

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

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|----------------------|-------------------|
| Thomas J. Simmons | Chairman |
| Robert W. Johnson | Vice Chairman |
| Robert J. Ferderer | Member |
| Walter L. Silvernale | Ex-Officio Member |
| Leon W. Sierk | Ex-Officio Member |

IN THE MATTER OF THE PETITION FOR) FINDINGS OF FACT,
ANNEXATION OF CERTAIN LAND TO THE CITY OF) CONCLUSIONS OF LAW,
SLAYTON PURSUANT TO MINNESOTA STATUTES 414) AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on December 10, 1979, at Slayton, Minnesota and continued from time to time. The hearings were conducted by Thomas J. Simmons and Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Walter L. Silvernale and Leon W. Sierk, ex-officio members of the Board. The City of Slayton appeared by and through Jeffrey L. Flynn, the Township of Slayton appeared by and through Kaye S. Reishus. 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 June 13, 1979, a copy of a petition for annexation by a majority of 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:

Commencing at the southeast corner of the recorded plat of NORTHSIDE ADDITION, MURRAY COUNTY, MINNESOTA, said point also being the Point of Beginning of this description; thence North 27 degrees 41 minutes 04 seconds West, assumed bearing, along the northeasterly line of said plat, a distance of 408.00 feet; thence South 74 degrees 27 minutes 13 seconds West, along the northerly line of said plat, a distance of 210.02 feet; thence South 00 degrees 31 minutes 27 seconds West, along the westerly line of said plat, a distance of 145.00 feet; thence South 89 degrees 59 minutes 12 seconds West a distance of 179.50 feet; thence North 00 degrees 31 Minutes 27 seconds East a distance of 78.28 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with the south line of said section, a distance of 80.00 feet; thence North 00 degrees 31 minutes 27 seconds East a distance of 50.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 104.58 feet to the north-south quarter line of said section; thence North, along said north-south quarter line, a distance of 2353.38 feet to the center of said section; thence South 89 degrees 44 minutes 27 seconds East, along the east-west quarter line of said section, a distance of 2438.33 feet; thence South 00 degrees 12 minutes 53 seconds West, parallel with the east line of said section, a distance of 2284.61 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 182.99 feet; thence North 00 degrees 01 minutes 13 seconds West a distance of 159.71 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 459.23 feet; thence North 00 degrees 31 minutes

27 seconds East a distance of 465.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 450.00 feet; thence South 03 degrees 34 minutes 35 seconds East a distance of 1.92 feet to an angle point in the easterly line of the recorded PLAT OF BLOCK 1 MEIER'S SUBDIVISION; thence North 31 degrees 06 minutes 44 seconds West, along the northeasterly line of said MEIER'S SUBDIVISION, a distance of 627.97 feet to reference (3) of said MEIER'S SUBDIVISION; thence North 87 degrees 54 minutes 44 seconds West, along the northerly line of said MEIER'S SUBDIVISION, a distance of 250.09 feet; thence South 66 degrees 11 minutes 36 seconds West, along the northwesterly line of said MEIER'S SUBDIVISION, a distance of 607.54 feet; thence Southeasterly, along the southwesterly line of said MEIER'S SUBDIVISION and the northeasterly right-of-way line of United States Trunk Highway 59, a distance of 1553 feet, more or less, to said south section line; thence North 89 degrees 28 minutes 33 seconds West, along said south section line, a distance of 169 feet, more or less, to the Point of Beginning. Excepting therefrom the following described parcels:

A parcel belonging to Fred H. Suedbeck and recorded as Document Number 153328; Lot 20 and the east 65.00 feet of Lot 1 of the recorded plat of SLAYTON HEIGHTS DEVELOPMENT, and also Block 1 of the recorded Plat of BLOCK 1 OF THE ASPLIN AND TORBERT SUBDIVISION.

Said parcel, excluding said exceptions, contains 97.1 acres of land, more or less.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Slayton Township on August 14, 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.

A resolution supporting the annexation was received from the annexing municipality.

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

III. Geographic Features

- A. The area subject to annexation is unincorporated and abuts the City of Slayton.
- B. The total area of the City of Slayton is approximately 855 acres. The total area of the territory subject to annexation is approximately 97 acres.
- C. The boundary of the area to be annexed abuts the City of Slayton for approximately 962 feet.
- D. The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is generally well drained land, with some high ground.

IV. Population Data

- A. The City of Slayton:
 - 1. The present estimated population is 2,700.
 - 2. By 1990, the projected population is 3,000.
- B. The area subject to annexation:
 - 1. The present estimated population is 12.
- C. The Township of Slayton:
 - 1. The present estimated population is 280.

V. 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 Slayton:

- | | |
|----------------------------|---------------------------|
| 1. Residential: 537 acres | 4. Industrial: 43 acres |
| 2. Institutional: 97 acres | 5. Agricultural: 40 acres |
| 3. Commercial: 55 acres | |

b. In the area subject to annexation:

1. Commercial: 19 acres
2. Agricultural: 78 acres

c. In the Township of Slayton:

The majority of the land is agricultural in use with some residential, commercial and industrial uses also.

2. Area Being Developed

a. In the City of Slayton:

1. Residential: approximately 51 acres
2. Industrial: approximately 25 acres
3. Institutional: approximately 7 acres

b. In the area subject to annexation: approximately 56 acres of the land presently designated as agricultural land are being developed and remaining for residential, commercial, and light industrial uses.

B. Transportation

1. The present transportation network is:

- a. In the City of Slayton: Federal, State, County, and City Roads
- b. In the area subject to annexation: Federal, C.S.A.H. and township Roads

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

1. In the City of Slayton:

- a. Zoning: yes
- b. Subdivision Regulations: yes
- c. Comprehensive Plan: yes, December 1979
- d. Planning Commission: yes

2. In the Township of Slayton: it relies upon the County for its land use controls.

3. In the County of Murray:

- a. Comprehensive Plan: yes

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

VI. Governmental Services

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

1. Water: no
2. Sewer: no
3. Fire protection and rating: yes, through contract with the City
4. Police protection: County Sheriff
5. Street maintenance: yes

- B. The City of Slayton provides its residents with the following services:
 - 1. Water: yes
 - 2. Sewer: yes
 - 3. Fire protection and rating: yes
 - 4. Police protection: yes
 - 5. Street improvements: yes
 - 6. Street maintenance: yes
 - 7. Recreational: yes
 - 8. Administrative services: yes
- C. The City of Slayton provides the area subject to annexation with the following services:
 - 1. Water: yes, to a part of the area proposed for annexation
 - 2. Sewer: yes, to a part of the area proposed for annexation
 - 3. Fire protection and rating: through contract with the Township
- D. There is no present existing or potential environmental problem.
- E. Plans and programs by the annexing municipality to provide needed governmental services for the area proposed for annexation include: the extension of sewer and water, fire, and police protection and road maintenance and improvement.
- F. The following services will be available to the annexed area within three years: further extension of sewer and water.

VII. Tax Base

- A. In the City of Slayton, the tax base includes the following: Residential property, commercial property, industrial property, agricultural property, and vacant land.
- B. In the Township of Slayton, the tax base includes the following: Residential property, commercial property, industrial property, primarily agricultural land and non-taxable property.
- C. In the area subject to annexation, the tax base includes the following: Commercial property, industrial property, agricultural property, vacant land, and non-taxable property.

VIII. Tax Data

- A. In the City of Slayton:
 - 1. Mill rate in 1979 is 38.
 - 2. Bonded indebtedness in 1979 is approximately \$625,000.
- B. In the Township of Slayton:
 - 1. Mill rate in 1979 is 7.14.
- C. In the area subject to annexation:
 - 1. Mill rate in 1979 is 7.14.

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

- A. There is no effect on area school districts and on adjacent communities if the proposed annexation is approved.
- B. The town government is not adequate to deliver the required services to the area proposed for annexation.
- C. Necessary governmental services could not best be provided by incorporation or annexation to an adjacent municipality other than the City of Slayton.

D. Present assessed valuation of the Town of Slayton is approximately \$4,500,000.

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

XI. Alteration of Boundaries

A. The area subject to annexation should be decreased in order to only include that property which is now or is about to become urban or suburban in character; the new description of the area to be annexed is as follows:

That part of the Southeast Quarter of Section 10, Township 106 North, Range 41 West, Slayton Township, Murray County, Minnesota being more Particularly described as follows:

Commencing at the southeast corner of the recorded plat of NORTHSIDE ADDITION, MURRAY COUNTY, MINNESOTA, said point also being the Point of Beginning of this description; thence North 27 degrees 41 minutes 04 seconds West, assumed bearing, along the northeasterly line of said plat, a distance of 408.00 feet; thence South 74 degrees 27 minutes 13 seconds West, along the northerly line of said plat, a distance of 210.02 feet; thence South 00 degrees 31 minutes 27 seconds West, along the westerly line of said plat, a distance of 145.00 feet; thence South 89 degrees 59 minutes 12 seconds West a distance of 179.50 feet; thence North 00 degrees 31 Minutes 27 seconds East a distance of 78.28 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with the south line of said section, a distance of 80.00 feet; thence North 00 degrees 31 minutes 27 seconds East a distance of 50.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 104.58 feet to the north-south quarter line of said section; thence North, along said north-south quarter line, a distance of 2353.38 feet to the center of said section; thence South 89 degrees 44 minutes 27 seconds East, along the east-west quarter line of said section, a distance of 2438.33 feet; thence South 00 degrees 12 minutes 53 seconds West, parallel with the east line of said section, a distance of 2284.61 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 182.99 feet; thence North 00 degrees 01 minutes 13 seconds West a distance of 159.71 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 459.23 feet; thence North 00 degrees 31 minutes 27 seconds East a distance of 465.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 450.00 feet; thence South 03 degrees 34 minutes 35 seconds East a distance of 1.92 feet to an angle point in the easterly line of the recorded PLAT OF BLOCK 1 MEIER'S SUBDIVISION; thence North 31 degrees 06 minutes 44 seconds West, along the northeasterly line of said MEIER'S SUBDIVISION, a distance of 627.97 feet to reference (3) of said MEIER'S SUBDIVISION; thence North 87 degrees 54 minutes 44 seconds West, along the northerly line of said MEIER'S SUBDIVISION, a distance of 250.09 feet; thence South 66 degrees 11 minutes 36 seconds West, along the northwesterly line of said MEIER'S SUBDIVISION, a distance of 607.54 feet; thence Southeasterly, along the southwesterly line of said MEIER'S SUBDIVISION and the northeasterly right-of-way line of United States Trunk Highway 59, a distance of 1553 feet, more or less, to said south section line; thence North 89 degrees 28 minutes 33 seconds West, along said south section line, a distance of 169 feet, more or less, to the Point of Beginning. Excepting therefrom the following described parcels:

A parcel belonging to Fred H. Suedbeck and recorded as Document Number 153328; Lot 20 and the east 65.00 feet of Lot 1 of the recorded plat of SLAYTON HEIGHTS DEVELOPMENT, and also Block 1 of the recorded Plat of BLOCK 1 OF THE ASPLIN AND TORBERT SUBDIVISION.

Except therefrom the following described property:

A parcel of land located in the Southeast Quarter of Section 10, Township 106 North, Range 41 West, Slayton Township, Murray County, Minnesota, being more particularly described as follows:

Commencing at the east quarter corner of said section; thence North 89 degrees 44 minutes 27 seconds West, assumed bearing, along the east-west quarter line of said section, a distance of 214.50 feet to the Point of Beginning of this description; thence continue North 89 degrees 44 minutes 27 seconds West, along said quarter line, a distance of 1733.02 feet to the easterly line of a 33.00 foot wide access easement recorded as Document Number 157982, Office of Murray County Recorder; thence South 23 degrees 43 minutes 19 seconds West, along said easement line, a distance of 188.94 feet; thence South 01 degrees 18 minutes 16 seconds East, along said easement line a distance of 168.55 feet to the north line of the recorded plat of SLAYTON HEIGHTS DEVELOPMENT; thence South 88 degrees 44 minutes 43 seconds East, along said north plat line, a distance of 364.00 feet

to the northeast corner of Lot 24 of said plat; thence South 89 degrees 44 minutes 27 seconds East, parallel with said quarter line, a distance of 1257.14 feet; thence South 00 degrees 12 minutes 53 seconds West, parallel with the east line of said section, a distance of 1775.94 feet; thence South 00 degrees 01 minutes 13 seconds East a distance of 159.71 feet; thence South 89 degrees 28 minutes 33 seconds East, parallel with the south line of said section, a distance of 182.99 feet; thence North 00 degrees 12 minutes 53 seconds East, parallel with said east section line, a distance of 2284.61 feet to the Point of Beginning.

XII. The reduced area proposed for annexation contains approximately 74.566 acres.

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

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

V. The remainder of the Township of Slayton can carry on the functions of government without undue hardship.

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

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

VIII. Three years will be required to effectively provide full municipal services to the annexed area.

IX. 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 to be described herein.

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

O R D E R

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

That part of the Southeast Quarter of Section 10, Township 106 North, Range 41 West, Slayton Township, Murray County, Minnesota being more Particularly described as follows:

Commencing at the southeast corner of the recorded plat of NORTHSIDE ADDITION, MURRAY COUNTY, MINNESOTA, said point also being the Point of Beginning of this description; thence North 27 degrees 41 minutes 04 seconds West, assumed bearing, along the northeasterly line of said plat, a distance of 408.00 feet; thence South 74 degrees 27 minutes 13 seconds West, along the northerly line of said plat, a distance of 210.02 feet; thence South 00 degrees 31 minutes 27 seconds West, along the westerly line of said plat, a distance of 145.00 feet; thence South 89 degrees 59 minutes 12 seconds West a distance of 179.50 feet; thence North 00 degrees 31 Minutes 27 seconds East a distance of 78.28 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with the south line of said section, a distance of 80.00 feet; thence North 00 degrees 31 minutes 27 seconds East a distance of 50.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 104.58 feet to the north-south quarter line of said section; thence North, along said north-south quarter line, a distance of 2353.38 feet to the center of said section; thence South 89 degrees 44 minutes 27 seconds East, along the east-west quarter line of said section, a distance of 2438.33 feet; thence South 00 degrees 12 minutes 53 seconds West, parallel with the east line of said section, a distance of 2284.61 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 182.99 feet; thence North 00 degrees 01 minutes 13 seconds West a distance of 159.71 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 459.23 feet; thence North 00 degrees 31 minutes 27 seconds East a distance of 465.00 feet; thence North 89 degrees 28 minutes 33 seconds West, parallel with said south section line, a distance of 450.00 feet; thence South 03 degrees 34 minutes 35 seconds East a distance of 1.92 feet to an angle point in the easterly line of the recorded PLAT OF BLOCK 1 MEIER'S SUBDIVISION; thence North 31 degrees 06 minutes 44 seconds West, along the northeasterly line of said MEIER'S SUBDIVISION, a distance of 627.97 feet to reference (3) of said MEIER'S SUBDIVISION; thence North 87 degrees 54 minutes 44 seconds West, along the northerly line of said MEIER'S SUBDIVISION, a distance of 250.09 feet; thence South 66 degrees 11 minutes 36 seconds West, along the northwesterly line of said MEIER'S SUBDIVISION, a distance of 607.54 feet; thence Southeasterly, along the southwesterly line of said MEIER'S SUBDIVISION and the northeasterly right-of-way line of United States Trunk Highway 59, a distance of 1553 feet, more or less, to said south section line; thence North 89 degrees 28 minutes 33 seconds West, along said south section line, a distance of 169 feet, more or less, to the Point of Beginning. Excepting therefrom the following described parcels:

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of Lot 24 of said plat; thence South 89 degrees 44 minutes 27 seconds East, parallel with said quarter line, a distance of 1257.14 feet; thence South 00 degrees 12 minutes 53 seconds West, parallel with the east line of said section, a distance of 1775.94 feet; thence South 00 degrees 01 minutes 13 seconds East a distance of 159.71 feet; thence South 89 degrees 28 minutes 33 seconds East, parallel with the south line of said section, a distance of 182.99 feet; thence North 00 degrees 12 minutes 53 seconds East, parallel with said east section line, a distance of 2284.61 feet to the Point of Beginning.

II. IT IS FURTHER ORDERED: That the population of the City of Slayton has increased by 12 persons to 2,712 persons for all purposes until the next Federal Census.

III. IT IS FURTHER ORDERED: That the population of the Town of Slayton has decreased by 12 persons to 268 persons for all purposes until the next Federal Census.

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

V. IT IS FURTHER ORDERED: That the effective date of this order is July 16, 1980.

Dated this 16th day of July, 1980

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director

MEMORANDUM

The Municipal Board finds that a majority of the property owners within the area petitioned for annexation signed the petition for annexation. Municipal Board jurisdiction was obtained by the filing of said petition for annexation with the Municipal Board on June 13, 1979. Subsequent purchasers of property located within the area proposed for annexation are precluded from being counted as property owners for jurisdictional purposes, because Municipal Board jurisdiction had already been invoked by the filing of said petition for annexation. Minnesota Statute, Section 414.011, subd. 5, (1978) defines the property owner as:

...the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment.

There are entities or persons whose interest in the area proposed for annexation is one of easement. Easement is defined by Black's Law Dictionary as:

A right in the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property in the owner.

The requirement of Minnesota Statute, Section 414.011, subd. 5 (1978) of possession is not met by an interest based solely on easement, because such an interest in land is one of use, and not of possession. Therefore, only those persons with a possessory interest are counted as property owners and those with an easement interest are excluded as property owners.

The Municipal Board finds that the property proposed for annexation abuts the City of Slayton. The area proposed for annexation includes a portion of U.S. Trunk Highway 59. The fee title in said portion of U.S. Trunk Highway 59 is owned by one of the petitioners for this annexation. The petitioner's ownership of said portion of U.S. Trunk Highway 59 allows the Municipal Board to consider and include the entire parcel of property proposed for annexation as one parcel of property which abuts the City of Slayton.

On October 3, 1978 the Municipal Board issued its order on Minnesota Municipal Board File A-3286 approving the annexation to the City of Slayton of an area approximately 126.54 acres. The original resolution for annexation contained a proposal for the annexation of Sections 9 & 10, Township 106,

Range 41, which contained approximately 1,280 acres. The area approved for annexation in A-3544 is approximately 74.556 acres and was a small portion of the area originally petitioned for annexation in A-3286. The area before the Municipal Board in A-3544 is not substantially the same area petitioned for annexation in A-3286.

Subsequent to the initiation of A-3286, the Legislature passed Minnesota Session Law 705 (1978) which amended Minnesota Statute, Section 414.031, subd. 5 (1978) to include the following provision:

...If the annexation is denied,..., no proceeding for the annexation of substantially the same area may be initiated within two years from the date of the board's order,...

Minnesota Session Law 705 (1978) Subd. 34 reads as follows:

Applicability. The provisions of this act shall be applicable to all proceedings before the Minnesota Municipal Board initiated after the effective date of this act.

The Municipal Board is not constrained by the language in Minnesota Statute, Section 414.031, subd. 5, (1978), because the area approved for annexation in A-3544 is not substantially the same area that was contained in A-3286. Further, that statutory amendment is made explicitly applicable to only those proceedings before the Municipal Board initiated after the effective date of Minnesota Session Law 705 (1978).