

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
John W. Carey	Vice Chair
Dorothy E. Kobs	Commissioner
Steven Loeding	Ex-Officio Member
Robert Jensen	Ex-Officio Member

	<u>A M E N D E D</u>
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 FARMINGTON PURSUANT )	<u>AND ORDER</u>
TO MINNESOTA STATUTES 414 )	<u>AND MEMORANDUM OPINION</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on September 2, 1993, and continued from time to time at Farmington, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Robert J. Ferderer, Chair, John W. Carey, Vice Chair, Dorothy E. Kobs, Commissioner, and County Commissioners Steven Loeding and Robert Jensen, Ex-Officio Members of the Board. The City of Farmington appeared by and through John Cairns and Patrick Kampmeyer, Attorneys at Law, the Town of Empire appeared by and through William Radzwill, Peter Schmitz and Michael Couri, Attorneys at Law, the Town of Castle Rock appeared by and through James Sheldon, Attorney at Law, the Dakota County Agricultural Society and the Dakota County Fair Board appeared by and through Paul Rogosheske, 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 May 12, 1993, a copy of a petition for annexation by the City of Farmington, hereinafter referred to as "City," 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:

FROM THE TOWNSHIP OF CASTLE ROCK

All of the property in Section 5 and Section 6 in which is not already included in the Farmington City limits including the entire right-of-way width of Biscayne Avenue which adjoins the east side of the south half of Section 5 ("Castle Rock Property"); and

FROM THE TOWNSHIP OF EMPIRE

All of the property of Sections 5,6,7,8,17,18,19,20 and 29 and all of the property in Sections 30 and 32 which is not already included in the Farmington City limits including the entire right-of-way width of Biscayne Avenue which adjoins the east side Sections 5,8,17,20 and 29 ("Empire Property").

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

3. The subject area is unincorporated, located within Empire Township, hereinafter referred to as "Empire," and Castle Rock Township, hereinafter referred to as "Castle Rock." That portion of the subject area in Empire, hereinafter referred to as "Empire subject area," is approximately 6,520 acres in size, and that portion of the subject area in Castle Rock, hereinafter referred to as "Castle Rock subject area," is approximately 1,100 acres in size. Empire subject area abuts the

City by approximately 40% of its perimeter, and Castle Rock subject area abuts the City by approximately 57% of its perimeter.

The City is approximately 7,557 acres in size.

Empire is approximately 21,032 acres in size.

Castle Rock is approximately 22,000 acres in size.

4. The City had a population of approximately 4,370 in 1980 and approximately 5,940 in 1990. It is projected that in five years it will have a population of approximately 8,700 and approximately 12,900 by the year 2010.

The City had approximately 1,511 households in 1980 and approximately 2,064 households in 1990. It is projected to have approximately 3,050 households by the year 2000 and approximately 4,600 households by the year 2010.

Empire had a population of approximately 1,136 in 1970, approximately 1,224 in 1980 and approximately 1,340 in 1990. It is projected it will have a population of approximately 1,500 by the year 2000 and approximately 1,700 by the year 2010.

Empire had approximately 360 households in 1980 and approximately 426 households in 1990. It is projected to have approximately 500 households by the year 2000 and approximately 590 households by the year 2010.

Castle Rock had a population of approximately 1,235 in 1970, approximately 1,340 in 1980 and approximately 1,480 in 1990. It is projected it will have a population of approximately 1,550 by the year 2000 and approximately 1,600 by the year 2010.

Castle Rock had approximately 395 households in 1980 and

approximately 460 households in 1990. It is projected to have approximately 510 households by the year 2000 and approximately 540 households by the year 2010.

The Empire subject area has an estimated population of approximately 917.

The Castle Rock subject area has an estimated population of approximately 183.

5. The Vermillion River flows easterly through the City into the Empire subject area and eventually to the Mississippi River near Hastings substantially east of the subject area. A southern branch of the Vermillion River flows south of the City in an easterly direction through the southern portion of the subject area in Castle Rock. This southern branch of the Vermillion River eventually connects with the Vermillion River east of the subject area near the intersection of the Vermillion River and Highway 52.

Water in the City and the northern end portion of Castle Rock including the northern portion of the Castle Rock subject area and the southern portion of the Empire subject area flows in a southwest to northeast direction.

The natural flow of water in the southeastern portion of the City has been altered by City residential development resulting in an increase in the wetness of the northwest quarter of Section 5 of the Castle Rock subject area.

The City, the Empire subject area and the Castle Rock subject area are all within the Vermillion Watershed District.

The Cannon <sup>River</sup>Falls Watershed District is adjacent to the

Vermillion Watershed District and is approximately four to six miles south of the City.

6. In Empire there are outcrops of St. Peter Sandstone as well as shallow soil cover over the bedrock. The depth to bedrock in Empire varies from less than fifty feet below the surface to a maximum depth of approximately two hundred fifty feet below ground surface. In the Empire subject area, the depth varies from less than fifty feet below the surface to between two hundred and one feet to two hundred and fifty feet below the below the ground surface. The majority of the Empire subject area has bedrock that is no greater than one hundred and fifty feet below the surface. The surface geology in Empire is dominated by either Superior Lobe which is primarily gravel and sand that is well drained, along with Des Moines Lobe Glacial Outwash which consists of loamy sand and gravel that is generally poorly-drained and the third type of soil is "Old Gray" Calcareous Till, that is primarily sandy to clay loams that are generally well drained. The Empire subject area has wet soils in the southwestern area, with some wet soils in the eastern central area along with flood plain. The Superior Lobe Glacial Outwash is generally in the northern portion of the Empire subject area, and there is sand and gravel being mined in the northwest portion of the Empire subject area.

Castle Rock has a bedrock geology that includes Plattville Limestone and Glenwood Shale, which includes limestone and dolomite of the Plattville and shale, siltstone, and shaly sandstone of the Glenwood, St. Peter Sandstone, which includes white or yellow quartz sandstone with occasional beds of shale and siltstone, and Prairie du

Chien Group which includes dolomites and quartz sandstones of the Shakopee Formation and Oneota Dolomite. The Castle Rock subject area is in the Prairie du Chien Group. The Castle Rock surface geology includes alluvium which has irregular deposits of gravel, sand silt and clay; Gray Till Outwash which includes gray to buff, calcareous sand to gravelly sand; Red Till Outwash which includes red well sorted silt and sand to poorly sorted sand and gravel; Glacial Drift which includes undifferentiated old gray till: gray to buff sandy to silty and Old red till: red, sandy to gravelly (Both types are locally calcareous, locally leached till); and Bedrock, which is at or near the surface. The majority of the Castle Rock subject area includes gray till outwash and some alluvium. Castle Rock has soils in the following soil groups: 1A, 1B, and 1C (All of which are underlain by sand or gravel with a water table below three feet in depth), 2A and 2B (permeable silty loam and mixed soils on upland slopes with a water table at a depth of three to ten feet), 3A and 3B (slowly permeable loamy to clay soils on upland slopes with a water table depth of three to ten feet), 4 (a steep silty loamy and clayey soils), 5A and 5B (sandy to loamy soils underlain by bedrock), 6A and 6B (sandy to loamy soils underlain by bedrock) and 7 (soils subject to flooding). In the Castle Rock subject area Section 6 has soils in the following groups: the majority of the land is in 1A, with areas of 6B and 6A. In Section 5 of the Castle Rock subject area there are soils in the following groups: 1A, 1B, 6A and 6B.

The southwest portion of Empire subject area has a significant amount of land which has a water table of zero to four feet below the surface either on a permanent or seasonal basis. Throughout

the remainder of the Empire subject area south of Sections 5 and 6 with a small portion in the central western portion of Section 6, there are scattered areas of land with water tables of zero to four feet below the surface on a permanent or seasonal basis. The majority of the land in Section 32 of the Empire subject area, is listed as having permanent or seasonal water table zero to four feet below the surface.

Roughly the southern half of the Castle Rock subject area has ~~surface~~ water tables of zero to four feet below the surface on a seasonal or permanent basis. Also, the northern third of Section 5 in the Castle Rock subject area has permanent or seasonal water table that is zero to four feet below the surface. The northeastern most portion of Section 6 in the Castle Rock subject area does not have surface water that is listed as zero to four feet below the surface on a seasonal or permanent basis. The land in Castle Rock subject area in Section 6 that is owned by either the Dakota County Agricultural Society or the Dakota County Fair Board, hereinafter referred to as "the Fair Board property," has some land that has permanent or seasonal water table of zero to four feet in its northwest portion and also in its central portion of the southern part of the fairgrounds.

7. The City has land in residential, institutional, commercial, industrial and agricultural use.

In 1971, the Municipal Board annexed approximately ten square miles to the City from Lakeville Township. Approximately 90% of the land, or approximately 5,760 acres, remains undeveloped in the City from the 1971 annexation area. The western most portion of that area is presently designated in long term agriculture. The City wishes to

maintain this designation, as it feels that land will provide a buffer between the City and the City of Lakeville, hereinafter referred to as "Lakeville," which is west of the City.

In the City approximately 3,000 acres are certified as eligible for agricultural preserves, hereinafter referred to as "ag preserves," and approximately 1,500 acres have enrolled in the program. About 630 acres of the currently enrolled land have applied for expiration of ag preserves. Eighty of those acres will come out of ag preserves in 1995 and the remaining 550 acres are scheduled to leave ag preserves in 1999.

Without any more land leaving agricultural zoning, the City, based on its own projections, would have nearly enough land for its projected development through the year 2020. The City would be approximately 70 acres short of its total projected acreage for the year 2020 assuming the ten square miles remain as the City designated them during this annexation proceeding.

Empire has land in residential use, institutional use, commercial use, agricultural use, undevelopable land and approximately 4,640 acres owned by the University of Minnesota. Of the agricultural land in Empire, the vast majority is designated as long-term agricultural which allows the property owners to enroll their land in the ag preserve program. There is land in agricultural preserve in the Empire subject area, as well as immediately adjacent to it, and throughout the remainder of Empire.

The majority of land in Empire subject area is in agricultural use, with some of the remaining land in residential and



commercial use. The commercial had been developed before 1981. In the Empire subject area there is approximately 2,678 acres presently with ag preserve designation. Of those acres, approximately 1,320 acres have had the expiration process begun to allow the land to come out of ag preserve. Even if the land comes out of ag preserve, the underlying zoning continues to remain long-term agricultural. The majority of the remaining land in the subject area is zoned long-term agricultural. Approximately 1,100 acres in the Empire subject area which has been petitioned for removal from ag preserve is under option to the Dufferin Development Company and if the owner does not reapply for ag preserves, the land will be eligible for development on or after December, 2001. The land in the Empire subject area known as the Murphy property, is proposed for residential development. That land is not presently in ag preserve.

Castle Rock has land in residential use, institutional use, commercial use, and agricultural use.

Castle Rock subject area contains land in residential development, commercial development, institutional use, agricultural use, and vacant. There have been six residential homes developed in the Castle Rock subject area since 1980. There has been one commercial development in the Castle Rock subject area since 1980. The significant majority of the land in the Castle Rock subject area is used for agricultural or open space. The Dakota County Fair is located in the Castle Rock subject area. The Fair Board property is governed by Minn. Stat. 38, which covers Agricultural Societies, and provides for their authorities and powers.

8. Presently there are no plans for development of any of the Castle Rock subject area.

Presently there are no specific plans for development of any of the land in the Empire subject area, with the exception of the Murphy property. Murphy is the only property owner with land in the subject area presently eligible for development and not restricted by ag preserves, who has indicated a desire to develop his land.

9. The Empire subject area since 1980 has experienced approximately seven homes per year growth rate. Since 1980, the annual growth in the Castle Rock subject area has been less than one home per year.

Pursuant to the Metropolitan Council projections, Empire and Castle Rock in total are projected to increase by twelve households per year in the time period between 1990 to 2000 and an additional twelve households per year between 2000 to 2010.

Empire requires that development of any of the existing subdivisions in the Empire subject area occur only when the developers put up 125% of the total cost of utility extension. Additionally, the Metropolitan Council has limited Empire to approximately one hundred thirty total sewer hook ups to the year 2000 with the hook ups allocated at approximately twenty four per year with no carry over from one year to the next.

The zoning in Castle Rock limits development in the Castle Rock subject area since the majority of the zoning is a four dwelling per forty acres for residential development. The southwestern portion of the Castle Rock subject area is ag preserves, which is a one per

forty acre residential density.

10. The City has county, state and local roads within its jurisdiction. None of the major thoroughfares within the County of Dakota, hereinafter referred to as "County," pass through the City.

Empire has county, state and local roads within its jurisdiction. Empire has approximately fifteen and a half miles of local roads, most of which are gravel. Empire's blacktop roads are primarily in the Edmar Addition and the Lu-Dan's Addition, and approximately a mile of road to the old Empire Waste Water Treatment plant on Highway 197.

Castle Rock has county, state and local roads within its jurisdiction.

Presently along the southern border of the City north of the Fair Board property, is Ash Street, also known as County Road 74, which is totally within the City. Along the northern boundary of the Empire subject area is County Road 46 which is partially in Empire and partially in the City of Rosemount, hereinafter referred to as "Rosemount," which is located immediately north of Empire.

Approximately 63% of the total Empire roads are within the Empire subject area. Approximately 6% of Castle Rock's total local roads are within the Castle Rock subject area.

11. State Highway 3 is located in the center of the subject area travelling north and south. There has been discussion about the extension of County Road 64 easterly from County State Aid Highway 31 to State Highway 3. There are no detailed plans to extend County Road 64, and any extension will require a railroad crossing.

There are plans to eventually improve County Road 74. Presently the entire road right-of-way is within the city. However, since land in the township abuts that county road, the County's payment policy is that the City picks up 45% of 50% of the total cost of the road project and the County covers the remaining cost. If the Castle Rock subject area is annexed, the City would be liable for the entire local government (Town or City) share of the cost, rather than only 45% of 50% of the total cost. Additionally, there are ongoing discussions about straightening County State Aid Highway 31 which is located within the City, and is a north/south road. The plans to straighten the road have not yet been finalized.

12. The City has a comprehensive plan adopted in 1982. The City prepared a revised comprehensive plan in 1990 but determined to place the matter on hold. The City anticipates a revision of its comprehensive plan sometime in 1994/1995 after these annexation proceedings.

Empire has a comprehensive plan. The most recent plan was adopted in December, 1993.

Castle Rock has a comprehensive plan.

13. The Metropolitan Development and Investment Framework, hereinafter referred to as "MDIF," classifies the vast majority of Empire Township as part of a commercial agricultural area, which allows for a residential density of one house per forty acres. The MDIF classifies the remainder of Empire as general rural use, which allows for residential density of one house per ten acres. Approximately 5,300 acres in Empire have been enrolled in ag preserves. In the areas

classified as general rural use, Empire planning allows for densities of one house per ten acres.

The MDIF classifies Castle Rock as a commercial agricultural area. The Town's comprehensive plan provides for long term agricultural use.

The MDIF designates the City as a free standing growth center. The City has developed in two main areas, the primary area surrounding the original City of Farmington near the Intersection of Highways 3 and 50. The other development area is approximately three miles northwest of the original city site, is adjacent to Lakeville and is located in the ten square miles that were annexed over twenty years ago. This ten square mile area remains 90% undeveloped.

14. The City has a zoning ordinance, subdivision regulations, capital improvements program and budget, a fire code, a floodplain ordinance, wild and scenic rivers ordinance, a sanitation ordinance, and adopted in the past year a sump pump ordinance prohibiting the discharge of water from a sump pump into the City's sanitary sewer system.

Empire has a zoning ordinance, subdivision regulations, a fire code, and a sanitation ordinance. The Empire building inspector is an employee of the City, who is contracted to provide similar work for Empire.

Castle Rock has a zoning ordinance, subdivision regulations, a fire code, and a sanitation ordinance, which it models after the County. If the County makes its sanitation ordinance more stringent, Castle Rock intends to follow suit.

The County has a zoning ordinance and a sanitation ordinance.

15. The vast majority of the land in the Empire subject area and Castle Rock subject area is zoned agricultural, public recreation and natural resource. There is some additional zoning for rural residential and commercial.

16. If the Empire subject area is annexed, it is anticipated that both Murphy property and the land owned by the Dufferin Development Company would be zoned for some form of residential development. The Fair Board property is zoned rural residential and flood plain; both zones allow for the present uses on the property. The Fair Board property use would remain the same whether it is in Castle Rock or the City.

There are no plans for development of the subject area in either Castle Rock or Empire, except for the Murphy property, so the proposed zoning for that land is unknown.

17. The City presently provides its residents with fire protection, police protection, sewer maintenance, sewer treatment through the Metropolitan Waste Control Commission, hereinafter referred to as "MWCC," water, water treatment, storm sewer, solid waste collection, street maintenance, parks, recreational facilities, library space, senior citizens center, and administration. The City owns and operates an ice arena which is available for use by the surrounding area, including Lakeville residents.

Empire presently provides its residents with sewage treatment through MWCC, water, parks and recreation, including a picnic area and tennis court near the town hall, fire protection through a contract with the City, emergency medical service through a contract with the Apple

Valley, Lakeville and Farmington ambulance service, hereinafter referred to as "ALF," sewer maintenance, and street maintenance by contract as needed. Empire receives its police service through the County sheriff and the City by Mutual Aid Agreement with the Sheriff's office.

Castle Rock provides its residents with street maintenance, fire protection through a contract with the City as well as with the City of Randolph, hereinafter referred to as "Randolph," for approximately thirteen sections of Castle Rock, and parks service, street maintenance and administration.

The Fair Board property contracts with the City for provision of sanitary sewer and water. This is the only portion of Castle Rock that is serviced by sanitary sewer or central water.

18. The City is presently renovating streets and sewer service to various portions of the older main core of the City. Under its assessment program, the City is only able to assess 45% of any costs to the affected property owners. The City must pick up the remaining cost for the renovation of existing services.

19. The City has had an on-going problem with inflow and infiltration, hereinafter referred to as "I&I." The I&I has caused the City to by-pass sanitary waste water onto open fields and/or onto streets during rainy times or extreme rainy seasons. The I&I problem has been known since prior to 1978. One of the major sources of the I&I has been the running of water from sump pumps into the sanitary sewer lines. The City enacted the sump pump ordinance in 1993, although it had been aware of the problem for many years. There was a significant by-pass beginning in September of 1992 for approximately a month where

sewage was by-passed onto a city street. To avoid such an eventuality the City could have enacted the sump pump ordinance sooner. The City is in the path of the Vermillion Watershed flow to the Vermillion River which results in the need to address surface and subsurface water issues.

20. Empire has not been required to by-pass its sanitary sewer lines. Castle Rock does not have any sanitary sewer lines to by-pass.

Empire has televised its sanitary sewer lines to ensure that they were functioning properly and passed a sump pump ordinance prohibiting discharge into the sanitary sewer lines.

21. The City is presently developing the southeast storm sewer waterway that will channel storm sewer water to the Vermillion River. It is not certain that this waterway will protect the Henderson Addition, located in the eastern part of the old City, from having wet basements. It is anticipated that this new southeast storm sewer may in fact assist in the development of what is known as the Sienna property, which is approximately 178 acres in the eastern most portion of the City, lying north of Highway 50. The Sienna project will develop the land for high and medium density residential use. The City is capable of completing the southeast storm sewer project on its own.

The problem of surface water drainage has been exacerbated by development in the City. The City's anticipated southeast storm sewer project should alleviate much of the past problems in that area of the City.

22. There are no known pollution problems in either the Empire subject area or the Castle Rock subject area.



23. Empire limits residential construction to either the areas that are presently provided with sewer and water or to areas that allow for development only on a one house per forty acres or one house per ten acres.

In the Castle Rock subject area, the fairgrounds presently contracts with the City for sanitary sewer and water. The remainder of the area is designated for development at the most dense rate of one house per ten acres.

24. The City is presently extending sewer and water to the Pine Knoll Drive area located between the old City area and the City's new Metropolitan Urban Service Area, hereinafter referred to as "City's Northern MUSA," located in the central portion of the northern portion of the City, which is in the area that was annexed from Lakeville Township in the early 1970's. These houses have been within the City since 1971 and will now be receiving municipal sewer and water.

25. The City has no specific plans for extending additional services to the subject area if it is annexed. There are no present plans of the City to construct any new infrastructure in the subject area, and there has been no showing that there is a need for any new infrastructure. If the Empire subject area is annexed, the City would take over the existing sewer and water infrastructure of Empire in the subject area and service those residents in the same manner. There are no plans for sewer or water extension into Castle Rock, and there is no known present need for such services.

26. The City has not prepared any changes to its comprehensive plan addressing how the subject area will develop. The possible green

belt of the ag preserve land in the Empire subject area is proposed to remain as it is, thereby allowing the City to have a green belt on its east and west borders.

Presently, the only planning for the subject area has been done by Empire for the Empire subject area and Castle Rock for the Castle Rock subject area.

27. The City has a 1994 tax capacity of \$3,278,393.00. The City's tax rate is .34484; its tax rate for the County is .2240; its tax rate for the School District is .70341; and its tax rate for the Special Taxing District is .01777. The City has a fire insurance rating of 5 and a total long term indebtedness of approximately \$11,498,626.00.

Empire has a 1994 tax capacity of \$774,105.00. The Town's tax rate is .22662; its tax rate for the County is .27474; its tax rate for the School District is .70469; for the majority of the subject area; and .609334; for Independent School District No. 196 which has jurisdiction over the northern four sections of the Empire subject area; and its tax rate for the Special Taxing District is .01781. The Town has a fire insurance rating of 9 and has no bonded indebtedness.

Castle Rock has a tax capacity of \$906,575.00. The Town's tax rate is .14435; its tax rate for the County is .27474; its tax rate for the School District is .70469; and its tax rate for the Special Taxing District is .01781. The Town has a fire insurance rating of 9 and has no bonded indebtedness.

In 1994, the Empire subject area had a tax capacity of \$491,203.00, which is 63% of the total valuation of Empire.

In 1994, the Castle Rock subject area had a tax capacity of

\$129,158.00, which is 14% of the total tax capacity of Castle Rock.

In 1993, the Fair Board property had a value of approximately \$4,330,220.00, which is 39% of the subject areas total valuation. The \$8,952.00 Fair Board pays approximately ~~\$8,952.00~~ in taxes.

28. The approximate per capita cost of services for the communities is as follows: City \$340 if the service costs for 1992 are limited to general government (general government, mayor and council, administration, finance, planning), safety (police, fire, rescue squad), public works (engineering, streets, shade tree) and park and recreation (park maintenance, recreation programs, senior center) or \$1,114 if the total 1992 expenditures from proprietary funds are identified; Empire is \$188 if the 1993 service costs include miscellaneous, street public safety and general government, or \$283 if all expenditures in 1993 are included, and Castle Rock is \$94.

29. Farmington I.S.D. No. 192 serves the City and the Castle Rock and Empire subject areas except for the four northern sections in Empire subject area, which are served by Rosemount-Apple Valley-Eagan I.S.D. No. 196.

30. On October 17, 1994, the Minnesota Municipal Board granted the City's request for an Order of the Municipal Board allowing the City to annex by ordinance certain lands within the Empire subject area that the City owns. The City's annexation by ordinance for those lands was approved by the Municipal Board on November 10, 1994.

31. On October 17, 1994 the Minnesota Municipal Board granted the City's request to amend its petition for annexation by reducing the subject area before the Municipal Board to the following, hereinafter

referred to as "the City's reduced area":

All that property lying south of the following described line in the originally described Empire subject area.

Beginning at the southwest corner of Section 7, thence easterly along the southern boundary bordered to the eastern border of the southwest quarter of Section 7, thence northerly along that eastern border to the centerline of the southeast quarter of Section 7, thence easterly along that line to the eastern boundary of Section 7, thence southerly along that eastern boundary to the centerline of the north half of the southwest quarter of Section 17, thence easterly along that line to the eastern boundary of the southwest quarter of Section 17, thence southerly along that boundary to the southwest corner of the northwest quarter of the southeast quarter of Section 20, thence easterly along that line to the eastern boundary of the subject area.

All of that property within the Castle Rock subject area in the north half of Section 5 and 6 Castle Rock.

32. The City's reduced area contains approximately 3,442 acres in Empire and approximately 460 acres in Castle Rock, for a total area of 3,902 acres.

33. In the Empire portion of the City's reduced area, roughly two-thirds of the land is zoned for long term agricultural and in the Castle Rock portion of the City's reduced area, the land is zoned for rural residential use.

34. The City's reduced area has an estimated approximate population of 863 in Empire and an estimated approximate population of 131 in Castle Rock.

35. In the City's reduced area there are approximately 1,160 acres of land within ag preserve which are scheduled to come out of ag preserves in December, 2001, along with approximately 150 acres of land scheduled to remain indefinitely in ag preserve.

36. The services that Empire and Castle Rock provide to their

portions of the City's reduced area are the same as those services that are listed for the entire original subject area.

37. On October 17, 1994, the Minnesota Municipal Board reduced the area for annexation before it to the land known as the Murphy property which is described as follows:

The north half of the southwest quarter and the west half of the northwest quarter of Section 30, presently in Empire Township.

38. The Murphy property is not in ag preserves and is available for immediate development. The property owner intends to develop this area for residential use.

The Murphy property lies immediately north of land that was annexed into the City in the 1980's, and is the location of the Farmington Middle School.

39. The Murphy property has some land that has permanent or seasonal water table deeper than four feet, and the remaining land has permanent or seasonal surface water table that is zero to four feet in depth.

40. The Murphy property is east and southeast of the area within the City described as Pine Knoll Hill, which is presently receiving an extension of municipal sanitary sewer and water.

Presently, the City's comprehensive plan does not address the use of the Murphy property.

41. The Murphy property is located within the Farmington school district. The Murphy property is at least approximately a quarter mile west of the nearest location in the Town for sanitary sewer or water. The Town has no present plans of extending sanitary sewer or water to

the Murphy property.

Access to the Murphy property is available for sewer and water from the City.

42. There are presently no residents on the Murphy property.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. The area that the Minnesota Municipal Board reduced to the Murphy property, is now or is about to become urban or suburban in character and will be in need of municipal services.
3. The annexation will be in the best interests of the Murphy property.
4. Except for the Murphy property, there is no reasonable relationship between the increase in revenues for the annexing municipality and the benefits that would be conferred upon the originally petitioned area or the City's reduced area.
5. Except for the Murphy property, annexation of all of the originally petitioned Empire subject area or all of that portion of the City's reduced area in the Town of Empire would cause the Town of Empire to suffer undue hardship.
6. The Minnesota Municipal Board reduced the amended petition before it to the Murphy property in order to include only that property which is now or is about to become urban or suburban in character and to exclude property that is better served by another unit of government.
7. The Town of Empire can carry on the functions of government without undue hardship if the Murphy property is annexed.

8. An Order should be issued by the Minnesota Municipal Board annexing the Murphy property and denying the annexation of the remainder of the land before the Minnesota Municipal Board.

O R D E R

1. IT IS HEREBY ORDERED: That the property described in Findings of Fact 37 herein, be and the same hereby is annexed to the City of Farmington, Minnesota, the same as if it had originally been made a part thereof.

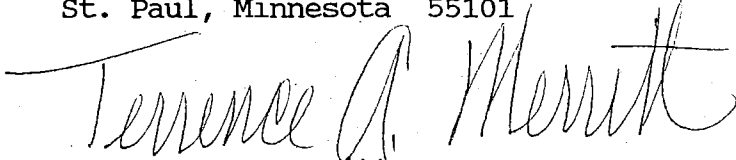
2. IT IS FURTHER ORDERED: That the petition for annexation of land in Findings of Fact 1, and the amended petition for annexation in Findings of Fact 31, and not annexed previously in this Order or by other separate action of the Minnesota Municipal Board, is hereby denied.

3. IT IS FURTHER ORDERED: That the effective date of this order is December 5, 1994.

4. IT IS FURTHER ORDERED: That the effective date of this amended order is December 29, 1994.

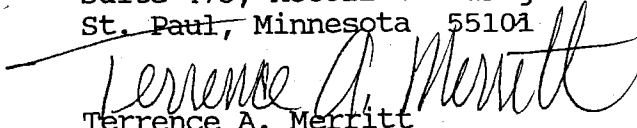
Dated this 5th day of December, 1994.

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

  
Terrence A. Merritt  
Executive Director

Amended Order Dated this 29th day of  
December, 1994.

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

By reducing the area for annexation, the Minnesota Municipal Board approved the annexation of land that will immediately benefit from being a part of the City of Farmington. The remainder of the land in both the original annexation petition and the subsequent amended petition by the City of Farmington failed to meet the annexation requirements because it was not urban or suburban or about to become so, there was no need for municipal services to protect the public health, safety and welfare, there was no showing that the increase in revenues to the City was reasonably related to the benefits conferred upon the annexed area, or that the remainder of the land was better served by another unit of government.

With the exception of the Murphy property, development that was considered possible for the subject area was not predicted to occur before December, 2001. Additionally, while that was the earliest date, the testimony indicated that development, if it occurred at all, would not be completed for ten to twenty years after that time.

The Municipal Board did not receive plans for either the development of the originally petitioned 7,620 acres or the amended petition that contained approximately 3,902 acres. Additionally, there was no showing that either of these areas, with the exception of the Murphy property, would receive any services that they were presently not receiving or desired at this time from their present local units of



government. Further, the service cost for any of the subject area would drastically increase if it became a part of the City.

The City, with this annexation, and the land already in the City that is coming out of ag preserves, will have more than enough land for development by the City's own calculations through the year 2020.

The major discussion of pollution highlighted the City's bypassing of raw sewage onto its own streets and into adjacent fields. There was no showing of any environmental problems within the originally petitioned for area.

If the proposed construction on County Road 64 occurs, the Municipal Board is willing to revisit that portion of the Empire subject area that may be impacted.

Empire, Castle Rock, Farmington, the Fair Board, Dakota County, the Vermillion Watershed District, the Metropolitan Council and School Districts No. 192 and No. 196 are all factors in the greater Farmington area. Now that a decision has been reached on this matter, the Municipal Board urges all of these people, because governments are made up of people and exist for the benefit of people, to put the past behind them and work on addressing the future of this entire area in a collegial and cooperative fashion. The Municipal Board is confident that by the cooperation shown in other areas that these communities can work together to plan the entire area's future for benefit to all.

JAM 12-5-94