

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
John W. Carey	Vice Chair
Dorothy E. Kobs	Commissioner
Kenneth Johnson	Ex-officio Member
Erwin Ostlund	Ex-officio Member

IN THE MATTER OF THE PETITION FOR
THE ANNEXATION OF CERTAIN LAND TO
THE CITY OF LONGVILLE PURSUANT
TO MINNESOTA STATUTES 414

) A M E N D E D
) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) AND ORDER
) AND MEMORANDUM OPINION

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on September 8, 1993 at Longville, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Dorothy E. Kobs, Commissioner, and County Commissioners Kenneth Johnson and Erwin Ostlund, Ex-Officio Members of the Board. One of the petitioners (Tabaka) appeared by and through Stephen M. Baker, Attorney at Law, the City of Longville appeared by and through Mayor Jack Shaffer, and the Town of Kego appeared by and through Al Roeder, 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 March 22, 1993, a copy of a petition for annexation 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, hereinafter referred to as "subject area," which is as follows:

All that part of Registered Land Survey No. 7 in Cass County, Minnesota, described as follows: Beginning at the northeast corner of Government Lot 5, Section 34, Township 141 North, Range 28 West of the 5th Principal Meridian, being a point on the north line of said Registered Land Survey No. 7; thence South 20°21'57" East 34.43 feet along the easterly line of said Government Lot 5 to a point on part of the easterly boundary line of said Registered Land Survey No. 7; thence South 1°44'35" West along said easterly boundary line, a distance of 67.84 feet; thence South 89°45'48" East 27.28 feet to said easterly line of Government Lot 5; thence South 20°21'57" East 343.67 feet along said easterly line of

westerly

Government Lot 5 to a point in the ~~easterly~~ right-of-way line of State Highway #84, as now laid out and constructed; thence South 20°21'57" East 66.51 feet along said easterly line of Government Lot 5 to the centerline of said State Highway #84; thence South 9°22'58" West 47.43 feet along said centerline; thence Southwesterly 311.77 feet along a tangential curve to the right, having a central angle of 18°42'22", a radius of 954.93 feet and the chord of said curve bears South 18°44'09" West for a distance of 310.39 feet; thence North 79°46'29" West 1146.63 feet, not tangent to said curve; thence North 8°28'45" West 297.04 feet; thence North 52°10'38" West 147 feet, more or less, to the water's edge of Girl Lake; thence Northeasterly approximately 303 feet along said water's edge of Girl Lake to said northerly line of Government Lot 5; thence South 89°12'25" East 1,057 feet, more or less, to the point of beginning. Containing 20.4 acres, more or less.

Subject to easements, reservations, conditions and restrictions of record, if any.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Kego Township, hereinafter referred to as "Town," on May 24, 1993. 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 subject area is unincorporated, approximately 20 acres in size, and abuts the City of Longville, hereinafter referred to as "City," by approximately 45% of its perimeter. The City is approximately 380 acres in size, and the Town is approximately 19,613 acres in size.

4. The City had a population of approximately 191 in 1980 and approximately 224 in 1990.

The Town had a population of approximately 321 in 1980 and approximately 297 in 1990.

5. The subject area has no present population. The area has been uninhabited for the past four or five years. Prior to that, it had one family living on the area. It is projected that a portion of the subject area will be developed for multiple family residential, which will result in a population increase.

6. The subject area is adjacent to Girl Lake, with approximately 300 or more feet of shoreline. The shoreland of the subject area is accessible from the upper portion of the subject area by a small driveway. If there is residential development in the subject area, the owner anticipates using golf carts to transport the residents from their apartments down the hill to the shoreline and docks.

7. The soils in the subject area are primarily sand and gravel. The topography is generally flat bluff land breaking down to the shoreline of Girl Lake. There is a small wetland in the north central portion of the subject area.

8. The City has land in residential use, commercial use, and

institutional use.

The City has limited commercial land available in large enough parcels along the major roadways in the community. One of the subject area property owners presently owns a grocery store within the City, and is looking for a new location for the store. The subject area meets the needs of the owner for his new store.

The City has been experiencing a demand for apartment style residential units. Those people unable to find such a unit in the City, have gone to other communities to live.

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

The subject area is presently vacant. Within the past four or five years, the single family house located on the land was removed. The well serving the house remains in the subject area; there was no testimony that it had been capped or filled.

That portion of the subject area that is owned by the St. Edward's Catholic Church is adjacent to land owned by the church and in the City. Within a year, the church plans to build an education center, which will include classrooms and offices, on its portion of the subject area. The education center would be adjacent to the church building that is located in the City.

The remainder of the subject area is proposed to be developed commercially along the highway, and approximately 16 multi-residential units on the remainder of the land closer to the lake.

9. The City has county, state and city roads.

The subject area abuts State Highway 84, and is just

southwest of the intersection of County Highway 7 and State Highway 84.

The Town has town roads, county and state highways.

10. The City has a lakeshore plan, adopted in 1993. The City's shoreland zoning ordinance covers almost if not all of the land within the City since all of the land in the City is close to either a lake or a river.

In developing its shoreland ordinance, the City used that portion of the county shoreland ordinance that deals with land receiving municipal sewer service and a portion of the State of Minnesota's suggested ordinance.

11. Cass County, hereinafter referred to as "County," has a comprehensive lakeshore plan, adopted in 1972 designating the subject area within the lakeshore regulations.

The Town has no comprehensive plan.

12. The City has a zoning ordinance and a shoreland ordinance.

The Town has no independent land use controls.

The County has subdivision regulations, a shoreland ordinance, and a sanitation ordinance.

13. The County's shoreland and subdivision ordinances presently control the subject area.

14. If the subject area is annexed to the City, it is anticipated that the subject area will be zoned for residential and commercial uses as proposed by the owners.

15. The City presently provides its residents with sanitary sewer and waste-water treatment, storm sewer, fire protection,

police protection, street maintenance, and administrative services. The City presently provides none of these services to the subject area.

The Town presently provides its residents with fire protection, street maintenance, and administrative services. The Town provides the subject area with fire protection and administrative services.

The City is willing to provide the subject area with sanitary sewer and waste-water treatment, fire protection, police protection, street maintenance, and administrative services. There is presently a City sewer line adjacent to the subject area.

16. Private wells will be allowed to be used in the subject area.

If the subject area is developed without municipal sewer, on-site septic systems will be necessary to provide waste-water treatment. The Town has no central waste-water treatment facility. To receive federal funding for low income housing, construction of such a development must receive municipal sewer.

If development in the subject area was served by an on-site septic system, the amount of land for development would be reduced, as the lakeshore ordinance requires an approved on-site septic system and also that land be set aside for a replacement on-site system should the initial septic system fail.

17. Servicing the subject area with municipal sanitary sewer would avoid possible pollution to Girl Lake or the adjacent waters from a failing on-site septic system in the subject area.

18. The City had a 1992 estimated market value of

approximately \$8,256,600. The City's tax rate is 24.064; its tax rate for the County is 40.371; its tax rate for the School District is 40.371; and its tax rate for the Special Taxing District is 0.154. The City has a total bonded indebtedness of approximately \$358,107.

The Town had a 1992 estimated market value of approximately \$26,944,300. The Town's tax rate is 6.204; its tax rate for the County is 41.133; its tax rate for the School District is 53.185; and its tax rate for the Special Taxing District is 0.154. The Town has no bonded indebtedness.

The subject area had a estimated market value of approximately \$44,500. Approximately \$49.79 in taxes was paid to the Town from the subject area.

19. The City is the only city adjacent to 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.

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

4. The existing township form of government is not adequate to protect the public health, safety, and welfare of the subject area.

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

6. The Town can carry on the functions of government without

undue hardship.

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

O R D E R

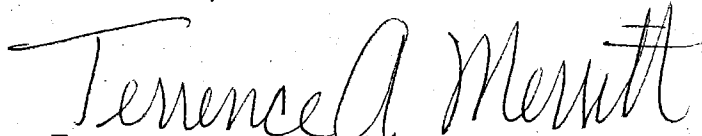
1. IT IS HEREBY ORDERED: That the property described in Finding of Fact 1 herein, be and the same hereby is annexed to the City of Longville, Minnesota, the same as if it had originally been made a part thereof.

2. IT IS FURTHER ORDERED: That the effective date of this order is February 11, 1994.

3. IT IS FURTHER ORDERED: That the effective date of this Amended Order is March 12, 1999.

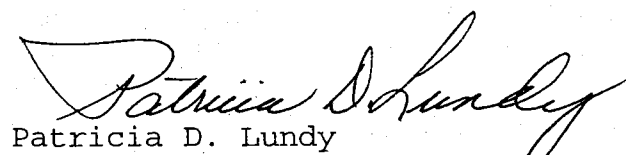
Dated this 11th day of February, 1994.

MINNESOTA MUNICIPAL BOARD
475 McColl Building
St. Paul, MN 55101


Terrence A. Merritt
Executive Director

Amended order dated this 12th day
of March, 1999.

MINNESOTA MUNICIPAL BOARD
Suite 225 Bandana Square
1021 Bandana Boulevard East
St. Paul, MN 55108


Patricia D. Lundy
Assistant Director

M E M O R A N D U M

In granting the annexation, the Board notes that the Petitioners' did not have a complete plan for the development of the subject area. They had a plan for a portion of the area and a general concept plan for the remainder of the area; had they had a more detailed plan, they may have more effectively blunted the objections to their proposed annexation.

Counsel's argument concerning the application of Minnesota Statutes 414.031, Subdivision 1, requiring an accompanying city resolution is well taken, but does not apply since the matter was initiated under Minnesota Statutes 414.033, Subdivision 5, and the Town of Kego's objection to the petition is what required a hearing before the Municipal Board.

The Municipal Board notes with concern that this hearing may have been able to be avoided if there had been elegant communication among the parties. The Town, City, and Petitioners continue to live in the area and the Board urges all of them to expand their efforts at meaningful communication, for the good of all the citizens of the larger community. *JAM 2-11-94*