

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Robert W. Johnson	Vice Chairman
Kenneth Sette	Member
Joseph Fogarty	Ex-Officio Member
Lester Rydeen	Ex-Officio Member

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

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 November 12th, 1981, and continued from time to time at Oak Park Heights, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director and by Robert J. Ferderer, Chairman, pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Joseph Fogarty and Lester Rydeen, ex-officio members of the board. The City of Oak Park Heights made no appearance, the town of Baytown appeared by and through Harold Turrentine and the petitioners appeared by and through Robert Briggs. 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 1st, 1981, a petition for annexation by the majority of the property owners along with a resolution of the City of Oak Park Heights in support of the petition, 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 Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) of Section Four (4), Township Twenty-Nine (29) North of Range Twenty (20) West described as follows, to-wit:
Commencing at the Northwest corner of said Section Four (4), thence East along the North line of said Section Four (4) for Eight Hundred Thirty-Three (833) feet to the point of beginning; thence continuing East along said North line of Section Four (4) for One Hundred Forty (140) feet; thence South and parallel with the East line of said Northwest Quarter of Northwest Quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) for Five Hundred Fifty-Five and Twenty-Six Hundredths (555.26) feet, thence West and parallel with the North line for a distance of One Hundred Forty (140) feet to a point; thence North Five Hundred Fifty-Five and Sixty-Two Hundredths (555.62)

feet more or less to the point of beginning, together with a temporary easement for a period of Ten (10) years from May 26, 1970, over and across the present driveway leading from the service lane on Highway 212 South for a distance of Two Hundred (200) feet. Reserving unto the vendors the right to use the well on the property for a period of Twenty-Five (25) years from May 26, 1970, or until such time as vendors connect to the municipal water system.

All that part of the Northwest Quarter of the Northwest Quarter ($NW\frac{1}{4}$ of $NW\frac{1}{4}$) of Section Four (4), Township Twenty-nine (29) North, Range Twenty (20) West, described as follows: Beginning at a point on the South Right of Way line of State Trunk Highway No. 212, said point being 633 feet east of the west line of Section 4, Township 29, North, Range 20 West, thence South and parallel to the west line of said Section 4, a distance of 524.24 feet, thence East and parallel to the North line of said Section 4 a distance of 200 feet, thence North and parallel to the west line of said Section 4, a distance of 524.52 feet to the South Right of Way line of State Trunk Highway No. 212, thence west along said South Right of Way line a distance of 200 feet to the place of beginning, containing in all 2.18 acres.

The West Six Hundred Thirty-three (633) feet of the Northwest Quarter of the Northwest Quarter ($NW\frac{1}{4}$ of $NW\frac{1}{4}$) of Section Four (4), Township Twenty-nine (29) North, Range Twenty-one (21) West, excepting the South Five Hundred-fifty (550) feet thereof, subject to easements and restrictions of record.

That part of the North Half of the Northeast Quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$) of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West, as follows: Commencing at the Northeast corner of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West, and running thence Westerly along the North line of said Section Five (5), One Hundred Fifty-seven (157) feet to a point; thence South and perpendicular to said North line of Section Five (5), Five Hundred Sixty-five (565) feet to a point; thence East and perpendicular to the last described line, One Hundred Fifty-seven (157) feet to the East line of said Section Five (5), the same being the center line of the so-called Speed Bowl Road; thence North along the East line of said Section Five (5), Five Hundred Sixty-five (565) feet to the point of beginning, containing approximately two (2) acres, more or less. Subject to existing highways and easement to Northern States Power Company.

That part of the North Half of the Northeast Quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$) of Section Five (5), as follows: Commencing at a point on the North line of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West, One Hundred Fifty-seven (157) feet West of the Northeast corner of said Section Five (5); thence South and perpendicular to the North line of said Section Five (5), Five Hundred Sixty-five (565) feet to a point; thence West and perpendicular to the last described line, One Hundred Fifty-six (156) feet to a point; thence North and perpen-

dicular to the last described line, Five Hundred Sixty-five (565) feet to the North line of said Section Five (5); thence East along the North line of said Section Five (5), One Hundred Fifty-six (156) feet to the point of beginning, containing two (2) acres, more or less. Subject to existing highways and easement to Northern States Power Company.

The West Two Hundred (200) feet of the East Five Hundred Thirteen (513) feet of the North Three Hundred Twenty-five (325) feet of the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West.

The West One Hundred (100) feet of the East Six Hundred Thirteen (613) feet of the North Three Hundred Twenty-five (325) feet of the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West.

The West One Hundred (100) feet of the East Seven Hundred Thirteen (713) feet of the North Two Hundred Twenty-four and Five Tenths (224.5) feet of the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West.

The West One Hundred (100) feet of the East Seven Hundred Thirteen (713) feet of the South One Hundred and Five Tenths (100.5) feet of the North Three Hundred Twenty-five (325) feet of the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$) of Section Five (5), Township Twenty-nine (29) North, Range Twenty (20) West.

II. An objection to the proposed annexation was received by the Minnesota Municipal Board from Baytown Township on August 3rd, 1981. The Minnesota 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.

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

IV. The area subject to annexation is unincorporated, approximately 22 acres in size and abuts the City of Oak Park Heights by approximately 30% of its border. The City of Oak Park Heights is approximately 1,287 acres in size.

V. The natural terrain of the area proposed for annexation is a rolling topography with natural ponding area; soils are a silt-loam, mostly well drained,

well suited for building site development, fair to poor suitability for septic tank absorption due to slow permeability of the soils.

VI. The population of the City of Oak Park Heights in the year 1980 was 2,591, the present estimated population is 2,591 and it is projected by the year 1990 will have a population of 3,600.

VII. In the area subject to annexation, the present estimated population is seven, which was the population in 1980.

VIII. In the Town of Baytown, in 1980 there were 850 residents, the present estimated population is 850, and by 1990 it is projected that its population will be 1,050.

IX. In the City of Oak Park Heights land is presently in use as follows: approximately 292 acres for residential use, approximately 348 acres for institutional use, approximately 77 acres for commercial use, approximately 254 acres for industrial use, and approximately 228 acres of land is presently vacant or farmed.

X. Land in the City of Oak Park Heights remaining for various uses in the following amounts: residential use, 179 acres, commercial use, 15 acres, industrial use, 34 acres.

XI. In the area subject to annexation the land is used as follows: approximately 15.1 acres for residential use, approximately 5.5 acres for commercial use, and approximately 1.5 acres in vacant land.

In the area subject to annexation there remains approximately 3.5 acres for residential or commercial use, as some of the land in use is presently underutilized.

XII. There has been failure of an on-site septic system within the area subject to annexation. Further development requires the installation of municipal sewer and water because of the area's soils.

XIII. The Township of Baytown has 6,500 acres and its land is used for residential purposes, commercial purposes, utility property, and agricultural property.

XIV. The City of Oak Park Heights has a zoning ordinance, a subdivision regulation, a comprehensive plan, an official map, a capital improvements program, a fire code, a building inspector, a planning commission, and a Housing and Redevelopment Authority.

XV. The Town of Baytown has zoning regulations, subdivision regulations, an official map, a fire code, a building inspector, and a planning commission. The comprehensive plan of the Town of Baytown is not yet completed.

XVI. The County of Washington has a zoning ordinance, subdivision regulations, a comprehensive plan, an official map, a capital improvements program, a fire code, a building inspector, and a planning commission.

XVII. The Town of Baytown provides the area subject to annexation with fire protection through a contract with the City of Bayport.

XVIII. The City of Oak Park Heights provides its residents with water service, sewer service, police protection, street improvements and maintenance, recreational opportunities, administrative services, as well as fire protection by a contract with the City of Bayport.

XIX. The City of Oak Park Heights provides the area subject to annexation with some water service and some sewer service.

XX. The City of Oak Park Heights is willing to extend the services it presently provides its residents to the area proposed for annexation should that area be annexed.

XXI. The present transportation network in the City of Oak Park Heights includes Highways 212 and 95 as well as numerous city streets and county roads. The area proposed for annexation has a direct access to Highway 212.

XXII. The tax base in the City of Oak Park Heights includes the following: residential property assessed in 1980 and payable in 1981 was established at \$6,287,344, generating \$69,556 in taxes; commercial property assessed in 1980 and payable in 1981 was established at \$3,946,511, generating \$43,532 in taxes; industrial property assessed in 1980 and payable in 1981 was established at \$55,623, generating \$473.10 in taxes; agricultural property assessed in 1980 and payable in 1981 was established at \$10,009, generating \$94 in taxes; seasonal recreational property assessed in 1980 and payable in 1981 was established at \$19,455, generating \$189.27 in taxes; utility property assessed in 1980 and payable in 1981 was established at \$30,130,307, generating \$334,060.84 in taxes; blind classification property assessed in 1980 and payable in 1981 was established at \$29,883, generating \$283.90 in taxes; National Housing Association property assessed in 1980 and payable in 1981 was established at \$1,052,172, generating \$11,829.35 in taxes; multiple dwelling property assessed in 1980 and payable in 1981 was established at \$1,125,774, generating \$12,302 in taxes.

XXIII. The Town of Baytown's tax base includes the following: residential property assessed in 1980 and payable in 1981 was established at \$2,585,133, generating \$6,351 in taxes; commercial property assessed in 1980 and payable in 1981 was established at \$919,680, generating \$2,259 in taxes; industrial property assessed in 1980 and payable in 1981 was established at \$0, generating \$0 in taxes; utility property assessed in 1980 and payable in 1981 was

established at \$7,038, generating \$17 in taxes; agricultural property assessed in 1980 and payable in 1981 was established at \$593,894, generating \$1,459 in taxes.

XXIV. In the area subject to annexation the tax base includes the following: residential property assessed in 1980 and payable in 1981 was established at \$101,510, generating \$2,044 in taxes; commercial property assessed in 1980 and payable in 1981 was established at \$296,790, generating \$11,558.40 in taxes; vacant land assessed in 1980 and payable in 1981 was established at \$19,380, generating \$710.54 in taxes.

XXV. The City of Oak Park Heights has a mill rate in 1980 of 10.84 and a bonded indebtedness of \$1,760,000.

XXVI. The Town of Baytown in 1980 had a mill rate of 2.457 and no bonded indebtedness.

XXVII. In 1980 the mill rate for the County of Washington was 26.330, for the school district 43.288, and for the Metropolitan Council 4.007.

XXVIII. The land within the area subject to annexation is suitable for development.

XXIX. The Town of Baytown is unable to deliver a full range of municipal services to the area subject to annexation.

XXX. Annexation to the City of Oak Park Heights will not have an adverse impact upon the City of Stillwater, which is adjacent to the area proposed for annexation.

XXXI. The Town of Baytown can continue to function without the area subject to annexation, without undue hardship.

XXXII. There is no evidence that the annexation of the area subject to annexation to the City of Oak Park Heights will have any adverse impact on the area school district.

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 nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.

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 Town of Baytown can carry on the functions of government without undue hardship.

VI. There is a reasonable relationship between the increase in revenues for the City of Oak Park Heights 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. Two years will be required to effectively provide full municipal services to the annexed area.

IX. This Minnesota Municipal Board order is not subject an annexation election.

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 in Findings of Fact II in the Findings of Fact, Conclusions of Law, and Order be and the same is hereby annexed to the City of Oak Park Heights, Minnesota the same as if it had been originally made a part thereof.

II. IT IS FURTHER ORDERED: That the population of the City of Oak Park Heights has increased by 7.

III. IT IS FURTHER ORDERED: That the population of the Town of Baytown is decreased by 7.

IV. IT IS FURTHER ORDERED: That the mill levy of the City of Oak Park Heights 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.

V. IT IS FURTHER ORDERED: That the effective date of this order is April 15, 1982.

Dated this 15th day of April, 1982

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director