

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
John W. Carey	Vice Chair
Dorothy E. Kobs	Commissioner
Mary Hauser	Ex-Officio Member

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IN THE MATTER OF THE PETITION FOR )  
 THE ANNEXATION OF CERTAIN LAND TO )  
 THE CITY OF FOREST LAKE PURSUANT )  
 TO MINNESOTA STATUTES 414 )

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER  
AND MEMORANDUM OPINION

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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 March 23, 1992 at Forest Lake, Minnesota and was continued from time to time. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, then Chair, Robert J. Ferderer, Vice Chair, John W. Carey, Commissioner, and County Commissioner Mary Hauser, Ex-Officio Member of the Board. The petitioners appeared by and through James F. Schneider, Attorney at Law, the City of Forest Lake appeared by and through David K. Hebert, Attorney at Law, and the Town of Forest Lake appeared by and through Greg Galler, 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 December 19, 1991, a petition for annexation 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, hereinafter referred to as "subject area," which is as follows:

All those parts of Sections 6, 7 and 18, Township 32 North, Range 21 West, described as follows:

Beginning at a point on the West line of Section 18, Township 32 North, Range 21 West, 33 feet south of the NW corner of said Section 18, thence East to a point on the East line of the W 1/2 of Section 18, Township 32 North, Range 21 West, 33 feet South of the Northeast corner of said W 1/2 of Section 18, thence North along the East line of the W 1/2 of Section 18, and the East line of the W 1/2 of Section 7, Township 32 North, Range 21 West to the point of intersection with the North line of County State Aid Highway No. 2, thence Easterly along the Northerly line of County State Aid Highway No. 2, to its intersection with the Westerly line of Interstate Highway No. 35, thence Northerly along the Westerly line of Interstate Highway No. 35 to its intersection with the North line of Section 7, Township 32 North, Range 21 West; thence East along the North line of said Section 7 to its intersection with the East line of Interstate Highway No. 35, thence Northerly and Easterly along the Easterly line of Interstate Highway No. 35 to its intersection with the Southerly line of U.S. Highway 8 access roadway; thence Easterly along the Southerly line of U.S. Highway 8 access roadway to its intersection with the East line of Section 6, Township 32 North, Range 21 West, thence North along the East line of said Section 6 to the Northeast corner of the S 1/2 of said Section 6, thence West along the North line of said S 1/2 of Section 6 to its intersection with the West line of Interstate Highway No. 35, thence North along the West line of Interstate Highway No. 35 to its intersection with the North line of said Section 6, thence West along the North line of said Section 6 to the Northwest corner thereof, thence South along the West lines of Sections 6, 7 and 18 to the point of beginning.

On December 19, 1991, the Minnesota Municipal Board received a resolution of support for the annexation petition from the City of Forest Lake, hereinafter referred to as "city." The Municipal Board

conducted hearings in accordance with M.S. 414.031.

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

3. The subject area is unincorporated, approximately 840 acres in size, and abuts the city by approximately 35% of its perimeter. The western border of the subject area abuts Anoka County and the northern border of the subject area abuts Chisago County. The city is approximately 1,805 acres in size, and the Town of Forest Lake, hereinafter referred to as "town," is approximately 21,192 acres in size. The city and town are located in Washington County, hereinafter referred to as "county."

4. The city had a population of approximately 3,207 in 1970, a population of approximately 4,596 in 1980, and has a current population of approximately 5,833. It is projected that in 5 years, the city will have a population of approximately 6,366.

The town had a population of approximately 2,990 in 1970, a population of approximately 5,331 in 1980, and has a current population of approximately 6,690. It is projected that in 5 years, the town will have a population of approximately 7,220.

The subject area has a present population of approximately 175.

5. The northern two thirds of the subject area contains several moderate-sized wetlands approximately 10 to 15 acres in size, and one large wetland approximately 40 acres in size.

The subject area is within the Comfort Lake sub-watershed. Surface water flows northeast via drainage ditches and the Sunrise River

to Comfort Lake, which is located north of the city in Wyoming Township in Chisago County.

6. The soils in the subject area have moderate to severe limitations for on-site sewage disposal systems. An area along Everton Avenue has prime agricultural soils. There are several areas with tree cover in the northern two thirds of the subject area. There are no areas with slopes greater than 12%.

7. The city has approximately 650 acres in residential use, approximately 345 acres in institutional use, approximately 222 acres in tax exempt use, approximately 135 acres in commercial use, approximately 103 acres in industrial use, and approximately 350 acres in vacant land, of which the majority is parkland. Some of the vacant land has limitations preventing development.

The town has less than 20% of its land in agricultural use, approximately 60 to 70% of its land in residential use, less than 1% of its land in industrial/commercial use, and the remainder of the land in conservancy use, which includes institutional use.

The subject area has approximately 75 acres in residential use, approximately 12 acres in institutional use, and approximately 753 acres in agricultural use.

8. If annexed, the proposed development of the subject area will include commercial, light industrial, and residential development.

The town had also anticipated commercial development, light industrial and some residential development in the subject area.

9. The city has approximately 21.5 miles of highways, streets, and roads.

The town has approximately 73 miles of highways, streets, and roads. Of those, 23 are blacktop and 50 are gravel.

The subject area has approximately 6 miles of highways, streets, and roads, including joint boundary roads.

Residents living in the subject area must leave the town and travel through either the city or go north through Chisago County or west into Anoka County to get to the southern portions of the town. There is no direct access from the subject area to the southern portion of the town.

The Minnesota Department of Transportation, hereinafter referred to as "MnDOT," maintains Everton Avenue since it is MnDOT's access to the trunk highway and freeway system from its truck station located in the subject area. The road maintained by MnDOT is about 3/4 of a mile in length.

10. Transportation changes are planned in the subject area and in the city. County State Aid Highway 2, hereinafter referred to as "County 2," is planned for improvement by widening the road for both left and right turn lanes between Everton Avenue and the freeway, and west of Everton Avenue would be widened for shoulders. Additionally, there are plans for traffic signals on the west and east ramps of Interstate 35, hereinafter referred to as "I-35," and County 2.

The city anticipates installing a signal at the intersection of County 2 and 12th Street perhaps within a year.

Improvements are needed to accommodate the increased traffic flow.

11. The city has a comprehensive plan, which was reviewed by the

Metropolitan Council, hereinafter referred to as "Met Council," on July 23, 1981. Met Council recommended that the city make several changes in the plan, chief of which was to submit a comprehensive sewer policy plan to the Metropolitan Waste Control Commission, hereinafter referred to as "MWCC." The MWCC approved the city's submitted plan on August 17, 1982.

The town has a comprehensive plan, which was reviewed by the Met Council on October 22, 1981. The town comprehensive sewer plan was updated and reviewed by Met Council in 1981. The following plan amendments have occurred in the town's plan: a change in the planning and zoning of 62 acres from Industrial to R-4 Residential January 6, 1987; a change in the land use plan designation for a 10-acre parcel from Agricultural to Urban Residential May 28, 1987; a change in the land use plan designation for 40 acres from Rural Residential to Residential and expansion of the urban service area May 18, 1987; a change in the land use designation of 8.5 acres from Conservancy to R-4 Residential, and addition of a 9.9 acre land parcel to the urban service area April 12, 1990; and a new land use designation to allow farmland to be certified and enrolled in the Agricultural Preserves Program October 9, 1990.

In the town's comprehensive plan several of its goals focus on developing the town in such a manner that allows for orderly and economical extension of township services while preserving the rural atmosphere.

Washington County, hereinafter referred to as "County," has a comprehensive plan, adopted in 1983.

12. Met Council divides the region into urban and rural service

areas through the Metropolitan Development and Investment Framework, hereinafter referred to as "MDIF," in part to direct orderly growth. The Metropolitan Urban Service Area, hereinafter referred to as "MUSA," and the Free Standing Growth Centers are where the Met Council has indicated its commitment to the provision of regional services, sewer, highways, transit and parks.

All of the city is within the MUSA and that portion of the town that is located immediately south of the Forest Lake lakes and sewer is within the MUSA. The subject area is generally not in the MUSA.

That portion of the town and all of the city are in the Forest Lake Free Standing Growth Center. Met Council considers the Free Standing Growth Centers as detached portions of the MUSA. Met Council finds that where additional land is needed to accommodate growth, free standing growth center communities should extend municipal services in a staged and contiguous manner that is consistent with their ability to provide such services. If the additional land is in an unincorporated area, annexation through an orderly annexation agreement is the preferred alternative.

If the subject area is annexed to the city, the city would need to amend the land use and sewer elements of its comprehensive plan and submit them to the Met Council.

13. The city has a zoning ordinance, subdivision regulations, an official map, a fire code, and a sanitation ordinance.

The town has a zoning ordinance, subdivision regulations, an official map, a fire code, a shoreland ordinance, a floodplain

ordinance, and a sanitation ordinance.

The county has a zoning ordinance, subdivision regulations, an official map, a fire code, a shoreland ordinance, a floodplain ordinance, wild and scenic rivers ordinance, and a sanitation ordinance.

14. The subject area is currently zoned agricultural and a very small portion is commercial.

15. If the subject area is annexed to the city, it is anticipated it will be zoned commercial, light industrial, residential and agricultural.

16. A portion of the subject area is presently within Green Acres.

17. The city presently provides its residents with water, sanitary sewer and waste-water treatment, storm sewer, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, and recreational facilities.

The town presently provides its residents with sanitary sewer to some of the areas, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, and recreational facilities. The town does not have a central water system.

The town presently provides the subject area with solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, and recreational facilities.

The city presently provides the subject area with fire



protection, and police protection. The city provides sanitary sewer service to the MnDOT wayside rest area and truck garage, located near Everton Avenue, and the new K-Mart Store north of County 2, which was connected to the sewer line in 1992, and began service in 1993. The city also provides water service to same areas as it provides sewer service.

The city is willing to provide all of the services it presently provides to its residents to the subject area.

Presently, there are private septic systems and private wells serving the residents of the subject area.

18. A number of the septic systems in the subject area are experiencing trouble, and the owners of the land are seeking to replace them with municipal service. Some of the wells in the subject area draw water that smells stinky.

19. The city sewer lines cross I-35 in two locations. One along Ninth Avenue Southwest and one along the Westerly extension of Third Avenue Southwest. Both of the sewer lines that cross the I-35 are twelve inches in size. These lines branch into four different points of possible connection to the subject area.

The city has four sewer lines adjacent to or in the subject area including a twelve-inch line that extends from the city to Everton Avenue in the subject area, a ten-inch line that abuts the subject area at Tenth Street Southwest, an eight-inch line that extends to Everton Avenue in the Everton Park Subdivision as well as a ten-inch line that is located up to the North right-of-way of County Road 2, in the vicinity of the new K-Mart Store.

The city has extended three water mains each ten inches in size across Interstate 35. The city has water service adjacent to or in the subject area in approximately the same locations as the sewer lines, referred to in the article are presently located.

The sewer and water lines adjacent to the subject area have sufficient capacity to provide service to the subject area.

20. The city can serve the subject area with sanitary sewer and water by extending its existing sewer and water mains that are adjacent to the subject area.

For the town to serve the subject area, it would require the extension of a sewer line approximately three quarters of a mile to a mile from an existing town sewer line, that would have to cross I-35 to reach the subject area. To provide water to the subject area it would be necessary for the town to construct a water storage tower, drill a well to supply water and construct a water distribution system to service the subject area. In the water feasibility plan done for the town, there was no consideration of the water service in the subject area serving other parts of the town.

21. The city had a 1992 assessed valuation of approximately \$200,120,600. The city's tax rate is 24.821; its tax rate for the county is 27.620; its tax rate for the School District is 48.927; and its tax rate for the Special Taxing District is 3.099. The city has a fire insurance rating of 5, and a total bonded indebtedness of approximately \$1,338,170.

The town had a 1992 assessed valuation of approximately \$255,040,400. The town's tax rate is 14.930; its tax rate for the county is 30.082; its tax rate for the School District is 48.927; and its

tax rate for the Special Taxing District is 3.099.

The subject area had a 1991 assessed valuation of approximately \$6,206,600. This assessed valuation does not include the roughly \$1,500,000 value of the new K-mart Store located in the subject area.

22. It is not anticipated that the annexation would have any impact on the area school districts or adjacent communities.

23. If the subject area is annexed, the remainder of the town can continue to carry on the functions of government without undue hardship.

24. Development in the subject area needs sanitary sewer and water to avoid creating environmental problems in the subject area.

#### CONCLUSIONS OF LAW

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

2. The subject area is now or is about to become urban or suburban in character, in need of or will be in need of municipal services, and the annexing city is capable of providing the services required by the subject area within a reasonable time.

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

4. The annexation would be in the best interests of the subject area.

5. The remaining town can carry on the functions of government without undue hardship.

6. 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 in Findings of Fact 1 herein, be and the same hereby is annexed to the City of Forest Lake, Minnesota, the same as if it had originally been made a part thereof.


2. IT IS FURTHER ORDERED: That the population of the City of Forest Lake is hereby increased by 175 persons.

3. IT IS FURTHER ORDERED: That the population of the Town of Forest Lake is hereby decreased by 175 persons.

4. IT IS FURTHER ORDERED: That the effective date of this order is August 20, 1993.

Dated this 23rd day of August, 1993.

MINNESOTA MUNICIPAL BOARD  
Suite 475, McColl Building  
St. Paul, Minnesota 55101

  
Terrence A. Merritt  
Executive Director

M E M O R A N D U M

In granting the annexation of the area petitioned by a majority of the property owners, the board notes that both the city and the town seek the land for commercial, industrial, or residential development, namely urban or suburban type development. The town seeks the development so as to prevent tax increases on the remaining portion of the town, while the property owners seek annexation to more efficiently receive services. There was no disagreement in the testimony as to the present or future urban or suburban nature of the property.

In approving this annexation, the Municipal Board takes this opportunity to remind both the town and the city that they have a unique resource - their community! Rather than trying to compete as separate entities, the two should be focusing on the community as a whole.

The community has options. Orderly annexation can allow the community to maintain the town in its rural setting, without the obligations of providing services to developing areas, and the city, in its urban style, can focus on growth and development to serve the greater community. In previous proceedings, the Municipal Board has urged the parties to consider merger. The Board again suggests that the area would be better served if the parties seriously addressed that issue.

The city and the town have planned for their own destinies separately, but have neglected to plan together for the future. There is a need for comprehensive planning by the town and the city to enhance

and preserve the area. The Board strongly urges the City to amend its Land Use and Comprehensive Plan and submit them to the Metropolitan Council within a reasonable time after the annexation. The Metropolitan Council is a resource for the town and city to use to facilitate this long-range planning, not only for their good, but the good of the entire region. The town expressed a willingness to develop a sewer and water system for the subject area, but the city already has those services in place to accommodate the subject area. Such duplication of efforts should be avoided.

The town and city can talk and plan to maximize their efforts for the citizens of the community.

JAM 8-23-93