

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Shirley J. Mihelich	Chair
John W. Carey	Vice Chair
Kenneth F. Sette	Commissioner
Robert Finbraaten	Ex-Officio Member
Robert Shaw	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR)
THE ANNEXATION OF 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 February 24, 1988 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 John W. Carey, Vice Chair, and County Commissioners Robert Shaw and Robert Finbraaten, Ex-Officio Members of the Board. The City of Austin appeared by and through Kermit Hoversten, Attorney at Law, the Town of Austin appeared by and through Orrin Hoopman, Town Board Supervisor, and the petitioner, LaVerne Kehret, appeared on his own behalf. 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 August 27, 1987, a copy of a petition for annexation signed by all

of the property owners, or attested to at the hearing by all of the property owners, was filed with the Minnesota Municipal Board. The petition contained all of the information required by statute, including a description of the territory subject to annexation, which is as follows:

Beginning on the west line of the NW1/4 of Section 4, Township 102 North, Range 18 West, Mower County, Minnesota, 33.95 feet south of the northwest corner of said Section 4 thence southerly on the west line of said Section 4 a distance of 631.08 feet thence easterly on a line at a deflection angle to the left of 89°-54' to the centerline of Turtle Creek thence southerly along the centerline of Turtle Creek to the south line of the north half of the NW1/4 of said Section 4 thence westerly along said south line to the west line of said Section 4 thence northerly 398.39 feet along the west line of said Section 4 to the northeast corner of Lot 7, Cresthaven 3rd Addition thence northwesterly along the north line of Lot 7 to the most northerly corner of Lot 6, Crestwood Hills Third Addition thence southwesterly along the northwesterly lines of Lot 6 and 5 of Cresthaven 3rd Addition a distance of 330 feet to the most northerly corner of Lot 4, Cresthaven 3rd Addition thence northwesterly at a deflection angle to the right of 83°-19' a distance of 165.52 feet to the most northerly corner of Lot 1, Cresthaven 3rd Addition thence southwesterly along the northerly line of said Lot 1 a distance of 179.32 feet to the most westerly corner of said Lot 1 this point also being on the southerly right-of-way line of (Hillcrest Road) now 27th Drive N.W. thence southwesterly along the southerly line of 27th Drive N.W. until it intersects the west line of (West Valley Road) now 2nd Avenue N.W. thence northwesterly at a deflection angle to the right of 96°-00' a distance of 332.86 feet to the south right-of-way line of Interstate Highway No. 90 thence northeasterly along the south line of Interstate 90 a distance of 1997.92 feet to the point of beginning. 30.07 acres.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Austin Township on November 13, 1987. 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, Subdivision 5.

The original property description on the petition, through clerical error included land not intended for annexation, was amended on April 25, 1988 by the Municipal Board pursuant to a motion of the City of Austin, joined in

by the petitioners, and agreed to by the Town of Austin to the properly intended description, which is the following described property, and is the subject of the remaining Findings of Fact, Conclusions of Law, and Order hereinafter:

Beginning on the west line of the NW1/4 of Section 4, Township 102 North, Range 18 West, Mower County, Minnesota, 33.95 feet south of the northwest corner of said Section 4 thence southerly on the west line of said Section 4 a distance of 631.08 feet thence easterly on a line at a deflection angle to the left of 89°-54' to the centerline of Turtle Creek thence southerly along the centerline of Turtle Creek to the south line of the north half of the NW1/4 of said Section 4 thence westerly along said south line to the west line of said Section 4 thence northerly 398.39 feet along the west line of said Section 4 to the northeast corner of Lot 7, Cresthaven 3rd Addition thence northwesterly along the north line of Lot 7 to the most northerly corner of Lot 6, Crestwood Hills Third Addition thence southwesterly along the northwesterly lines of Lot 6 and 5 of Cresthaven 3rd Addition a distance of 330 feet to the most northerly corner of Lot 4, Cresthaven 3rd Addition thence northwesterly at a deflection angle to the right of 83°-19' a distance of 165.52 feet to the most northerly corner of Lot 1, Cresthaven 3rd Addition thence southwesterly along the northerly line of said Lot 1 a distance of 179.32 feet to the most westerly corner of said Lot 1 this point also being on the southerly right-of-way line of (Hillcrest Road) now 27th Drive N.W. thence southwesterly along the southerly line of 27th Drive N.W. until it intersects the west line of (West Valley Road) now 2nd Avenue N.W. thence northwesterly at a deflection angle to the right of 96°-00' a distance of 332.86 feet to the south right-of-way line of Interstate Highway No. 90 thence northeasterly along the south line of Interstate 90 a distance of 1997.92 feet to the point of beginning.

Except the following described piece: Commencing on the West line of Section 4, Township 102N, Range 18 West, which point is 1194.84 feet South of the NW corner of said Section 4; thence 143.79 feet South on said West line of said Section 4, Township 102N, Range 18 West; thence 300 feet Easterly at a deflection angle of 89°56' left to the West line of the public road known as Valley Road and intersecting said West line of said Valley Road at a deflection angle of 90°04' left thence 73.92 feet northerly and northwesterly on a curve to the left of 59.36 feet radius and through a central angle of 71°21' and to the end point of said curve; thence northwesterly along a tangent to said curve at said end point for a distance of 274.20 feet to the point of beginning, containing 0.63 acres, and being a part of the NW1/4 of the NW1/4 of Section 4, Township 102N, Range 18 West.

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

3. The area subject to annexation is unincorporated, approximately 30 acres in size, and abuts the City of Austin by approximately a 9.2% of its border along the parcel's eastern border. The City of Austin is approximately 5,800 acres in size.

4. The Town of Austin is approximately 36 square miles in size.

5. The area proposed for annexation presently is vacant land.

6. The City of Austin had a population of approximately 26,210 in 1970, a population of approximately 23,020 in 1980, and a present population of approximately 22,543.

7. The Town of Austin has a present population of approximately 2,300.

8. The area proposed for annexation has no present population.

9. The City of Austin has a zoning ordinance, subdivision regulations, an official map, capital improvements and budget program, a fire code, shoreland ordinance, and floodplain ordinance.

10. The Town of Austin has no independent land-use plan documents. The town relies on Mower County for land-use controls.

11. The County of Mower has a zoning ordinance, subdivision regulations, an official map, shoreland ordinance, floodplain ordinance, and a sanitation ordinance.

12. The current zoning of the area proposed for annexation is rural.

13. If the area proposed for annexation were annexed, it is anticipated that it would be zoned single-family residential.

14. The Austin City Planning Commission recommended annexation of the

area proposed for annexation.

15. The City of Austin 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, and library services.

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

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

18. The area proposed for annexation has Turtle Creek as part of its eastern boundary. The eastern-most portion of the area proposed for annexation is within the floodplain.

The terrain of the area proposed for annexation is gently rolling to flat. The area proposed for annexation has loamy and sandy soils, as well as very poorly drained soils of recent alluvium on low-lying floodplains; below these soils is a dark clay base.

The existing soils in the area proposed for annexation may prevent on-site waste disposal systems from performing adequately.

19. The area proposed for annexation has approximately 3,911 feet of roadway.

20. The City of Austin presently has 124.56 miles of highways, streets, and roads.

21. The access to the area proposed for annexation from the City of

Austin will include traveling upon roads, some of which are exclusively with the Town of Austin and others which are partially within the City of Austin and the Town of Austin.

22. The land south of the area proposed for annexation has single-family residences on some of the lots, with the remaining lots undeveloped. There is no commercial or industrial development in that area.

There have been approximately 19 homes built in Cresthaven First, Second, and Third Additions since the 1950's.

23. The area proposed for annexation and the property immediately south of it are located south of Interstate 90 and west of Turtle Creek. Access to these areas from the remainder of the town is through the City of Austin.

24. The Town of Austin does not have a central sanitary sewer or water system.

The Town of Austin indicated no plans to develop either a central sanitary sewer system or central water distribution system.

25. The assessed valuation of the City of Austin is \$99,153,155.

26. The assessed valuation of the Town of Austin is \$10,053,798.

27. The assessed valuation of the area proposed for annexation is approximately \$4,374. The area proposed for annexation presently pays the Town of Austin approximately \$28 in taxes.

28. The mill levy of the City of Austin is 38.312.

The mill levy for the County of Mower within the City of Austin is 38.301.

29. The mill levy for the Town of Austin is 6.412.

The mill levy for the County of Mower within the Town of Austin is

39.525.

30. The mill levy for the school district, which serves both the City of Austin and the area proposed for annexation is 53.920.

31. The special taxing district for both the City of Austin and the Town of Austin has a mill levy of .131.

32. The fire insurance rating for the City of Austin and the area proposed for annexation is 5.

33. The City of Austin has a total bonded indebtedness of \$6,985,000.

34. The annexation of the area proposed for annexation will have no effect on the school district.

35. The area proposed for annexation is planned for single-family residential development.

The owner plans the development of approximately 40 lots within the area proposed for annexation. He has had a request from someone wanting to purchase approximately 5 lots.

36. The City of Austin is the only municipality adjacent to 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 subject to annexation is now or is about to become urban or suburban in character.

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

4. The best interests of the area proposed for annexation will be

furthered by annexation.

5. Austin Township can carry on the functions of government without undue hardship.

6. An order should be issued by the Minnesota Municipal Board approving the petition for annexation of land described herein in Findings of Fact 1 on page 3.

ORDER

1. IT IS HEREBY ORDERED: That the petition for annexation of the following described property, situated in the County of Mower, State of Minnesota, be and the same is hereby annexed to the City of Austin, Minnesota, the same as if it had been originally made a part thereof:

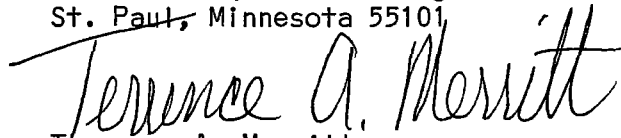
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2. IT IS FURTHER ORDERED: That the effective date of this order is May 19, 1988.

Dated this 19th day of May, 1988.

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


Terrence A. Merritt
Executive Director

M E M O R A N D U M

The Minnesota Municipal Board, in ordering the annexation of the petitioned land, notes that the statutory criteria have been met. However, the board takes this opportunity to urge the City of Austin and the Town of Austin to work on an Orderly Annexation Agreement for that land located immediately south of the annexed property and adjacent to the City of Austin. The only testimony in opposition to the proposed annexation at the hearing had as one of its focuses the concern that the city would annex the property south of the annexation area immediately after the petitioned for land was annexed. At the hearing, the City of Austin indicated that it did not have any desire to annex the property south of the annexed land. The board anticipates that the city's position will remain the same now that the petitioned for property is part of the city.

The board urges the parties to work on an orderly annexation agreement, so that should residents need municipal services, it will be an orderly procedure to see that they are extended. Ultimately, the board is confident that the Town of Austin and the City of Austin will work together to insure that there is no pollution in the Turtle Creek area. *JAM 5-19-88*