

C16-Mt Elk River

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Gerald J. Isaacs	Chairman
Robert W. Johnson	Vice Chairman
Thomas J. Simmons	Member
Clarence Peterson	Ex-Officio Member
Milton Stensrud	Ex-Officio Member

IN THE MATTER OF THE RESOLUTION)	<u>FINDINGS OF FACT,</u>
OF THE TOWN OF ELK RIVER AND THE)	<u>CONCLUSIONS OF LAW,</u>
CITY OF ELK RIVER FOR CONSOLIDATION)	<u>AND ORDER</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board, pursuant to Chapter 414 of Minnesota Statutes, on October 26, 1977, at Elk River, Minnesota. Executive Secretary William A. Neiman, acting pursuant to law, received and reported the evidence. Ex-Officio Members Clarence Peterson and Milton Stensrud were in attendance. David C. Selligren, Esq., attorney at law, 1500 Northwestern Financial Center, Minneapolis, Minnesota 55431, appeared for the Town of Elk River in support of the consolidation. Bruce A. Rasmussen, Esq., attorney at law, 1110 Northwestern Bank Building, Minneapolis, Minnesota 55402, appeared for the City of Elk River in support of the consolidation. There were no appearances in opposition to the consolidation. Testimony was heard and records and exhibits were received.

After due and careful consideration of all of the evidence, together with all records, files and proceedings herein, the Minnesota Municipal Board hereby makes and files its Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

THE MINNESOTA MUNICIPAL BOARD FINDS:

1. On August 19, 1977, the Executive Secretary of this Board received and filed a "Resolution of the Town Board of the Town of Elk River and of the City Council of the City of Elk River Stating Their Desire For Consolidating the City of Elk River and the Town of Elk River into a Single New City of Elk River". Said Resolution contained all of the information required by law and was duly submitted to the proper parties.

2. In addition to the material required by law, the foregoing Resolution contains agreements of the City of Elk River and the Town of Elk River which are hereby incorporated into these Findings of Fact, Conclusions of Law and Order, and statements of intent to guide the proposed new city, which read as follows:

That it is the intention of the Town Board of the Town of Elk River and of the City Council of the City of Elk River that the new City of Elk River use its planning and zoning powers so as to foster orderly urbanization from the present City limits and to prevent urbanization from occurring at inappropriate locations removed from City utilities and services; that it is the intention of said Town Board and City Council that the cost of sewer and water extensions be assessed against benefiting property and that such extensions not be made until a majority of the people in the area to be served so request.

That it is the intention of the Town Board of the Town of Elk River and of the City Council of the City of Elk River that, to the extent legally permissible, practicable and efficient, all appointed boards, committees and commissions have equal distribution of members residing in the territory of the old City and the old Town.

3. Due, timely and adequate notice of hearing was published, served and filed as required by law.

4. The past, present and projected populations for the City of Elk River and the Town of Elk River are:

	<u>City</u>	<u>Town</u>	<u>Total</u>
1960	1,763	986	2,749
1970	2,252	1,846	4,098
1976	3,132	3,051	6,183
1980	--	--	6,400
1985	--	--	8,100
1990	--	--	10,600
1995	--	--	13,900
2000	--	--	18,000

5. The Town of Elk River contains approximately 41 square miles of land and the City of Elk River contains approximately two square miles of land.

6. The City of Elk River contains a central business district and land used for residential, commercial, industrial, institutional and public purposes. The Town of Elk River contains land used for commercial purposes, particularly along U. S. Highway 10 and 52, urban residential and agricultural purposes.

7. The area under consideration is traversed by major corridors U. S. Highways 10, 52 and 169. In addition, Minnesota Trunk Highway 101 crosses the Mississippi to intersect Interstate Highway 94. These highways provide good access to the Twin Cities Metropolitan Area and to the St. Cloud Metropolitan Area. This is causing urban residential development in the area which will continue at an increasing rate.

8. The City of Elk River has a planning commission, a comprehensive plan, and land-use planning implementation ordinances, including a zoning ordinance and a subdivision ordinance. Sherburne County has a planning commission, a comprehensive plan, and land-use planning implementation ordinances, including a zoning ordinance and a subdivision ordinance. The Sherburne County Comprehensive Plan shows the area of the Town of Elk River which is adjacent to the City of Elk River as being used for

residential purposes. The Town of Elk River does not have a Planning Commission, a comprehensive plan, or land-use planning implementation ordinances, but cooperates with the county in its planning activities.

9. The area is bounded on the south by the Mississippi River and its flood plain. The Elk River enters the area from the west and winds easterly to its confluence with the Mississippi just south of the present city limits. The Elk River has been dammed to form Lake Orono. The soil and slope conditions fall into the following three categories:

Gently rolling to hilly, moderately dark colored, variable loams, sandy loams, and loamy sands.

Gently rolling to hilly, light colored, loams and sandy loams of variable consistency. Subsoil usually of heavy material but some of sand and gravel.

Gently rolling to very hilly, both dark and light colored, shallow, droughty, sand loams which are primarily underlain by sand and gravel.

Much of the area of the Town is severely or critically restricted as far as urban uses are concerned and good land-use planning is therefore essential.

10. The City of Elk River provides a full range of municipal services, including: water supply and distribution; sanitary sewerage collection and treatment; storm sewers; police protection; fire protection; road construction and maintenance; recreational facilities and programs; library service (in conjunction with the regional library) and operates a municipal electric utility.

11. The Town of Elk River provides road construction and maintenance and a recreation program.

12. There are presently no serious problems of environmental pollution. However, urban development at high densities with on-site sewage disposal systems, which is presently permitted, presents a potential problem of ground water pollution and hence pollution of drinking water. Central sewer will be required in these areas and can best be provided by extension of the City of Elk River's system. The City's treatment plant is being upgraded and expanded and will have the required capacity.

13. The assessed value, mill rates and budgets for the City of Elk River and Town of Elk River are:

	<u>Assessed Valuation</u>		<u>Mill Rate</u>		<u>Budget</u>	
	<u>City</u>	<u>Town</u>	<u>City</u>	<u>Town</u>	<u>City</u>	<u>Town</u>
1973	4,253,867	7,804,933	10.79	2.98	45,900	23,257
1977	6,466,381	10,776,146	15.46	2.79	99,600	30,000
Change	2,212,514	2,971,213	4.67	-.19	53,700	6,743
Percent Change	52%	38%	43%	-6%	117%	29%

14. The present bonded debt of the City of Elk River as presently structured requires principal and interest payments totally \$2,212,674.00 through 1999. The principal and interest payment for 1977 is \$152,321.25.

15. The Town of Elk River has no bonded debt.

16. The City of Elk River and the Town of Elk River are in the same school district and the consolidation will have no significant impact on the school district.

17. No adjacent city appeared in opposition to the proposed consolidation. The consolidation will have no significant impact on any adjacent city.

18. The City of Elk River is expanding its sanitary sewerage treatment plant so that it will have sufficient capacity to serve adjacent areas in the Town of Elk River. It has made plans for extending a sewer interceptor line to serve problem areas in the Town. It provides fire service to the Town of Elk River. It constructed its new fire station and acquired equipment so as to be able to serve the Town of Elk River. Town residents use the City's library. No other city is in the proximity

of the urbanizing part of the town. Needed governmental services can best be provided by consolidating the City of Elk River and the Town of Elk River.

19. The town form of government is not adequate to deal with the problems of the town area which are being caused by the rapid urbanization which is underway.

20. The City of Elk River requires space for expansion.

21. The Town of Elk River virtually surrounds the City of Elk River; the degree of contiguity is in excess of 95%.

22. The City of Elk River has an erratic boundary which makes for difficulties in planning and provision of services.

23. Lake Orono is cut by the boundary of the City of Elk River and, as a consequence, is partly within said city and partly within the Town of Elk River. Much of the area around the lake presently needs urban services, and this can best be accomplished by placing the lake within one jurisdiction.

24. The drainage pattern is such that surface water from the present town drains into the present city. Provision of proper drainage as urban development occurs can best be planned and provided for by a single unit of government.

25. The City of Elk River and the Town of Elk River proposed a ward system as follows:

Ward 1: All that part of the former Town of Elk River lying westerly of the following described line:

County Road No. 1 southerly from the northern boundary of the Town of Elk River to the boundary of the City of Elk River, thence generally southerly and easterly along the boundary of said city to the Mississippi River.

Ward 2: All that part of the former Town of Elk River lying easterly of the following described line:

County Road No. 1 southerly from the northern boundary of the Town of Elk River to the boundary of the City of Elk River, thence generally southerly and easterly along the boundary of said city to the Mississippi River.

Ward 3: All that part of the former City of Elk River lying westerly of the following described line:

Jackson Street (Old Highway 169) southerly from the northern boundary of the City of Elk River to U.S. Highway 10 and 52, thence northwesterly along said highway to Lowell Avenue, thence southerly on Lowell Avenue to the southern boundary of said city.

Ward 4: All that part of the former city of Elk River lying easterly of the following described line:

Jackson Street (Old Highway 169) southerly from the northern boundary of the City of Elk River to U.S. Highway 10 and 52, thence northwesterly along said highway to Lowell Avenue, thence southerly on Lowell Avenue to the southern boundary of said city.

The variance in population between these wards is less than 5%.

CONCLUSIONS OF LAW

THE MINNESOTA MUNICIPAL BOARD CONCLUDES:

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. Consolidation of the Town of Elk River and the City of Elk River (hereinafter referred to as the former Town of Elk River and the former City of Elk River) into a new City of Elk River encompassing the territory of said former Town and said former City, is in the best interests of said former Town, said former City, the area, and the residents thereof.
3. Annexation of all or a part of the territory of the former Town of Elk River to an adjacent city would not better serve the interests of the area.
4. Area representation is required to accord proper representation in the new City of Elk River because of uneven population density in

different parts thereof and the existence of agricultural lands therein which are in the path of suburban development.

5. The election of new officers should be held on December 20, 1977.

6. The population of the new City of Elk River should be established at 6,183 for all purposes until the next federal census; the population of the former Town of Elk River and the former City of Elk River should be established at zero for all purposes until the next federal census.

7. The agreement of the City of Elk River and the Town of Elk River as set forth in their Resolution (paragraphs 1 and 2 of the within Findings of Fact), being in conformity with law, should be given effect.

Let an order be issued accordingly.

ORDER

IT IS HEREBY ORDERED:

1. That the Town of Elk River and the City of Elk River, Sherburne County, Minnesota (hereinafter referred to as the former Town of Elk River and the former City of Elk River), be, and they hereby are, consolidated into a new City of Elk River, encompassing the territory of said town and city;

2. That the plan of government for the new City of Elk River shall be Optional Plan "A" as more fully set forth in Minnesota Statutes.

3. That the council of the new City of Elk River shall be composed of five members consisting of the mayor and four councilmen; that the new City of Elk River shall be divided into the following four wards for the election of councilmen:

Ward 1: All that part of the former Town of Elk River lying westerly of the following described line:

County Road No. 1 southerly from the northern boundary of the Town of Elk River to the boundary of the City of Elk River, thence generally southerly and easterly along the boundary of said city to the Mississippi River.

Ward 2: All that part of the former Town of Elk River lying easterly of the following described line:

County Road No. 1 southerly from the northern boundary of the Town of Elk River to the boundary of the City of Elk River, thence generally southerly and easterly along the boundary of said city to the Mississippi River.

Ward 3: All that part of the former City of Elk River lying westerly of the following described line:

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Ward 4: All that part of the former City of Elk River lying easterly of the following described line:

Jackson Street (Old Highway 169) southerly from the northern boundary of the City of Elk River to U.S. Highway 10 and 52, thence northwesterly along said highway to Lowell Avenue, thence southerly on Lowell Avenue to the southern boundary of said city.

4. That the election of new municipal officers shall be held on December 20, 1977; that Charles Savela is appointed as acting clerk for election purposes; that the following are appointed as election judges:

1. Evertt Specht
2. Gail Nystrom
3. Minnie Brady
4. Dorothy Rathbun
5. Gordon Frederickson
6. Millicent Busch
7. Delores Collins
8. Tom Duggan
9. Sandy Greene
10. Dorothy Kokott
11. Harriet Sieglér
12. Jean Becklin

that the polling places shall be:

Wards 1 and 2: District Courtroom, Sherburne County Court House, Elk River, Minnesota

Wards 3 and 4: Elk River City Hall, Elk River, Minnesota;

that the acting clerk and election judge shall conduct the election as provided by law; that the terms of the councilmen from Wards 1 and 4 shall be for 1 year (through 1978) and the terms of the councilmen from Wards 2 and 3 shall be for 3 years (through 1980).

5. That the population of the new City of Elk River be, and it hereby is, established at 6,183 for all purposes until the next federal census; that the populations of the former Town of Elk River and the former City of Elk River, which are consolidated into the new City of Elk River

by paragraph 1 of this Order, shall be established at zero for all purposes until the next federal census.

6. That the ordinances in effect in the former Town of Elk River and the former City of Elk River shall remain in effect within the boundaries of said former Town and City until repealed by a majority vote of all of the members of the City Council of the new City of Elk River, provided that a two-thirds vote of all of the members of the City Council of the new City shall be required to repeal the dog and firearms ordinances currently in effect in the former Town for a period of five (5) years from the date said new City comes into existence.

7. That the new City of Elk River be divided into an urban service district and a rural service district constituting separate taxing districts for the purpose of all City property taxes except those levied for the payment of bonds and judgments and interest thereon, pursuant to Section 272.67 of the Minnesota Statutes;

that the urban service district shall include all of the territory within the former City and the territory owned by United Power Association which encompasses said association's plant site;

that the rural service district shall include all of the remaining territory within the new City;

that, consistent with the provisions of Section 272.67 of Minnesota Statutes, the rural service district is declared to be comprised of both unplatted lands and platted parcels which are rural in character and not developed for urban commercial, industrial or residential purposes; that no part of the unplatted lands or platted parcels shall be transferred from the rural service district to the urban service district except by majority vote of the City Council of the new City of Elk River, provided that a two-thirds vote approving such transfer shall be required for a period of five (5) years from the date said new City comes into existence, unless municipal sewer and water service are provided by said new City to the part of the unplatted lands to be transferred, in which case a majority

vote of the City Council of said new City shall be sufficient;

that the benefit ratio as defined by said Section 272.67 shall be 0.25;

that the benefit ratio may be changed by majority vote of all of the members of the City Council of the new City, provided that a two-thirds vote of all of the members of the City Council of the new City shall be required for a period of five (5) years from the date said new City comes into existence.

that the phrase "municipal sewer and water service are provided" as used herein shall mean that public sewer and water service facilities are in place immediately adjacent to the property so that the owner may have any improvements which may be located on the property connected to said public sewer and water service facilities.

8. That all money, claims and properties of the former Town of Elk River and former City of Elk River, including real estate owned, held, or possessed by said former Town and former City, and any proceeds or taxes levied by said Town and City, collected or uncollected, and any entitlements to Minnesota local government aids, federal revenue sharing, and any other form of intergovernmental distributions, shall become and be the property of the new City of Elk River with full power and authority to use and dispose of the same for public purposes as the City Council of said new City may deem best, subject to the rights of creditors.

9. That the bonded debt of the City of Elk River shall be borne by the property within the boundaries of said former City, except the debt associated with the fire station and truck, which debt shall be assumed by the new City of Elk River.

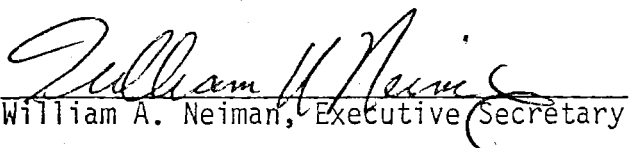
10. That any deficits in the general fund or any special fund of the City of Elk River as of the date upon which the new City comes into existence shall be borne by the property within the boundaries of said former City.

11. That the consolidation of the former Town of Elk River and the

former City of Elk River shall be effective upon the election and qualification of new city officers; that until such effective date the Town board and other officers of the former Town of Elk River shall continue to exercise their powers and duties under the Town laws in that portion of the new City of Elk River which was formerly the Town; that the council and other officers of the former City of Elk River shall continue to exercise their powers and duties in that portion of the new City of Elk River which was formerly the City; that thereafter the Town board and the council of the former Town of Elk River and the former City of Elk River shall have no jurisdiction within the new City of Elk River, and the new City Council and other new officers shall act in respect to any matters previously undertaken by the former Town board of supervisors or former City Council within the limits of the new City, including the making of any improvement and the levying of any special assessments therefore, in the same manner and to the same effect as if such improvement had been undertaken by the new City.

Dated this 31st day of October, 1977.

MINNESOTA MUNICIPAL BOARD
Suite 165 Metro Square Building
St. Paul, Minnesota 55101


William A. Neiman, Executive Secretary

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 8 1977
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Secretary of State

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