural, and vacant land.

2. Area Being Developed

a. In the City of Winona:

- | | |
|---------------------------|-------------------------|
| 1. Residential: 101 acres | 2. Industrial: 12 acres |
|---------------------------|-------------------------|

3. Area Remaining for Various Uses:

a. In the City of Winona:

1. Residential: approximately 114 acres
2. Commercial: approximately 39 acres
3. Industrial: 20 acres
4. Agricultural: 40 acres

B. Transportation:

1. The present transportation network is:

- a. In the City of Winona: roads and bus service
- b. In the area subject to annexation: Highway No. 43
and City Street.

C. Land use controls and planning, including comprehensive plans, in the city and the area subject to annexation:

1. In the City of Winona:

- a. Zoning: Adopted August, 1959 (amended)
- b. Subdivision Regulations: Adopted April, 1960 (amended)
- c. Comprehensive Plan: Adopted by resolution, November, 1976 (amended)
- d. Official Map: Adopted August, 1959 (amended)
- e. Capital Improvements Program: 5 year--updated annually
- f. Fire Code: Newest, July, 1976
- g. Building Inspector: Administering Minnesota Building Code
- h. Planning Commission: Since 1959

2. In the Township of Winona:

- a. Zoning: yes, since 1969
- b. Subdivision Regulations: yes
- c. Comprehensive Plan: no
- d. Capital Improvements Program: no
- e. Building Inspector: no
- f. Planning Commission: yes

3. In the County of Winona:

- a. Zoning: Adopted August, 1970
- b. Subdivision Regulations: Adopted August, 1970
- c. Comprehensive Plan: written prior to 1970, but not adopted
- d. Official Map: Adopted August, 1970
- e. Building Inspector: Contracted starting January 1, 1979
- f. Planning Commission: August, 1970

4. There is no inconsistency between the proposed development and the planning and land use controls for the area.

VII. Governmental Services

A. The Town of Winona provides the area subject to annexation with the following services:

1. Water: no
2. Sewer: no
3. Fire protection and rating: by contract with the City of Winona
4. Police protection: County Sheriff
5. Street maintenance: Town contracts for this service
6. Administrative services: Contract for engineering services

B. The City of Winona provides its residents with the following services:

1. Water: yes
2. Sewer: yes
3. Fire protection and rating: yes--4
4. Police protection: yes
5. Street improvements: yes
6. Street maintenance: yes
7. Recreational: yes
8. Administrative services: yes
9. Other: Library; Winona Transit Service

C. The City of Winona provides the area subject to annexation with the following services:

1. Fire protection and rating: by contract with the township

D. Existing or potential environmental problems and the need for additional services to resolve these problems: the area proposed for annexation is adjacent to East Burns Valley Creek, so that on site septic systems may present a pollution threat to the creek. The City of Winona can provide the area with sanitary sewer and water.

E. Plans and programs by the annexing municipality to provide needed governmental services for the area proposed for annexation include: extension of water and sanitary sewer upon request; fire and police protection; street improvements and maintenance similar to the rest of Winona.

F. The following services will be available to the annexed area within two years: sewer and water; Police and fire protection as well as City of Winona administrative services are available immediately.

VII. Tax Base

A. In the City of Winona, the tax base includes the following:

1. Residential property in 1978 was valued at \$39,353,376, generating \$3,954,499 in taxes or 57½ of the total.
2. Commercial property in 1978 was valued at \$15,031,675, generating \$1,504,370 in taxes or 22% of the total.
3. Industrial property in 1978 was valued at \$13,536,461, generating \$1,354,729 in taxes or 20% of the total.

4. Agricultural property in 1978 was valued at \$33,823, generating \$2,921 in taxes or 1/10% of the total.
5. Vacant land in 1978 was valued at \$279,747, generating \$27,997 in taxes or 4/10% of the total.
6. Non-taxable property
 - a. Other non-taxable uses included approximately 2919 acres and 282 miles of sidewalks alleys and streets.

B. In the Township of Winona, the tax base includes the following:

1. Residential property in 1978 was valued at \$1,718,390, generating \$153,087 in taxes or 79.6% of the total.
2. Commercial property in 1978 was valued at \$35,408, generating \$3,102 in taxes or 1.6% of the total.
3. Industrial property in 1978 was valued at \$139,774, generating \$12,245 in taxes or 6.4% of the total.
4. Agricultural land in 1978 was valued at \$253,679, generating \$19,688 in taxes or 10.2% of the total.
5. Vacant land in 1978 was valued at \$47,878, generating \$4,194 in taxes or 2.2% of the total.

C. In the area subject to annexation, the tax base includes the following:

1. Agricultural property in 1978 was valued at \$9,450, generating \$733 in taxes or .004% of the total.

VIII. Tax Data

A. In the City of Winona:

1. Mill rate in 1978 was 0.10008.
2. Bonded indebtedness in 1978 was \$2,910,000.

B. In the Township of Winona:

1. Mill rate in 1978 was 0.07761.
2. Bonded indebtedness in 1978 was -0-.

C. In the area subject to annexation:

1. Mill rate in 1978 was 0.07761.
2. Bonded indebtedness in 1978 was -0-.

D. Mill rate in the respective governmental units:

1. County in 1978 was 0.02030.
2. School district in 1978 was 0.03648.

IX. Annexation to the City of Winona is the best alternative.

- A. There is no effect on adjacent communities if the proposed annexation is approved and the proposed annexation if approved, would have little or no effect on area schools classroom space.
- B. The town government is not presently adequate to deliver the requested services to the area proposed for annexation.
- C. Necessary governmental services could not best be provided by incorporation or annexation to an adjacent municipality.

D. Present Assessed valuation of the Town of Winona: \$2,195,129.00.

Present assessed valuation of proposed annexation area: \$9,450.00.

New valuation of the Town of Winona if entire area is annexed: \$2,185,679.00.

E. Winona Township can continue to function without the area subject to annexation.

X. A majority of property owners in the area to be annexed have petitioned the Minnesota Municipal Board requesting annexation.

CONCLUSIONS OF LAW

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

II. The area subject to annexation is now or is about to become urban or suburban in character.

III. The best interest of the area subject to annexation will be furthered by annexation.

IV. The remainder of the Township of Winona can carry on the functions of government without undue hardship.

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

VI. Annexation of all or a part of the property to an adjacent municipality other than the City of Winona would not better serve the interests of the residents who reside in the area subject to annexation.

VII. Two years will be required to effectively provide full municipal services to the annexed area.

VIII. This annexation proceeding has been initiated by a petition of a majority of property owners and, therefore, this Minnesota Municipal Board order is not subject to an annexation election.

IX. An order should be issued by the Minnesota Municipal Board annexing the area described in Findings of Fact I, herein, but not addressing the remaining area under consideration before the Minnesota Municipal Board at this time.

O R D E R

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

All that part of the following described land which lies Southerly of the Southerly boundary line of Highway #43 as now located:

A part of the Easterly One Half of Lot Thirty-eight (38), Plat of the Subdivision of the South Half (S 1/2) of Section Thirty-five (35), and South Half (S 1/2) of Northeast Quarter (NE 1/4) of Section Thirty-five (35), Township One Hundred Seven (107), Range Seven (7), West, more particularly bounded and described as follows, to-wit:

Commencing at a point in the center of the West Burns Valley Road, so called, 17.67 chains (measuring along the center line of said road) Easterly from the West line of Section Thirty-five (35), Township One Hundred Seven (107), Range Seven (7) West, thence running Easterly along the center line of said Road 17.67 chains to a point 4.77 chains West of the North and South Quarter line of said Section, thence South and parallel with said Quarter line 26 chains to the South bank of a certain creek there situated, commonly called the Burns Valley Creek, thence Westerly along the South bank of said Creek to a point 5 chains (measuring along said creek) Easterly from the point where the South line of said Section intersects the South bank of said Creek, thence in a straight line Northerly to the place of beginning, being located upon and forming a part of the Southwest Quarter (SW 1/4) of Section Thirty-five (35), Township One Hundred and Seven (107) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, excepting therefrom the parcel staked and sold to the Minnesota State Highway Department for improvements of Highway #43 consisting of approximately 1.8 acres, and except that parcel conveyed to Joseph R. Watkowski and Sheila M. Watkowski, husband and wife, by deed dated November 13, 1952, and recorded January 2, 1953, in Book 219 of Deeds, page 38.

II. IT IS FURTHER ORDERED: That the mill levy of the City of Winona on the property herein ordered annexed shall be increased in substantially equal proportions over a period of two years to equality with the mill levy of the property already within the City.

III. IT IS FURTHER ORDERED: That the effective date of this order is July 31, 1980.

Dated this 31st day of July, 1980

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director

MEMORANDUM

In entering its interim order annexing the property described in Findings of Fact I of the order attached hereto, the Minnesota Municipal Board found that the evidence submitted at the hearings on June 29, 1979 and April 25, 1980 satisfied the factors and criterion set forth in Minnesota Statutes 414.031, Subd. 4, (1978).

The order attached hereto does not dispose of all of the property before the Minnesota Municipal Board under Minnesota Municipal Board file #A-3489. At the April 25, 1980 hearing the Minnesota Municipal Board received evidence indicating that the City of Winona, the Town of Winona were discussing the possible annexation of the entire Township of Winona to the City of Winona. Under Minnesota Statutes 414.031, Subd. 4, (1978) the Minnesota Municipal Board has the authority to alter the boundaries of an area under consideration before it. On May 29, 1980, the Minnesota Municipal Board moved to alter the boundaries of the area under consideration before it to include the entire Township of Winona. The Minnesota Municipal Board expanded the area under consideration before it, to give the Town of Winona and the City of Winona a forum in which they would be able to work toward the achievement of a broader result than the issues originally brought before the Minnesota Municipal Board. Under Minnesota Statute 414.031, Subd. 4, (1978), the Minnesota Municipal Board will conduct a hearing on the expanded area to gather evidence to be used in determining whether the entire expanded area or any portion thereof meets the statutory criterion for annexation. The hearing is to be scheduled in the near future.

The Minnesota Municipal board has been informed that a meeting will be held on August 11, 1980 between the Town Board of Winona and the City Council of Winona to discuss the issue of the annexation of the entire Township to the City.