

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Gerald Eilers	Ex-Officio Member
Don Winkelman, Sr.	Ex-Officio Member

IN THE MATTER OF THE NOTICE OF INTENT) FOR THE ANNEXATION OF CERTAIN LAND) TO THE CITY OF FOLEY PURSUANT TO) MINNESOTA STATUTES 414)	<u>AMENDED</u> <u>FINDINGS OF FACT</u> <u>CONCLUSIONS OF LAW</u> <u>AND ORDER</u>
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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on October 31 1984 at Foley, 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 Don Winkelman, Sr. and Gerald Eilers, Ex-Officio Members of the Board. The City of Foley appeared by and through Norman Kemper and the Town of Gilmanon appeared by and through William A. Torell.

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 July 27, 1984, a copy of a Notice of Intent to Annex was filed with the Minnesota Municipal Board by the City of Foley. The Notice of Intent contained all 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:

That part of the Northeast Quarter of the Northwest Quarter of Section 35, Township 37 North, Range 29 West, Benton County, Minnesota, lying east of the easterly right-of-way line of Minnesota Trunk Highway Number 25; excepting therefrom the following described parcels: the east 183.00 feet lying south of the southerly right-of-way line of Burlington Northern Railroad thereof; the west 20.00 feet of the east 203.00 feet of the south 507.50 feet thereof; the north 360.00 feet of the east 801 feet thereof; and except any parcels previously annexed to the City of Foley. Contains 17.00 acres of land, more or less, and it is also called Parcel 2.

and

That part of the South Half of the Southwest Quarter of Section 26, Township 37 North, Range 29 West, Benton County, Minnesota, lying south of the southerly right-of-way line of Minnesota Trunk Highway Number 23, including the right-of-way of Minnesota Trunk Highway Number 25 thereof and Lot 12 and the west 14.50 feet of Lot 11 of AUDITOR'S SUBDIVISION OF SE 1/4, SW 1/4, SEC. 26, according to the plat thereof on file and of record in the office of the County

all previously annexed property
Recorder, Benton County, Minnesota; excepting ~~the east 935.00 feet thereof and the south 33.00 feet~~ thereof. Containing 11.3 acres of land, more or less and it is also called Parcel 3.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Gilmanton Township on September 13, 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 28.3 acres in size, abuts the City of Foley in excess of 60% of its total boundary. The City of Foley is approximately 752 acres in size.

4. The natural terrain of the area is generally level with Parcel 3 having some cattails, willows and swamp grass in it as it is a natural waterway. Parcel 2 is generally level and low.

5. The City of Foley had a population of 1,271 in 1970, a population of 1,603 in 1980, and its current population is 1,650. It is projected that in five years the city will have a population of 1,750.

6. The Town of Gilmanton had a population of 861 in 1980 and its current population is 869.

7. The area proposed for annexation has a population of at least one.

8. The City of Foley has approximately 170 acres in residential use, approximately 106 acres in institutional use, approximately 32 acres in commercial use, approximately 24 acres in industrial use, and approximately 420 acres in agricultural use and vacant land.

9. Land use in the area proposed for annexation is as follows: Parcel 2 has farm buildings and land in agricultural use north of the abandoned railroad right-of-way and a single-family residence and a tree farm south of the railroad right-of-way; Parcel 3 has vacant land some of which is used for dirt storage and a small utility building.

10. The Town of Gilmanton has land in commercial use, residential use, and agricultural use.

11. In the past five years, the City of Foley has issued 22 building permits for one- and two-family residential units, 3 permits for barn and shed/silos, 5 permits for commercial use, and 3 permits for industrial buildings.

12. In the past five years, the Town of Gilmanton has issued 53 permits for one- and two-family residential units, 66 permits for barn and shed/silos and farm related buildings, 5 permits for commercial buildings, and 7 permits for industrial construction.

13. In the past five years there have been 42 permits for remodeling in

the City of Foley and 51 permits for remodeling in the Town of Gilmanton.

14. The City of Foley has a Land Use Plan adopted in June of 1980, along with a zoning ordinance, subdivision regulations, official map, Minnesota Building Code, and floodplain ordinance.

15. The Town of Gilmanton has no existing plan as its planning is done by the county.

16. The County of Benton has a zoning ordinance, subdivision regulations, official map, shoreland ordinance, floodplain ordinance, sanitation ordinance, and human services program.

17. The present zoning for the area proposed for annexation is agricultural and residential.

It is anticipated that if annexed, the property would be zoned residential and commercial.

18. The City of Foley presently provides its residents with water, sanitary sewer, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities, health inspection, and library services.

19. The City of Foley presently provides the area proposed for annexation with sewer service to the single residential dwelling in the area. The city provides the annexation area with fire protection through a contract with Gilmanton Township. The City of Foley Police Department presently patrols areas within the city which area is immediately adjacent to the annexation area. Further, upon request from the County Sheriff, the city would assist the Sheriff's Department in the area proposed for annexation.

20. The city is willing to provide the area proposed for annexation with all of the services it presently provides the residents of the City of Foley

if so requested by the property owners.

21. The Town of Gilmanton presently provides the annexation with fire protection through a contract with the City of Foley, and township police protection is through the County Sheriff. The town does provide administrative services to the area proposed for annexation, as well as library service through a regional library system.

22. Taxable assessed valuation of the City of Foley in 1983, payable 1984, is \$5,013,325. The city's mill levy is 30.853. The city's fire insurance rating is 7.

23. The Town of Gilmanton had a taxable assessed valuation for 1983, payable 1984, of \$4,469,193. The town's mill levy is 4.072. The town has no bonded indebtedness.

24. The taxable assessed valuation of the area proposed for annexation for 1983, payable 1984, is approximately \$29,444.

25. The county's mill levy is 28.093. School District No. 51's mill levy for both the city and the area proposed for annexation is 41.845.

26. The City of Foley has capacity in its waste water treatment facility and existing sewer lines to service the area proposed for annexation.

27. The City of Foley has sufficient water capacity in its system and lines to service the area proposed for annexation.

28. The area proposed for annexation is presently served by the same school district as the City of Foley.

29. The City of Foley is the only municipality adjacent to the area proposed for annexation.

30. Gilmanton Township can continue to function without the area proposed for annexation.

CONCLUSIONS OF LAW

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

2. The area proposed for 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 Gilmanston 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 Foley and the value of benefits conferred upon the area proposed for 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 five years.

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

ORDER

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


2. IT IS FURTHER ORDERED: That the mill levy of the City of Foley on the property herein ordered annexed shall be increased in substantially equal

proportions over a period of five years to equality with the mill levy of the property already within the city.

3. IT IS FURTHER ORDERED: That the effective date of this order is May 20, 1985.

Dated this 20th day of May, 1985.

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



Terrence A. Merritt
Executive Director

Amended Order Dated this 21st day of
November, 1985.

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



Terrence A. Merritt
Executive Director