

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Shirley J. Mihelich	Chair
John W. Carey	Vice Chair
Kenneth F. Sette	Commissioner
Paul McAlpine	Ex-Officio Member
Basil Schillewaert	Ex-Officio Member

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IN THE MATTER OF THE PETITION FOR )	<u>FINDINGS OF FACT</u>
THE ANNEXATION OF CERTAIN LAND TO )	<u>CONCLUSIONS OF LAW</u>
THE CITY OF DELANO PURSUANT TO )	<u>AND ORDER</u>
MINNESOTA STATUTES 414 )	<u>AND MEMORANDUM OPINION</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 January 27, 1988 and was continued from time to time at Delano, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Shirley J. Mihelich, Chair, John W. Carey, Vice Chair, Kenneth F. Sette, Commissioner, and County Commissioners Basil Schillewaert and Paul McAlpine, Ex-Officio Members of the Board. The petitioners appeared by and through David Newman, Attorney at Law, and the Town of Franklin appeared by and through William Radzwil, Township Attorney. 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 October 12, 1987, a copy of the petition for annexation by all of

the property owners was received by the Minnesota Municipal Board, and an amended legal description was received on November 4, 1987. The petition contained all of the information required by statute, including a description of the territory subject to annexation which is as follows:

That part of the NW1/4 of Section 14, Township 118, Range 25, Wright County, Minnesota, described as follows: Commencing at the northwest corner of the said NW1/4; thence east along the north line of the said NW1/4, a distance of 814.00 feet; thence south parallel with the west line of the said NW1/4, a distance of 208.67 feet to the actual point of beginning; thence continue south parallel to the west line of the said NW1/4 to the north line of the south 660.00 feet of the said NW1/4; thence east along the said north line a distance of 330.00 feet; thence south parallel with the west line of the said NW1/4 to the south line of the said NW1/4; thence east along the said south line to a point 267.00 feet west of the southeast corner of the said NW1/4; thence north parallel with the east line of the said NW1/4, a distance of 312.00 feet; thence east parallel with the south line of the said NW1/4, a distance of 267.00 feet to the east line of the said NW1/4; thence north along the said east line to a point 1320.00 feet south of the northeast corner of the said NW1/4; thence west parallel with the north line of the said NW1/4, a distance of 396.00 feet; thence north parallel with the east line of the said NW1/4 to the north line of the said NW1/4; thence west along the said north line to the east line of the west 1320.45 feet of the said NW1/4; thence south parallel with the west line of the said NW1/4, a distance of 208.67 feet; thence west parallel with the north line of the said NW1/4 a distance of 506.42 feet to the point of beginning. Subject to the right of way of a Township Road over the south 33.00 feet of said NW/14 and the right of way of Wright County Highway Number 30 over the north 33.00 feet of the said NW1/4.

A resolution supporting the annexation was received from the annexing municipality on December 11, 1987.

An objection to the petition was received by the Minnesota Municipal Board from Franklin Township on November 24, 1987.

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

3. The area subject to annexation is unincorporated, approximately 84.3 acres in size and abuts the City of Delano by approximately 19.3% of its total

boundary. The City of Delano is approximately 1,151.9 acres in size.

4. The Town of Franklin is approximately 25,800 acres in size.

5. The area proposed for annexation is generally rolling land; the area proposed for annexation's elevation is the highest in the north, decreases to the center and increases in elevation to the southern boundary. The soils in the area proposed for annexation are clay and loam in the north, low-land marsh type in the center and sandy type in the south.

The area proposed for annexation is not listed as being in the flood plain area. The eastern part of the area proposed for annexation abuts land within the City of Delano which is listed between the 100 and 500 year flood zones, as well as areas that are designated as having minimal flooding pursuant to the National Flood Insurance Program. The area proposed for annexation is at least 2,480 feet from the South Fork of the Crow River, which is within the City of Delano.

The area proposed for annexation is part of a drainage service area of at least 344 acres. All of that drainage service area is located within the Town of Franklin.

6. The City of Delano had a population of approximately 2,526 in 1986.

7. There was no testimony as to the Town of Franklin's present or past population.

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

9. The City of Delano presently has land in single-family residential use, multi-family residential use, commercial use, industrial use, public use, semi-public use, and undeveloped open space.

The City of Delano has approximately 337 acres of vacant land.

There are approximately 223 acres of residentially zoned land not presently developed. Of that land, at least 142 acres are available for development without the need for special construction considerations because of soil conditions or flood plain restrictions.

10. The area proposed for annexation is generally vacant. There is at least one farmstead located on the area proposed for annexation. The buildings lie a short distance south of County Road 30, which abuts the area proposed for annexation's northern boundary.

In 1985 and previous years that the land was owned by the petitioners, it was rented out for agricultural purposes. The rent received from the land was between \$3,000 and \$3,600 for the entire area. Approximately 66 acres of the area proposed for annexation are tillable.

The petitioners have prepared various concept plans for the development of the area proposed for annexation into some form of residential use.

11. The City of Delano has zoning and subdivision ordinances, a planning commission, and a comprehensive plan.

12. Wright County has a comprehensive plan. The county's comprehensive plan serves as the basis for land use planning for all of the unincorporated areas of the county. The Wright County Comprehensive Plan does not set out the land use designations for any of the municipalities within the county. The county's plan does include potential development of land adjacent to the municipalities and the need for municipal services.

13. The Town of Franklin's land-use plan is incorporated within the Wright County Comprehensive Plan.

14. Under the Franklin Township Land Use Plan, the eastern portion of the area proposed for annexation is designated for residential-type use; the western portion of the area proposed for annexation is designated for agricultural use.

15. The City of Delano presently provides its residents with water, sanitary sewer, storm sewer, street improvements and maintenance, fire protection, police protection (through a contract with the Wright County Sheriff's Department for a specified number of hours of patrolling per week), emergency services, recreational services, and administrative services.

16. The City of Delano has sanitary sewer service, water service, and storm sewer service to Otto's Addition, which is a residential development located within the City of Delano and immediately east of the area proposed for annexation.

17. The Town of Franklin provides its residents with fire protection and emergency services through a contract with the City of Delano, and administrative services.

The Town of Franklin does not presently have a central water system or a central sanitary sewer system. The Town of Franklin has no present plans to develop either a central water distribution system or a central sanitary sewer system.

18. The City of Delano has approximately 13.5 miles of roads.

19. The Town of Franklin has approximately 66 miles of roads.

20. The petitioners indicated plans to provide access to the proposed residential development in the area proposed for annexation by the extension into the area of Meadowlark Drive, a city street located immediately east of

the area proposed for annexation, and the development and extension of internal roads within the area proposed for annexation to County Road 30.

21. Surface water drainage for the drainage area, which includes both the area proposed for annexation and other land within the township, all flows through the area proposed for annexation northeasterly into the City of Delano through Otto's Addition.

Presently the area proposed for annexation provides some retention of water for the drainage area prior to the water flowing into Otto's Addition and eventually to the South Fork of the Crow River.

22. Presently there are surface water run off problems and sub-surface water problems within Otto's Addition.

23. The voters of the City of Delano have defeated a bond issue that was to provide funding for improvement of the city's storm sewer system.

In light of the bond issue failure, there are no present plans to improve storm sewer service to Otto's Addition to resolve the present storm sewer problems.

24. In the area proposed for annexation, the water table level is between two and one-half to four feet for the land lowest in elevation.

The proposed development plans for the area proposed for annexation show the placement of water retention ponds in the area. Some of the ponds have an elevation lower than the present water table level in some of the area proposed for annexation.

25. If the area proposed for annexation were residentially developed, there would be new surfaces impervious to water. These surfaces would increase the run off and reduce the amount of land available with water

retention capability.

26. The drainage tiles located within the area proposed for annexation servicing the remainder of the drainage area may have been disrupted through farming practices employed in 1985 and before.

Some of the drainage tiles located in the drainage area may have been laid at least 60 years ago.

27. The land within the township adjacent to the area proposed for annexation is presently used for agricultural purposes.

28. The assessed value of the area proposed for annexation is approximately \$42,000.

29. In 1988, the assessed value of the City of Delano is \$13,360,000.

30. The Town of Franklin has an assessed value of approximately \$14,158,000.

31. The City of Delano has a mill rate of 29.042. Wright County has a mill rate of 22.72. The Town of Franklin has a mill rate of 8.83.

32. The school district, which serves both the area proposed for annexation and the City of Delano has a mill rate of 54.96.

The annexation of the area proposed for annexation to the City of Delano would have no effect on the school district.

33. The City of Delano has a bonded indebtedness of \$5,350,000.

34. The City of Delano has a fire insurance rating of 6.

35. The City of Delano 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 not now urban or suburban in nature or about to become so.

3. The current existing government of the City of Delano is not presently required to protect the public health, safety, and welfare in the area proposed for annexation.

4. An order should be issued by the Minnesota Municipal Board denying the petitioned annexation of the area described herein.

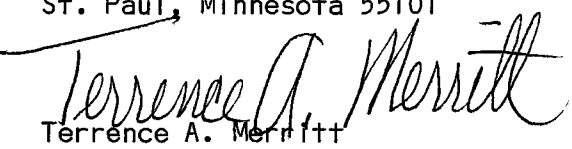
O R D E R

1. IT IS HEREBY ORDERED: That the petition for the annexation of the property described in Findings of Fact 1 herein, be and the same is hereby denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is December 16, 1988.

Dated this 16th day of December, 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 Municipal Board, in denying the request for annexation, among other factors, notes the need for a concerted and effective effort by the county, town, city, and property owners in resolving the surface water run off problem in both the area proposed for annexation and the adjacent area of Otto's Addition. To allow the annexation and development of land that would add to a problem that the City of Delano hasn't resolved is contrary to effective land use.

The board notes for the benefit of the people who testified and who live around the area proposed for annexation, that not everyone can live up stream. All lands in the drainage area generate water and that water causes problems in the area proposed for annexation and Otto's Addition. All those contributing to the problem may have to pay to resolve the problem.

The board suggests that a watershed district be developed. Improvements in the district should result in the effective management of sub-surface and surface water. The area proposed for annexation is not the private holding pond for those up-stream property owners who opposed the area's development. The area proposed for annexation is only one of many participants in the drainage area. Leaving the area proposed for annexation vacant is not the long-term solution to the overall problem.

The board is confident that the county, city, town, and property owners will work together to deal with the surface water problem.

JAM 12-16-88