

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Lea De Souza Speeter	Chair
Paul B. Double	Vice Chair
Robert J. Ferderer	Vice Chair
Gary Peterson	Ex-Officio Member
Robert Thompson	Ex-Officio Member

IN THE MATTER OF THE MOTION TO)	<u>FINDINGS OF FACT</u>
INITIATE CONSOLIDATION PROCEEDINGS)	<u>CONCLUSIONS OF LAW</u>
FOR THE CITIES OF RUSHFORD AND)	<u>AND ORDER AND</u>
RUSHFORD VILLAGE PURSUANT TO)	<u>MEMORANDUM OPINION</u>
MINNESOTA STATUTES 414)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on November 8, 1996 at Rushford, Minnesota. The hearing was conducted by Lea De Souza Speeter, Municipal Board Chair, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Robert J. Ferderer, Vice Chair, Paul B. Double, Vice Chair, and County Commissioners Gary Peterson and Robert Thompson, Ex-Officio Members of the Board. Margaret Hanson, Chair of the Consolidation Study Commission, represented the Consolidation Study Commission and submitted its report. Testimony was heard and records and exhibits were received. All persons desiring to be heard were heard.

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. The Municipal Board on its own motion, initiated consolidation proceedings between the Cities of Rushford and Rushford Village on September 30, 1994. By Motion to Initiate dated October 10, 1994, the Municipal Board initiated consolidation proceedings for the City of Rushford, hereinafter referred to as "Rushford," and the City of Rushford Village, hereinafter referred to as "Rushford Village," pursuant to M.S. 414.041.

2. On January 4, 1995, the Municipal Board appointed the Consolidation Study Commission Chair, Margaret Hanson, who is not a resident of the affected cities but who resides in Fillmore County and the Consolidation Study Commission members from a list of candidates submitted by each city pursuant to M.S. 414.041, subd. 2.

3. On December 7, 1995, the Municipal Board appointed replacement members to the Consolidation Study Commission.

4. On October 1, 1996, the Municipal Board received the report of the Consolidation Study Commission stating it had studied the proposed consolidation, conducted public hearings, solicited public comments, considered the statutory factors, and based thereon, recommends consolidation of Rushford and Rushford Village into a new city named Rushford, and has proposed a Home Rule Charter for the new city.

5. Upon receipt of the Consolidation Study Commission Report, a hearing was held on November 8, 1996. Due, timely and adequate legal notice of the hearing was published, served, and filed.

6. Rushford had a population of approximately 1,605 in 1995. Rushford Village had a population of approximately 619 in 1995. From 1960 to 1995, Rushford's population grew by

approximately 20.2% and Rushford Village's population grew by approximately 6.5%. The greatest growth in population for both cities occurred between 1970 and 1980, with Rushford's increasing 12% and Rushford Village's increased 14%. Each city's share of the area's total population remained relatively constant with about 70% of the population in Rushford and about 30% of the population in Rushford Village. The number of households estimated in 1995 for Rushford was 647 and 226 for Rushford Village.

The projected population growth for the combined city would increase 3% by the year 2000.

7. Rushford is approximately 1.74 square miles and is roughly centered within Rushford Village which is approximately 33.7 square miles. The two cities are separated by natural features such as prominent bluffs, rivers and flood plains. The soil does not vary between the two cities. Because of the area's Karst geology, the cities' ground water is susceptible to contamination.

The Root River, Rush Creek, and Pine Creek all wind through the area and these water ways and bluffs are shared by the two cities.

There is one major watershed associated with the Root River and a smaller watershed associated with Pine Creek.

8. In both cities agriculture is the largest use of non-public land. Single family housing claims the next largest use with commercial and industrial use occupying the smallest uses of non-public land.

9. Both cities have a large number of businesses. Most of the businesses of Rushford are located in a central business district in the city's downtown. Rushford Village does

not have a central business district and its businesses are located throughout the city.

Manufacturing is the principal industry in Rushford. The City of Rushford has one industrial park and plans to create another one on land owned by Rushford. Rushford has an economic development authority to help promote industrial growth.

Agriculture is the primary industry in Rushford Village, although a number manufacturing concerns are located throughout the city.

10. Each city develops and enforces its own zoning ordinances. Both cities have similar zoning ordinances requiring minimum lot size of 7,000 square feet and parcels less than 2-1/2 acres must be platted.

Rushford requires plans for sewer and water in new subdivisions. Whereas Rushford Village requires such plans only if feasible.

11. Both cities have comprehensive plans. A priority of Rushford's comprehensive plan is to "avoid urban development with inadequate extension of city service and infrastructure." Rushford's comprehensive plan also states that the demand for residential and commercial development will require additional space and Rushford has found it difficult to find suitable sites for residential and commercial development within its boundaries. Since 1968, the City of Rushford has acquired 1,118 acres from the City of Rushford Village through purchase and annexations.

The goal of the Rushford Village comprehensive plan is "preserve the integrity of the family farm while promoting residential land and commercial development."

A 1994 advisory work group comprised of citizens from both cities, recommended the conservation of the "natural resources within the area for the communities' long-term

environmental and economic benefit," as a land use goal.

12. Rushford and Rushford Village offer a variety of recreational opportunities including the Root River State Trail, the Root River and a snowmobile trail system. The two cities have enjoyed cooperative planning and development of these recreational facilities as well as an active level of tourism in the area.

13. Both cities rely on the same state highways. The state has plans to upgrade a bridge in Rushford. Rushford Village maintains 33 miles of road every year.

14. Landowners with property near the cities' borders may not be able to develop their property because there are no public roads that abut their property in the city in which they are located.

15. Both cities have adopted the 1980 state building code. Adopting the 1990 state building code requires hiring a certified inspector. The cost of hiring a certified building inspector for cities as small as Rushford and Rushford Village is prohibitive. A consolidated city could hire an inspector and adopt the state building code.

16. Rushford owns and operates a state-licensed wastewater treatment facility for treatment of residential, commercial and industrial sewage. Rushford Village does not have a central wastewater treatment system and many residents use individual on-site systems.

17. In 1993, the Minnesota Pollution Control Agency revealed several on-site systems in South Rushford (located in Rushford Village) that were potential health risks, although concerns regarding this area surfaced over 26 years ago.

18. Rushford Village is building a sanitary sewer collection system to serve the South Rushford area. The system will be connected to Rushford's treatment plant. By agreement

between the two cities, sewage flow from Rushford Village's collection system is limited to 26,000 gallons per day or approximately 104 residential units.

Rushford has plans to upgrade a wastewater treatment plant to meet increased demands in both Rushford and Rushford Village.

19. Rushford's water needs are met with two wells and storage tanks. Some residents still use wells and a handful have septic systems.

Rushford Village provides water to the South Rushford area. The rest of the city relies on wells. The city's municipal water capacity is 52,000 gallons, which would support some additional residential and commercial development.

20. Intergovernmental aid represents a significant part of both cities budgets. Both cities receive Local Governmental Aid (LGA) and Homestead Agricultural Credit Aid (HACA).

21. If the two cities were combined these aids would be combined and the total amount would not change.

22. The largest budget item of the Rushford Village general fund is highway and streets representing over half of the city's budget with governmental expenses as the second highest category at 27%. Rushford's governmental expenses represented 19 % and public safety expenses at 34% of general government expenditures.

23. In 1995, the total tax capacity of Rushford was \$584,350; Rushford's taxable capacity was \$467,798, or \$116,552 less than its tax capacity. The reduction represents the amount of tax base set aside as part of the tax-increment financing district.

The total tax capacity of Rushford Village was \$224,814 in 1995. The taxable tax capacity was the same as its tax capacity.

24. Rushford has 10 full-time and several part-time employees. The city has a full-time city administrator, clerk, police chief and director of public works. Rushford Village has one part-time public works employee and an elected part-time clerk/council member. Both cities rely on city employees and contracts with service providers for road and street maintenance and improvement.

25. Rushford has a volunteer fire department and a professional police department. Rushford Village contracts with Rushford for both these services.

26. Potential areas of savings for a consolidated city may be the need for only one mayor and city council, one set of membership fees, one set of financial reports, and one city attorney.

27. Rushford had \$2,329,000 of outstanding bonded debt as of March, 1996. Almost 80% of that debt was due to tax increment financing for redevelopment purposes.

Rushford Village had \$64,880 in outstanding debt in December, 1995 evenly split between general obligation bonds for road and water improvements and a truck loan.

28. Municipal taxes in both cities would be lower as a result of consolidation if certain assumptions are met. If urban/rural service districts are created, taxes in Rushford Village would decrease, especially in rural areas.

29. Electric and gas services are paid for through user fees in both cities. Rushford is supplied by city-owned electric utility while Rushford Village is served by Tri-County Electric Cooperative.

Peoples Natural Gas serves both Rushford and Rushford Village. However, the

level of service in Rushford Village is inadequate since it is not cost-effective for suppliers to run natural gas to the village's less concentrated housing developments.

30. Rushford has spent approximately \$38,397 since 1968 in pursuing concurrent detachment and annexation procedures. Rushford Village has spent approximately \$13,173 since 1991.

31. The Report of the Consolidation Commission included a proposed Home Rule Charter for the new City of Rushford. The Commission submitted an amendment to the proposed Home Rule Charter to the Municipal Board on June 23, 1997. (See attached Exhibit "A"). The amendment clarified election procedures of the charter for compliance with Minnesota Statutes.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. Consolidation will offer residents of both cities the opportunity to exert control over development in the entire Rushford/Rushford Village area and better accomplish the shared goals of orderly development and preservation of agricultural land.
3. Consolidation will allow zoning policies and decisions to be made for the entire area rather than for just an individual city.
4. Housing, commercial and industrial development will be more likely to occur near compatible development and available services allowing farmland and scenic areas to be protected if the cities consolidate.

5. Consolidation will make leap frog development less likely and allow for more expedient resolutions for problem areas.
6. Consolidation is in the best interests of the area residents and the City of Rushford and the City of Rushford Village.
7. The Minnesota Municipal Board should accept the Report of the Consolidation Study Commission and accompanying Home Rule Charter as amended for the proposed new City of Rushford.
8. The Minnesota Municipal Board should issue an order approving the consolidation, request the city councils of the Cities of Rushford and Rushford Village to adopt said order, and establish a date for an election on the Consolidation and Home Rule Charter.

ORDER

1. IT IS HEREBY ORDERED: That the Minnesota Municipal Board hereby accepts the Report of the Consolidation Study Commission.
2. IT IS FURTHER ORDERED: That the City of Rushford and the City of Rushford Village located in Fillmore County, Minnesota, be and the same hereby are consolidated to form a single city subject to adoption by majority vote of the respective city councils and approval by the voters pursuant to M.S. 414.041.
3. IT IS FURTHER ORDERED: That the consolidated city shall be named the City of Rushford.
4. IT IS FURTHER ORDERED: That the plan of government of the new City of Rushford shall be by Home Rule Charter as amended and as proposed in the Report of the

Consolidation Study Commission.

The consolidated city shall be governed by a six-member council and one mayor, all elected at large.

5. IT IS FURTHER ORDERED: That the ordinances of each city shall continue in effect within the former boundaries until repealed by the governing body of the new City of Rushford.

6. IT IS FURTHER ORDERED: That all license privileges be maintained as permitted by each city including the number of liquor licenses already authorized by the State of Minnesota until repealed by the governing body of the new City of Rushford.

7. IT IS FURTHER ORDERED: That upon consolidation, all money claims or properties including real estate owned, held or possessed by the former cities, and any proceeds or taxes levied by such cities, collected and uncollected, shall become the property of the new City of Rushford with full power and authority to use and dispose of for such public purposes as the council deems best subject to claims of the creditors. This will include cash reserves/fund balances of each city and all public property and equipment held by each city.

8. IT IS FURTHER ORDERED: That former outstanding indebtedness, prior to consolidation, will be the financial obligation of property owners within these former tax districts. However, the cities may, by resolution of their governing bodies, agree that the new city shall assume the bonded indebtedness of the former units of government existing and outstanding at the time of consolidation.

9. IT IS FURTHER ORDERED: According to the Minnesota State Demographer 1995 Population and Household Estimates, the population of the new City of Rushford is

approximately 2,224 persons and the number of households is 873.

10. IT IS FURTHER ORDERED: That the Director or Assistant Director of the Minnesota Municipal Board shall cause copies of this Order to be transmitted to the city councils of the Cities of Rushford and Rushford Village for their approval and adoption; that upon receipt of such approval and adoption, the Director or Assistant Director shall issue a Supplemental Order setting an election in each city.

11. IT IS FURTHER ORDERED: That the ballot shall contain the words: "shall the consolidation of the City of Rushford and the City of Rushford Village be approved and the proposed new Home Rule Charter as amended for the newly consolidated city be adopted?"

Yes

No

12. IT IS FURTHER ORDERED: That if a majority of the qualified voters of each city approve the consolidation order herein, the Director or Assistant Director shall cause a further Supplemental Order for the election of new city officers.

13. IT IS FURTHER ORDERED: That if either of the city councils of Rushford or Rushford Village fail to approve and adopt this Order within 15 days from the date of this Order, it shall be deemed disapproved by that city council.

14. IT IS FURTHER ORDERED: Notwithstanding a disapproval of the Board's order for consolidation by the city councils of either Rushford or Rushford Village, the Board's order for consolidation shall nevertheless be deemed approved by a city council if ten percent or more of the resident voters of that municipality who voted for Governor at the last general election petition the city council for a referendum on the consolidation and a majority of those voting in that

municipality approve the Board's order for consolidation.

15. IT IS FURTHER ORDERED: That the effective date of this order is June 27, 1997.

Dated this 27th day of June, 1997.

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

A handwritten signature in cursive script that reads "Christine M. Scotillo".

Christine M. Scotillo
Executive Director

MEMORANDUM

The Municipal Board today has ordered the consolidation of the Cities of Rushford and Rushford Village. The Municipal Board also notes its support of the recommendations of the Consolidation Study Commission: that outstanding indebtedness be handled by the respective city councils acting in the best interests of their communities; that the council of the consolidated city consider establishing a rural and urban taxing district; and that the council of the consolidated city consider establishing a three member rural advisory board, appointed by the city council to advise it on matters of concern to rural residents.

Based on the population of a combined City of Rushford, the new city may be eligible for up to approximately \$55,600 each year for up to four years of grant money from the Board of Government Innovation and Cooperation if certain statutory criteria are met. Minnesota Statutes 465.87.

While the Board recognizes that the consolidation does not meet with the unanimous approval of all citizens of Rushford and Rushford Village, the Board feels that it does reflect the opinion and desire of a large majority of the citizens.

The Board commends the Consolidation Study Commission members and Chair, Margaret Hanson, as well as all of the other volunteers who gave freely of their time and talents. The Board recognizes that the appointed Consolidation Study Commission members from each city and Ms. Hanson devoted many hours attending meetings and hearings. They spent considerable time researching data and taking into consideration questions and comments from

the citizens. They prepared an excellent and very professional Consolidation Report to the Municipal Board.

Ms. Hanson did an outstanding job chairing the commission, marshaling additional resources, bringing in external resource people, guiding the process in a timely and efficient manner, overseeing the report, and testifying before the board.

Without this kind of volunteer support, these consolidation efforts would not have been possible.

The Board wishes to acknowledge and thank the Cities of Rushford and Rushford Village, the Town and Country Federated Club, Peoples Natural Gas and other contributors whose financial support, together with a grant from the State of Minnesota, assisted the commission throughout its work.

The consolidation of these cities should increase planned, coordinated, and economic delivery of services and serve the best interests of the entire community.

CMS
6/27/97

EXHIBIT A

OPTION B

2.03 Council Composition and Election. The composition of the Council shall include a Mayor and six Council persons who shall be qualified electors and shall be elected at large. Each Council person and the Mayor shall serve a term of four years and until his or her successor is elected and qualifies for office, except that at the initial election following consolidation, the terms of office shall be as set by the joint councils or the transition committee pursuant to Section 12.11 of this Charter as scheduled by order of the Municipal Board pursuant to State law, of the six persons elected as Council persons, the three persons receiving the most votes shall serve for a four year term and the other three shall serve an initial term of two years. If the initial election is scheduled in an odd-numbered year, all initial terms as provided for in this Section, including that of the Mayor, shall be automatically extended for one additional year so that all subsequent elections are held in even-numbered years.

4.01 The Regular Municipal Elections. The City shall hold the regular municipal election on the first Tuesday after the first Monday in November of each even numbered calendar year commencing from the effective date of this Charter at such place or places as the City Council may designate. The first election after consolidation may be held in an odd number year as set by the joint councils or transition committee pursuant to Section 12.11 of this Charter. The City Clerk shall give at least two weeks published notice of the time and place of holding such election and other officers to be elected. However, failure to give such notice shall not invalidate the election. The initial election following consolidation, however, shall be held at such time, and in such manner, as set in the order of the Municipal Board pursuant to State law.

Section 12.08 Existing Ordinances Continued. During the transition period between approval of consolidation and its effective date, all ordinances and regulations in effect for each City shall remain in effect for that respective city. The City Council for the consolidated City shall adopt ordinances and regulations for the newly consolidated city.

This Council may take the following actions: 1) adopt ordinances and/or regulations, currently in effect and harmonious in nature; 2) reconcile ordinances and/or regulations, differing in nature; 3) extend ordinances and/or regulations, currently in effect in one city, to encompass the new city; 4) delete, in accordance with law, ordinances and/or regulations, in effect in one city or both cities; or 5) use other reasonable means to provide for an orderly body of law for the consolidated city.

To ensure an orderly transition of city ordinances, the Council shall appoint a committee of seven (7) persons that shall review the preexisting ordinances of each City and that shall recommend for adoption by the Council a final consolidation of such ordinances in a manner consistent with this Section. The recommendation shall be presented to the Council, and the council shall act on the

recommendation, within two years of the establishment of the committee.

Section 12.11 Present Officers. The present officers of the cities shall continue in their respective offices and functions until election or legitimate appointment provides for the duly qualified officers mandated by this charter. Likewise, they shall continue to govern the cities under the laws and Charter previously in effect until the same occurs.

They shall make such financial and other provisions for the appropriate fiscal year as will serve to carry on the government until a government has been set up under this Charter. ~~The councils from both cities shall either directly make provisions for the election of this first City Council as provided in Chapter 4 (NOMINATION AND ELECTION) of this charter or appoint a transition election board to do the same.~~

(NOTE: This provision would apply to all offices, not just the elected one. Thus current police chiefs, clerks, etc. would remain in place until the new council appoints their successors. If this is not desired, the entire section can be removed.)

Section 12.12 Effective Date of Charter. ~~This charter becomes effective on January 1 of the second year following the approval of consolidation. The joint councils or transition committee shall provide reasonable means for the transition for elections to be held in even-numbered years subject to Sections 2.03, 4.01 and 12.11 of this Charter.~~

~~The cities shall use this period to elect a new Council and make determinations regarding ordinances, resolutions, offices and employees of the City, and attend to other such duties as would be necessary to provided for the orderly transition to a newly consolidated City.~~

This charter shall become effective on the date of consolidation as established by the order of the Municipal Board pursuant to State law.