

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Shirley J. Mihelich	Chair
John W. Carey	Vice Chair
Kenneth F. Sette	Commissioner
Donald Scheel	Ex-Officio Member
Russ Larkin	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 April 18, 1988 at Oak Park Heights, 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 Russ Larkin and Donald Scheel, Ex-Officio Members of the Board. The City of Oak Park Heights appeared by and through Mark Vierling, Attorney at Law, and Lyle Eckberg, Attorney at Law, and the Town of Baytown appeared by and through David Magnuson, Attorney at Law. Heritage Development appeared by and through Patty Sullivan, Attorney at Law. 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 November 18, 1987, a copy of a petition for annexation signed by

a majority 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:

McCormack Furniture Co.: That part of the Northwest Quarter of Section 5, Township 29, Range 20, described as follows: Commencing at the Northwest corner of the Northwest Quarter; thence West along the North line of said Section 5 for 359.7 feet to the point of beginning of this description; thence South and parallel with the East line of said quarter section a distance of 375 feet to a point; thence West and parallel with the North line of said quarter section 150 feet; thence North and parallel with said East line of said Northwest Quarter for a distance of 375 feet to the North line of said section and East along said section line a distance of 150 feet, more or less, to the point of beginning.

Elmer Haase: The East 399.73 feet of the Northeast Quarter of the Northwest Quarter of Section 5, Township 29, Range 20, except that part lying and being within R.L.S. No. 57; The Southeast Quarter of the Northwest Quarter of Section 5, Township 29, Range 20; the Northwest Quarter of the Northeast Quarter of Section 5, Township 29, Range 20, except that part lying and being within R.L.S. No. 57; The Southwest Quarter of the Northeast Quarter of Section 5, Township 29, Range 20; The North One-half of the Southeast Quarter of the Northeast Quarter, except Parcel Nos. 2350, 2450 and 2400; The Northeast Quarter of the Northeast Quarter of Section 5, Township 29, Range 20, except that part lying and being within the City of Oak Park Heights, and except Parcel Nos. 2750, 2900, 2850, 2800, 3050, 2950 and 3000; Lots C, D, E, F, J, K, L, N, O, P, Q, R, S, T and V, Registered Land Survey No. 57.

Gerald S. and Kathryn Mechelke: Lot A, Registered Land Survey No. 57.

Stillwater Aerie #94 Fraternal Order of Eagles: Lots B and I, Registered Land Survey No. 57.

Gardner J. and Sally Thomas: Lot G, Registered Land Survey No. 57.

Gerald A. and Mary Schoenecker: Lots H, M and U, Registered Land Survey No. 57.

David Brandt and Heritage Development, Inc.: The South One-half of the Southeast Quarter of the Northeast Quarter of Section 5, Township 29, Range 20, including therein the plat of Cleveland Terrace; Lots 1 through 7, inclusive, Block 1, Cleveland Terrace; Lots 9 and 10, Block 1, Cleveland Terrace; Lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,

13 and 14, Block 2, Cleveland Terrace; Lots 1, 2, 4, 5, 7 and 8, Block 3, Cleveland Terrace.

Timothy A. and Christina S. Hendrickson and Heritage Development, Inc.: Lot 2, Block 2, Cleveland Terrace.

Patricia M. Peterson and Heritage Development, Inc.: Lot 3, Block 3, Cleveland Terrace.

Lancer Stores, Inc. and Heritage Development, Inc.: Lot 8, Block 1, Cleveland Terrace.

Northern States Power Company: Commencing at the Southeast corner of the Northeast Quarter of Section 5, Township 29, Range 20, thence West along the South line of said Northeast Quarter for a distance of 133 feet to the most southerly Southeast corner of Lot 1, Block 3, Cleveland Terrace; thence North on the easterly line of said Lot 1, Block 3, Cleveland Terrace for a distance of 100 feet; thence East on the South line of said Lot 1 a distance of 133 feet to a point due North of the point of beginning; thence South 100 feet, more or less, to the point of beginning.

All of the above lying and being in the Town of Baytown, Washington County, Minnesota.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Baytown Township on February 18, 1988. 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.

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

3. The area subject to annexation is unincorporated, approximately 196 acres in size, and abuts the City of Oak Park Heights by approximately a 10.9% of its border. The City of Oak Park Heights is approximately 1,142 acres in size.

4. The Town of Baytown is approximately 6,500 acres in size.

5. The City of Oak Park Heights had a population of approximately 1,256 in 1970, a population of approximately 2,591 in 1980, and it is estimated that

it will have a population of approximately 3,800 in 1990.

6. The Town of Baytown had a population of approximately 723 in 1970, a population of approximately 851 in 1980, and it is estimated that it will have a population of approximately 1,000 in 1990.

7. The area proposed for annexation has a population of at least 1.

8. The City of Oak Park Heights has a comprehensive plan, zoning code, and subdivision controls. The comprehensive plan and its components had their review completed by the Metropolitan Council on May 14, 1981.

9. The Town of Baytown has a comprehensive plan, which had its review completed by the Metropolitan Council on August 12, 1982, and a zoning and subdivision ordinance which are the adopted county zoning ordinance and the model subdivision ordinance.

The County Planning Department administers the zoning and subdivision ordinances.

The Town of Baytown relies on the county shoreland and floodplain ordinances, as well as the county's on-site sewage ordinance.

10. The Town of Baytown comprehensive plan proposes commercial land uses along the frontage with Highway 36, which is the northern part of the annexation area, low-density residential land uses in the eastern one-third of the annexation area, and agricultural use in the western two-thirds of the remaining annexation area.

11. For the area proposed for annexation, the City of Oak Park Heights comprehensive plan proposes commercial use for the northern portion along Highway 36 followed by multiple-family residential use south of that, and the remainder of the land for single-family residential use.

12. Presently, the area proposed for annexation has commercial use along a portion of its northern boundary with Highway 36, residential use along Highway 36 and in its southeastern corner. The remainder of the land is vacant or in agricultural use.

13. In the area proposed for annexation there is approximately 15.2 acres in commercial use, approximately 1.5 acres in residential use, approximately 158 acres in vacant use, approximately 5.4 acres in use as ponds, approximately 14.7 acres in use as an NSP transmission line easement, and approximately .2 acres used as an NSP facility, and land in road right-of-way.

There is approximately 158 acres of developable area in the area proposed for annexation, without taking into consideration any road or additional ponding that may be required to facilitate development in the area.

14. In 1978, pursuant to the Oak Park Heights comprehensive plan, there were approximately 202 acres of vacant land within the city. Since that time, the City of Oak Park Heights has annexed an additional approximately 22 acres.

15. The City of Oak Park Heights has approximately 90 acres of undeveloped land. Approximately 31 of those 90 acres are classified as undevelopable because of soils, water, or other conditions. Approximately 36 of the remaining acres are committed to some form of residential or commercial development.

The City of Oak Park Heights has approximately 23.4 acres of vacant land that is uncommitted and available for some form of development.

16. The City of Oak Park Heights needs additional land for development purposes, based on present and projected land consumption for development.

17. The City of Oak Park Heights provides its residents with water,

sanitary sewer, storm sewer, police protection, fire protection through a contract with the City of Bayport, garbage collection, park services, and street improvements and maintenance.

The city has sufficient capacity to provide water service to the area proposed for annexation.

18. The City of Oak Park Heights and the Metropolitan Waste Control Commission disagree on the amount of sewer capacity that the city will need.

It is projected, in the City of Oak Park Heights comprehensive plan, that they will have a 1990 sewer flow of .426 million gallons per day. The allocation by the Metropolitan Council for 1990 treatment capacity is .386 million gallons per day. These projections are based on the city's present size without consideration of the annexation area. The city will be negotiating with the Metropolitan Waste Control Commission for service capacity regardless of whether the area proposed for annexation is annexed.

19. The City of Oak Park Heights has sufficient capacity in its sanitary sewer lines to service the proposed area if it is annexed.

20. The Town of Baytown provides its residents with fire protection through a contract with the City of Bayport, and the Town of Bayport contracts for street improvements and maintenance, and snow plowing. Police protection for the town is provided through the county.

21. The City of Oak Park Heights is willing to provide the area proposed for annexation with all of the services it presently provides the residents of the City of Oak Park Heights.

22. The area proposed for annexation has several ponds in it. The area is generally flat to gently rolling land in the central portion with areas of

steep slopes, ridges and hills in both the eastern and western areas of the area. Prime agricultural soils are located in the eastern one-half of the area and non-agricultural soils in the western portion of the area. The northeast corner and the south-central portion of the area contain wet soils and high water tables. The soil suitability for on-site septic systems is severe in the eastern portion of the area and slight to moderate in the western portion. The eastern portion of the area contains heavy soils with some clay.

23. The City of Oak Park Heights has a policy of presently not extending sewer and water beyond its corporate limits.

24. The City of Oak Park Heights has a fire insurance rating of 6.

25. The Town of Baytown has a fire insurance rating of 8.

26. The commercial businesses located in the northwestern portion of the area proposed for annexation are experiencing difficulty with their on-site waste water treatment systems. Some of them are actively seeking municipal sewer and water to correct these problems.

27. If the annexation is approved, Heritage Development Corporation proposes to develop into some form of single-family residential development the approximately 60 acres of land it has an option on within the area proposed for annexation.

28. The primary buildable lot in the Town of Baytown presently is two and one-half acres in size.

29. The plat of Cleveland Terrace, located in the southeastern corner of the annexation area, has 32 lots in it. There are only 3 or 4 lots that passed percolation tests for the installation of an on-site septic system on

the lot. The remaining lots are not presently buildable.

30. Access to the area proposed for annexation is either by the frontage road south of State Highway 36 or Oakgreen Avenue on the eastern side of the area proposed for annexation. Additionally, 56th Street North and 55th Street North in Cleveland Terrace provide access to a small portion in the southeast corner of the area proposed for annexation.

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

32. There was no testimony that the lots on the land lying immediately east of the area proposed for annexation, and within the Town of Baytown, were experiencing any difficulties with either their on-site wells or on-site septic systems.

33. The assessed value of the City of Oak Park Heights is \$52,969,221.

34. The assessed value of the Town of Baytown is \$7,800,797.

35. The assessed value of the area proposed for annexation is approximately \$464,950.

36. The mill levy for the City of Oak Park Heights is 17.034.

The City of Oak Park Heights has a special mill rate of .701.

37. The mill levy for the Town of Baytown is 2.340.

38. The mill levy for the County of Washington is 28.407.

39. The mill levy for the school district which services both the City of Oak Park Heights and the area proposed for annexation is 56.467.

40. The City of Oak Park Heights has a total bonded indebtedness of \$1,503,000.

The Town of Baytown has a total bonded indebtedness of \$0.

41. The annexation of the area proposed for annexation will have no effect on the school district since the same school district services both the City of Oak Park Heights and the area proposed for annexation.

42. The City of Stillwater is immediately north of the area proposed for annexation. There was no testimony indicating a desire by the City of Stillwater to extend municipal services to the area proposed for annexation.

The City of Oak Park Heights is the only city adjacent to the area proposed for annexation that has indicated a willingness to extend municipal services 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. Baytown 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.

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 Oak Park Heights, Minnesota, the same as if it had been originally a part thereof.

2. IT IS FURTHER ORDERED: That the effective date of this order is July 29, 1988.

Dated this 29th day of July, 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 notes that the annexation of the petitioned area will create an island of the Town of Baytown within the City of Oak Park Heights. At the hearing, there was no testimony that the area immediately east of annexed area seeks or needs municipal services. Further, the City of Oak Park Heights indicated that it did not presently, nor intend in the future, to seek the annexation of the properties located immediately west of Oakgreen Avenue and not within the City of Oak Park Heights, unless the property owners seek it or there is a need to extend municipal services to address a pollution problem. The board anticipates that the city's position will remain constant. The board is mindful that the town expressed concern that these people be given an opportunity to request annexation, or at the very least, be heard on the issue of annexation.

In light of the town's desire for a hearing, the board suggests that the town and the city work to develop an orderly annexation agreement for those properties so that as the need or desire arises, they can be efficiently and economically integrated into the City of Oak Park Heights for the benefit of the greater community.

TAM 7-29-88