

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
John W. Carey	Vice Chair
Dorothy E. Kobs	Commissioner
Rose Arnold	Ex-Officio Member
Henry Dickhaus	Ex-Officio Member

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IN THE MATTER OF THE PETITION FOR )	<u>INTERIM FINDINGS OF FACT</u>
THE ANNEXATION OF CERTAIN LAND TO )	<u>CONCLUSIONS OF LAW</u>
THE CITY OF ST. CLOUD PURSUANT )	<u>AND ORDER</u>
TO MINNESOTA STATUTES 414 )	<u>AND MEMORANDUM</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 March 28, 1994 at St. Cloud, 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 Robert J. Ferderer, Chair, Dorothy E. Kobs, Commissioner, and County Commissioners Rose Arnold and Henry Dickhaus, Ex-Officio Members of the Board. The petitioners appeared by and through Gerald Von Korff, Attorney at Law, the City of St. Cloud appeared by and through Jan Petersen, Attorney at Law, and the Town of St. Cloud appeared by and through Thomas Melloy and Frank Kundrat, Attorneys 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 January 14, 1994, a petition by more than 20% of the property owners was received by the Municipal Board requesting annexation and a resolution supporting the annexation was received from the City of St. Cloud, hereinafter referred to as "City." 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:

TRACT A:

NW1/4 NE1/4 Sec. 8  
Stearns County Parcel No. 30.18670.000  
0.40 acres, more or less

That part of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section 8, Township 124, Range 28, according to the government survey thereof, described as follows: Beginning at a point on the centerline of County Road No. 134 distant 1163 feet South and 694 feet East of the North quarter corner in said Section 8; thence North 47 degrees 11 minutes East along the centerline of said road a distance of 137.5 feet; thence South 52 degrees 45 minutes East to the thread of the stream of the Sauk River; thence Southwesterly along the thread of the stream of the Sauk River to its intersection with a line drawn South 59 degrees 5 minutes East from the point of beginning; thence North 59 degrees 5 minutes West to the point of beginning, (for purposes of this description the assumed bearing of the North Quarter line in said Section 8 is due North and South), less that part shown as Parcel 17 on the plat designated as Stearns County Highway Right Of Way Plat No. 1, and less that part lying Northerly of the Southerly right-of-way line of County Road No. 134.

TRACT B:

NW1/4 NE1/4 Sec. 8  
Stearns County Parcel No. 30.20009.000  
0.53 acres, more or less

Lot Ten (10), Kremer's Addition, a duly recorded plat, less that part shown as Parcel 11 on the plat designated as Stearns County

Highway Right Of Way Plat No. 1.

TRACT C:

NW1/4 NE1/4 and NE1/4 NW1/4 Sec. 8  
Stearns County Parcel Nos. 30.20016.000, 30.20017.000,  
30.20018.000, 30.20019.000, 30.18681.000, 30.18682.000 and  
30.18684.000  
5.48 acres, more or less

Lots One (1), Two (2), Three (3) and Four (4), Kremer's 2nd  
Addition, a duly recorded plat, less those parts shown as Parcels  
8, 9 and 10 on the plat designated as Stearns County Highway  
Right Of Way Plat No. 1.

AND

All that part of the Northeast Quarter of the Northwest Quarter  
(NE1/4 NW1/4) and the Northwest Quarter of the Northeast Quarter  
(NW1/4 NE1/4) of Section 8, Township 124, Range 28, described as  
follows: Beginning at the Northwesterly corner of Lot 4, Kremer's  
2nd Addition, according to the recorded plat thereof, thence  
Northeasterly along the Northwesterly line of said Lot 4 a  
distance of 258.25 feet to the Southwesterly line of Block 3,  
River Terrace, a duly recorded plat; thence Northwesterly along  
the Southwesterly line of said Block 3, a distance of 583 feet to  
the Southerly right-of-way line of Walnut Drive; thence  
Southwesterly along the Southerly right-of-way line of Walnut  
Drive a distance of 245.70 feet, more or less, to a point on the  
Easterly right-of-way line of State Aid Road No. 4; thence South  
39 degrees 26 minutes East, along the Easterly right-of-way line  
of said road a distance of 384.49 feet, more or less; thence at  
right angles and Northeasterly for a distance of 17 feet; said  
last point being on the Easterly right-of-way line of State Aid  
Road No. 4; thence in a Southeasterly direction along said  
Easterly right-of-way line of said road for a distance of 198.96  
feet, more or less, to the point of beginning, less those parts  
shown as Parcels 2 and 3 on the plat designated as Stearns County  
Highway Right Of Way Plat No. 1.

TRACT D:

SW1/4 Sec. 5, NW1/4 Sec. 5, and NE1/4 NW1/4 Sec. 8  
Stearns County Parcel Nos. 30.18634.000, 30.18634.005,  
30.18635.000, 30.92900.000, 30.92918.030, 30.20088.000, and part  
of 30.18687.000  
189.85 acres, more or less.

Lot One (1), Block One (1), Free Church Addition, a duly recorded

plat.

AND

That part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) of Section 8 lying Northeasterly of the Northeasterly right-of-way line of State Aid Road No. 4 and Northwesterly of the Northwesterly line of Free Church Addition, a duly recorded plat.

AND

That part of the Southwest Quarter (SW1/4) of Section 5 lying Northeasterly of the Northeasterly right-of-way line of State Aid Road No. 4, and Northwesterly of the Northwesterly line of Free Church Addition, a duly recorded plat, less that part described as follows: Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) of Section 5, and assuming the West line of said SW1/4 to be a bearing of South; thence South 36° 11' 30" East, a distance of 1142.50 feet, to a point on the centerline of State Aid Road No. 4, which is the point of beginning; thence Northwesterly along the centerline of said road a distance of 125 feet; thence North 53° 02' East, a distance of 660 feet; thence South 36° 58' East a distance of 125 feet; thence South 53° 02' West a distance of 660 feet to the point of beginning.

AND

That part of the fractional Northwest Quarter (NW1/4) of Section 5 lying Easterly of the Easterly right-of-way line of State Aid Road No. 4 and Southerly of the Southerly right-of-way line of County Road No. 120, except that part platted as Prairie Rose Estates and Prairie Rose Estates Plat Two, both duly recorded plats.

LESS AND EXCEPT

Those parts shown as Parcels 1 and 45 on the plat designated as Stearns County Highway Right Of Way Plat No. 1, and those parts shown as Parcels 31 and 46 on the plat designated as Stearns County Highway Right Of Way Plat No. 6.

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

3. On August 17, 1994, the Minnesota Municipal Board expanded the area under consideration before it to include the following described property:

All that property not within either the City of St. Cloud or the City of Waite Park located in Sections 3, 4, 5, 6, 7, 8, & 9, Range 28W, Township 124N and lying north

of the extension of Township Road 1075 located in Section 7.

The Board has not yet conducted additional hearings on the property above described as the "expanded area".

The remaining Findings of Fact, Conclusions of Law and Order and Memorandum address the property described as the subject area and the Minnesota Municipal Board retains jurisdiction over all that portion of the expanded area not described as the subject area.

4. The subject area is unincorporated, approximately 196.26 acres in size, and abuts the City by less than 1% of its perimeter. The City is approximately 10,579 acres in size, and the Town of St. Cloud, hereinafter referred to as "Town," is approximately 11,800 acres in size.

5. The City had a population of approximately 39,691 in 1970, a population of approximately 42,566 in 1980, and has a current population of approximately 49,379.

The Town had a population of approximately 6,807 in 1970, a population of approximately 5,282 in 1980, and has a current population of approximately 8,245. It is projected by the St. Cloud Area Planning Organization that the Town will have a population of approximately 9,000 by the year 1995, and a population of approximately 12,500 by the year 2010.

The subject area has a current population of approximately 32. It is projected by the City's planning office that the subject area will have a population of approximately 246 in five years, if the area is annexed and developed.

6. The subject area lies immediately north of the Sauk

River, which is the dividing line between the City and the Town in the area where the subject area is located.

7. The subject area consists of soils of mostly Dickman sandy loam (327A) with a drainage class of WD and a small area of Estherville sandy loam (41B), with a drainage class of ED.

8. The City has approximately 28.7% of its land in residential use, approximately 23.4% of its land in institutional use, and approximately 26.6% of its land in right-of-ways, water ways and parkland, approximately 5.8% of its land in commercial use, approximately 6.1% of its land in industrial use, and approximately 9.4% of its land is vacant.

The Town has land in residential, institutional, commercial, and agricultural use. Town land around the subject area is either platted for single family residences or is commercial type use. Land immediately northeast of the central portion of the subject area is vacant as is land further east, while the remainder of the land adjacent to the subject area is platted and/or developed.

The subject area has approximately 3.8% of its land in residential use, approximately 7.6% of its land in right-of-ways, water ways and parkland, and approximately 88.6% of its land is vacant.

9. The proposed development of the subject area will include approximately 380 single-family residential lots and 3 acres of land zoned for neighborhood commercial development.

10. The City has approximately 198.32 miles of highways, streets, and roads.

The Town has approximately 54.83 miles of highways,

streets, and roads.

The subject area abuts approximately a mile to a mile and a half of road right-of-way. The subject area is adjacent to both County State Aid Highway No. 4 and County Road No. 134.

If the subject area is annexed, subdivision of the land will require internal public roads to serve the proposed development.

11. The City has a comprehensive plan, adopted September 20, 1993.

The Town has a comprehensive plan, adopted in 1983 which is presently under revision.

Stearns County has a comprehensive plan adopted in 1971.

12. The City has a zoning ordinance, subdivision regulations, capital improvements program and budget, a fire code, a shoreland ordinance, a floodplain ordinance, wild and scenic rivers ordinance, and a sanitation ordinance.

The Town has a zoning ordinance, subdivision regulations, an official map, capital improvements program and budget, a fire code, and a sanitation ordinance.

The County has subdivision regulations which were originally approved in September of 1980 and amended in 1990 and March 1994, a highway capital improvements program and budget, a shoreland ordinance, a floodplain ordinance, wild and scenic rivers ordinance, and a sanitation ordinance.

13. Forty acres of the subject area are currently zoned B-3 highway commercial and the remaining 156.26 acres are zoned R-2, suburban residential.

14. If the subject area is annexed to the City, it is

anticipated that it will be zoned R-1 single-family residential for approximately 193.26 acres and the remaining three acres will be zoned C-2 neighborhood commercial.

15. None of the subject area is in Green Acres.

16. The City has not adopted an Urban/Rural Taxing District.

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, recreational opportunities and civic center.

The Town presently provides its residents with storm sewer in some areas, solid waste collection and disposal through private collection, fire protection, police protection, street improvements and maintenance, administrative services and recreational opportunities. The Town provides these same services with the exception of storm sewer to the subject area.

The City is willing to provide all of the services it presently provides to its residents to the subject area. The City has a policy of not extending municipal sewer or water outside of its existing corporate limits.

Water is provided to the residents in the subject area from private wells and sewage needs are served by individual private septic systems.

18. The area around the subject area includes soil type 327 in the developments of Sunset Park, the Bettner Ridgewood Estates, Elbow Lane (Tilson Park), River Terrace and the Kremer Plats. These sandy type soils that are good to build on for roads, but a prime hazard for leakage from septic systems.



19. At least one of the septic systems in the subject area is over 40 years old. Additionally, one of these systems is known to be experiencing failure problems. The soils in the subject area appear to have high percolation rates.

20. The City has a 1994 tax capacity valuation of approximately \$28,033,527. The City's tax rate is 31.226; its tax rate for the County is 37.453; its tax rate for the School District is 56.304; and its tax rate for the Special Taxing Districts are 1.508 for the MTC and 0.513 for the HRA. The City has a fire insurance rating of 3, and a total bonded indebtedness as of January 1, 1994 of approximately \$105,320,000.

The Town has local government tax rate of 12.645; its tax rate for the School District is 56.535. The Town has a fire insurance rating of 8 or 9, and a total bonded indebtedness of 0.

21. The remainder of the Town can continue to carry on the functions of government without the subject area without undue hardship.

22. Development of the subject area requires municipal sewer service and perhaps municipal water and the Town does not have either service available. Additionally, a budget item planning for such services was deleted from the Town's annual budget at the Town meeting.

23. The City is the only municipality 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, 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 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 and will be furthered by annexation.

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 subject 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 St. Cloud, Minnesota, the same as if it had originally been made a part thereof.

2. IT IS FURTHER ORDERED: That the Minnesota Municipal Board retains jurisdiction over that property described in Findings of Fact 3 excepting that portion of the described area that was the subject of Article 1 of this order.

3. IT IS FURTHER ORDERED: That the population of the City of St. Cloud is hereby increased by 32 persons.

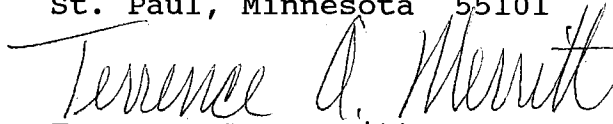
4. IT IS FURTHER ORDERED: That the population of the Town

of St. Cloud is hereby decreased by 32 persons.

5. IT IS FURTHER ORDERED: That the effective date of this order is October 21, 1994.

Dated this 21st day of October, 1994.

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

A handwritten signature in cursive script, reading "Terrence A. Merritt". The signature is written in dark ink and is positioned above the printed name and title.

Terrence A. Merritt  
Executive Director

M E M O R A N D U M

In issuing this Interim Order, the Municipal Board chooses to act on the petition that brought the matter before the Board, while retaining jurisdiction over a larger portion so as to give the parties an opportunity to address the big picture. The Board feels that to delay action on land that has met its burden of proof, would be unfair and inappropriate.

The Board is confident that the governmental entities will work together to use this window of opportunity to develop a comprehensive financial management plan and an overall vision for the area that will encompass the next twenty to thirty years.

JAM 10-21-94

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
Paul B. Double	Vice Chair
Lea De Souza Speeter	Vice Chair
Rose Arnold	Ex-Officio Member
Henry Dickhaus	Ex-Officio Member

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IN THE MATTER OF THE PETITION FOR )	
THE ANNEXATION OF CERTAIN LAND TO )	<u>ORDER</u>
THE CITY OF ST. CLOUD PURSUANT )	
TO MINNESOTA STATUTES 414 )	

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WHEREAS, a petition for the annexation of certain land to the City of St. Cloud was filed with the Minnesota Municipal Board on January 14, 1994 pursuant to Minnesota Statutes 414; and

WHEREAS, said petition contained all of the information required by statute, including a description of the territory subject to annexation, hereinafter referred to as the "Kremer/Miller property", which is as follows:

TRACT A:

NW1/4 NE1/4 Sec. 8  
Stearns County Parcel No. 30.18670.000  
0.40 acres, more or less

That part of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section 8, Township 124, Range 28, according to the government survey thereof, described as follows: Beginning at a point on the centerline of County Road No. 134 distant 1163 feet South and 694 feet East of the North quarter corner in said Section 8; thence North 47 degrees 11 minutes East along the centerline of said road a distance of 137.5 feet; thence South 52 degrees 45 minutes East to the thread of the stream of the Sauk River; thence Southwesterly along the thread of the stream of the Sauk River to its intersection with a line drawn South 59 degrees 5 minutes East from the point of beginning; thence North 59 degrees 5 minutes West to the point of beginning, (for purposes of this description the assumed bearing of the North Quarter line in said Section 8 is due North and South), less that part shown

as Parcel 17 on the plat designated as Stearns County Highway Right Of Way Plat No. 1, and less that part lying Northerly of the Southerly right-of-way line of County Road No. 134.

TRACT B:

NW1/4 NE1/4 Sec. 8  
Stearns County Parcel No. 30.20009.000  
0.53 acres, more or less

Lot Ten (10), Kremer's Addition, a duly recorded plat, less that part shown as Parcel 11 on the plat designated as Stearns County Highway Right Of Way Plat No. 1.

TRACT C:

NW1/4 NE1/4 and NE1/4 NW1/4 Sec. 8  
Stearns County Parcel Nos. 30.20016.000, 30.20017.000,  
30.20018.000, 30.20019.000, 30.18681.000, 30.18682.000 and  
30.18684.000  
5.48 acres, more or less

Lots One (1), Two (2), Three (3) and Four (4), Kremer's 2nd Addition, a duly recorded plat, less those parts shown as Parcels 8, 9 and 10 on the plat designated as Stearns County Highway Right Of Way Plat No. 1.

AND

All that part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) and the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section 8, Township 124, Range 28, described as follows: Beginning at the Northwesterly corner of Lot 4, Kremer's 2nd Addition, according to the recorded plat thereof, thence Northeasterly along the Northwesterly line of said Lot 4 a distance of 258.25 feet to the Southwesterly line of Block 3, River Terrace, a duly recorded plat; thence Northwesterly along the Southwesterly line of said Block 3, a distance of 583 feet to the Southerly right-of-way line of Walnut Drive; thence Southwesterly along the Southerly right-of-way line of Walnut Drive a distance of 245.70 feet, more or less, to a point on the Easterly right-of-way line of State Aid Road No. 4; thence South 39 degrees 26 minutes East, along the Easterly right-of-way line of said road a distance of 384.49 feet, more or less; thence at right angles and Northeasterly for a distance of 17 feet; said last point being on the Easterly right-of-way line of State Aid Road No. 4; thence in a Southeasterly direction along said Easterly right-of-way line of said road for a distance of 198.96

feet, more or less, to the point of beginning, less those parts shown as Parcels 2 and 3 on the plat designated as Stearns County Highway Right Of Way Plat No. 1.

TRACT D:

SW1/4 Sec. 5, NW1/4 Sec. 5, and NE1/4 NW1/4 Sec. 8  
Stearns County Parcel Nos. 30.18634.000, 30.18634.005,  
30.18635.000, 30.92900.000, 30.92918.030, 30.20088.000, and part  
of 30.18687.000  
189.85 acres, more or less.

Lot One (1), Block One (1), Free Church Addition, a duly recorded plat.

AND

That part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) of Section 8 lying Northeasterly of the Northeasterly right-of-way line of State Aid Road No. 4 and Northwesternly of the Northwesternly line of Free Church Addition, a duly recorded plat.

AND

That part of the Southwest Quarter (SW1/4) of Section 5 lying Northeasterly of the Northeasterly right-of-way line of State Aid Road No. 4, and Northwesternly of the Northwesternly line of Free Church Addition, a duly recorded plat, less that part described as follows: Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) of Section 5, and assuming the West line of said SW1/4 to be a bearing of South; thence South 36° 11' 30" East, a distance of 1142.50 feet, to a point on the centerline of State Aid Road No. 4, which is the point of beginning; thence Northwesternly along the centerline of said road a distance of 125 feet; thence North 53° 02' East, a distance of 660 feet; thence South 36° 58' East a distance of 125 feet; thence South 53° 02' West a distance of 660 feet to the point of beginning.

AND

That part of the fractional Northwest Quarter (NW1/4) of Section 5 lying Easterly of the Easterly right-of-way line of State Aid Road No. 4 and Southerly of the Southerly right-of-way line of County Road No. 120, except that part platted as Prairie Rose Estates and Prairie Rose Estates Plat Two, both duly recorded plats.

LESS AND EXCEPT

Those parts shown as Parcels 1 and 45 on the plat designated as

Stearns County Highway Right Of Way Plat No. 1, and those parts shown as Parcels 31 and 46 on the plat designated as Stearns County Highway Right Of Way Plat No. 6; and

WHEREAS, the matter came on for hearing before the Municipal Board pursuant to Minnesota Statutes 414, as amended, on March 28, 1994 and was continued from time to time; and

WHEREAS, on August 17, 1994, the Municipal Board expanded the area under consideration to include the following described property:

All that property not within either the City of St. Cloud or the City of Waite Park located in Sections 3, 4, 5, 6, 7, 8, & 9, Range 28 W, Township 124 N and lying north of the extension of Township Road 1075 located in Section 7; and

WHEREAS, on October 21, 1994, the board issued an Interim Order approving the annexation of the Kremer/Miller property, referred to herein, and retained jurisdiction over the expanded area; and

WHEREAS, a hearing on the expanded area was convened on September 6, 1995 and was continued at the request of the parties to allow additional opportunity to resolve their differences through mediation and to come to agreement at the local level; and

WHEREAS, the Cities of St. Cloud and Waite Park and the Town of St. Cloud have executed orderly annexation agreements for the immediate annexation of the entire township to the Cities of Waite Park and St. Cloud;

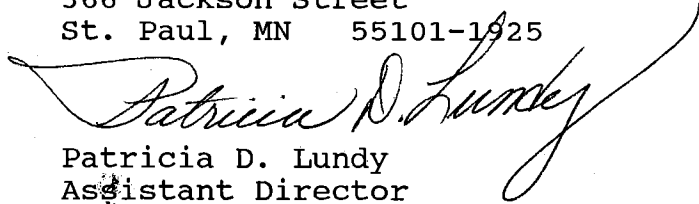


IT IS HEREBY ORDERED: That the proceeding on the expanded area described herein, less that area herein described as the Kremer/Miller property previously annexed to the City of St. Cloud, is dismissed and Municipal Board docket A-5259 St. Cloud is hereby closed.

IT IS FURTHER ORDERED: That the effective date of this order is November 2, 1995.

Dated this 13th day of November, 1995.

MINNESOTA MUNICIPAL BOARD  
Suite 475, McColl Building  
366 Jackson Street  
St. Paul, MN 55101-1925



Patricia D. Lundy  
Assistant Director