

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Robert Finbraaten	Ex-Officio Member
Robert Shaw	Ex-Officio Member

IN THE MATTER OF THE NOTICE OF)
 INTENT TO ANNEX CERTAIN LAND TO)
 THE CITY OF AUSTIN 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 September 13, 1984, at Austin, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were County Commissioners Robert Shaw and Robert Finbraaten, Ex-Officio Members of the Board. The City of Austin appeared by and through Kermit Hoversten, City Attorney, and the Town of Austin appeared by and through David Jackson, Township Clerk. 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 May 23, 1984 a copy of Notice of Intent to Annex was filed with the Minnesota Municipal Board by the City of Austin. The Notice of Intent contained all of the information required including a statement that the area proposed for annexation is 60% or more bordered by the city and 40 acres or

less in size and a description of the territory subject to annexation which is as follows:

Beginning on the west line of Section 10, T102N, R18W, Mower County, Minnesota, at a point 2296.80 feet north of the southwest corner of said Sec. 10 thence continuing north on said west line of Sec. 10 to a point 336 ft. north of the southwest corner of the northwest 1/4 of Sec. 10, thence easterly at a right angle a distance of 180 ft. thence northerly at a right angle a distance of 60 ft. this point being on the south line of Outlot 3, thence easterly on the south line of Outlot 3, 4 and 5 to the southeast corner of Outlot 5 this point being on the west line of the SE 1/4 of the SW 1/4 of the NW 1/4 of said Sec. 10 thence south on said west line to a point 185 ft. north of the southwest corner of the southeast 1/4 of the southwest 1/4 of the northwest 1/4 of said Sec. 10 thence easterly on a line parallel to the south line of the northwest 1/4 of Sec. 10 a distance of 108 ft. thence south 185 feet at a right angle to the south line of the northwest 1/4 of Sec. 10 thence easterly on said south line to a point 198 feet west of the southeast corner of the northwest 1/4 of Sec. 10 thence south on a line parallel to the east line of said 1/4 section to the centerline of 17th Avenue S.W. thence westerly on the centerline of 17th Avenue S.W. to the point of beginning.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Austin Township on July 2, 1984. The board upon receipt of this objection conducted further proceedings in accordance with M.S. 414.031, Subdivisions 3 and 4 as required by M.S. 414.033, Subdivision 3.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.
3. The area subject to annexation is unincorporated, approximately 13.5 acres in size, and abuts the City of Austin by approximately 85% of its total border. The City of Austin is approximately 5,608.8 acres in size.
4. The general topography of the area subject to annexation is relatively flat with little relief and some sloping toward Turtle Creek.
5. The City of Austin had a population of 26,210 in 1970, a population of 23,020 in 1980, and its current population is 22,543. It is projected that by 1990 its population will be 22,650.

6. The area subject to annexation has a present population of approximately 20.

7. Presently the land in the area proposed for annexation has approximately 4.6 acres in residential use, approximately 7.8 acres in commercial/agricultural use, a nursery, and approximately 1.1 acres in streets, highway and utility right-of-ways.

The commercial/agricultural land could be developed for residential use. The northern portion of the lots presently in residential use may be developable for additional residences.

8. The City of Austin has a zoning ordinance, subdivision regulations, an official map, a capital improvements program and budget, a fire code, Minnesota Building Code, Minnesota Plumbing Code, shoreland ordinance, floodplain ordinance, sanitation ordinance, energy conservation program, urban renewal program, and a comprehensive plan which was adopted in 1978.

9. The Town of Austin does not have any land-use control regulations except for an urban renewal program. The town has no existing comprehensive plan.

10. The County of Mower has a comprehensive plan adopted in 1978, a zoning ordinance, subdivision regulations, official map, shoreland ordinance, floodplain ordinance, sanitation ordinance, human services program, energy conservation program, and an urban renewal program.

11. Presently the area proposed for annexation is zoned rural.

12. If annexed, the area proposed for annexation is proposed to be zoned single-family residential. The proposed annexation is consistent with the local comprehensive plan.

13. The City of Austin presently provides its residents with water,

sanitary sewer, storm sewer, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities, health inspection, and library.

14. The Town of Austin presently provides the area proposed for annexation with fire protection through a contract with the City of Austin, street improvements and maintenance, and administrative services.

15. The County of Mower levies a tax on unincorporated areas for use of the library. The area proposed for annexation presently is subject to that portion of the county tax which is reserved for library funding.

16. The City of Austin presently provides the area proposed for annexation with solid waste collection and disposal, fire protection through a contract with the Town of Austin, police protection, recreational opportunities, and library services.

The City of Austin presently provides the area proposed for annexation with electrical service and gas service.

17. The City of Austin is willing to provide the area proposed for annexation with all of the services which it presently provides the residents of the City of Austin.

18. The City of Austin has waterlines adjacent to the area proposed for annexation which has sufficient capacity to service the area.

19. The City of Austin has sewer lines adjacent to the area proposed for annexation. The city will need to extend some of its existing sewer lines to provide sewer service to all of the homes in the annexation area.

20. One of the homes in the area proposed for annexation is presently receiving its water through a hose approximately four inches under ground,

which is serviced from a residence located within the City of Austin.

21. At least two of the homes in the area proposed for annexation have had septic system problems and these problems need to be corrected. Two of these systems have discharged sewage onto the ground in the area proposed for annexation.

22. The estimated market value of the City of Austin is approximately \$394,346,400.

23. The estimated market value of the Town of Austin is approximately \$64,823,500.

24. The estimated market value of the area proposed for annexation is approximately \$226,400.

25. The City of Austin has a 1984 mill rate of 31.257. The total bonded indebtedness for the City of Austin is \$6,554,000.

26. The Town of Austin has a 1984 mill rate of 5.171.

27. The County of Mower has a 1984 mill rate of 23.476.

28. The school district which services the area proposed for annexation and the City of Austin has a mill rate of 48.139.

29. The area proposed for annexation is presently served by the same school district as the City of Austin. There is no anticipated impact on the school district if the area is annexed.

30. The City of Austin is the only municipality adjacent to the area proposed for annexation.

31. The Town of Austin has no central sanitary sewer or water.

32. There was no showing that the annexation of the area proposed for annexation would adversely impact the viability of the Town of Austin.

33. All development in the area proposed for annexation is presently

served by on-site sewer and water systems.

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

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

4. The best interests of the area subject to annexation will be furthered by annexation.

5. The remainder of the Town of Austin can carry on the functions of government without undue hardship.

6. There is a reasonable relationship between the increase in values to the City of Austin and the value of benefits conferred upon the area subject to annexation.

7. Pursuant to M.S. 414.035, the Municipal Board determines that the mill levy of the annexing municipality shall be increased over a period of four years.

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

O R D E R

1. IT IS HEREBY ORDERED: That the property described herein in Findings of Fact 1, be and the same hereby is annexed to the City of Austin, Minnesota, the same as if it had been originally a part thereof.

2. IT IS FURTHER ORDERED: That the attached affidavit by the Austin

City Attorney dated November 7, 1984, regarding deferred assessments and the Rural Taxing District is hereby made a part of this order.

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

4. IT IS FURTHER ORDERED: That the population of the City of Austin is increased by 20 persons.

5. IT IS FURTHER ORDERED: That the population of the Town of Austin is decreased by 20 persons.

6. IT IS FURTHER ORDERED: That the effective date of this order is November 13, 1984.

Dated this 13th day of November, 1984.

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



Terrence A. Merritt
Executive Director

IN THE MATTER OF THE NOTICE OF)
INTENT TO ANNEX CERTAIN LAND TO)
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AFFIDAVIT

I, Kermit Hoversten, Austin City Attorney, hereby certify that the Austin City Council has agreed to the following in the above-described matter:

That the city will defer sewer assessments on that property described as the North 10 acres of the West Half of the Southwest Quarter except the East 198 feet, Section 10, Township 102, Range 18, being the 8.5 acres known as the Stivers Nursery property, excepting from the deferral the present home. Said Stivers Nursery property will also be included in the city's present Rural Service Taxing District until such time as the property is platted.


Kermit Hoversten, Austin City Attorney

11-7-84
Date

Subscribed and sworn to before me this 9th day of November, 1984



