

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
Laurence Wagner	Ex-Officio Member
W. A. Nibbe	Ex-Officio Member

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IN THE MATTER OF THE PETITION )	
AND THE RESOLUTION FOR THE )	
CONSOLIDATION OF THE TOWNSHIP )	<u>FINDINGS OF FACT,</u>
OF BURNSIDE AND THE CITY OF )	<u>CONCLUSIONS OF LAW,</u>
RED WING, GOODHUE COUNTY, MINNESOTA,) )	<u>AND ORDER</u>
TO FORM A SINGLE MUNICIPALITY )	
MUNICIPAL COMMISSION DOCKET C5-mt )	
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The instant proceeding is one of three proceedings involving the Town of Burnside and the City of Red Wing which were consolidated by the Commission for hearing. Commission Docket Numbers for these proceedings together with a description of the proceeding is as follows:

C5-mt Red Wing - Burnside consolidation; I-38 Burnside Incorporation; A-1850 Red Wing annexation of Burnside. The matters came on for hearing before the Municipal Commission on July 10, 1970, August 11, 1970, August 12, 1970, August 13, 1970, and September 2, 1970. The City of Red Wing appeared by its attorney, Charles Richardson. The Township of Burnside appeared by its attorneys, Samuel H. Hertogs and Fred Burstein. The Burnside Community Development Association and the petitioners for consolidation appeared by their attorney, Richard Johnson. Northern States Power Company appeared by their attorney David McGannon and later by their attorney, Raymond A. Haik. Opportunity was also afforded interested persons not represented by attorney to make statements pertaining to the matters before the Commission. The Commission having considered the evidence and the arguments of counsel and being fully advised, now makes the following Findings of Fact, Conclusions of Law and Order:

## FINDINGS OF FACT

1. The resolution of the City Council of Red Wing and the petition by certain property owners resident in Burnside for consolidation of the Township of Burnside and the City of Red Wing into a single new municipality were filed on April 30, 1970, and June 8, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and said petition and resolution were in all respects proper in form, contents, execution and filing. The area proposed for consolidation is the entire Town of Burnside and the entire City of Red Wing. (MMC C5-mt)

2. The resolution of the Board of Supervisors of Burnside Township for the annexation of the entire unincorporated Township of Burnside with the City of Red Wing was filed on June 9, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and was in all respects proper in form, contents, execution, and filing.  
(MMC A-1850)

3. The resolution of the Board of Supervisors of Burnside Township for the incorporation of the Township of Burnside as a village was filed on July 6, 1970, pursuant to and in compliance with Minnesota Statutes, Chapter 414, and was in all respects proper in form, contents, execution, and filing. The area proposed for incorporation is the entire Town of Burnside. (MMC I-38)

4. Due, timely, and adequate legal notices of the hearing ordered by the Minnesota Municipal Commission were properly published, served, and filed.

5. The instant proceeding came on for hearing on July 10, 1970, at which time it was consolidated for hearing with Minnesota Municipal Commission proceeding A-1850, and on August 11, 1970, at which time it was further consolidated with Minnesota Municipal Commission proceeding I-38. Further consolidated hearings were held on August 12, 13, and September 2, 1970. The hearings were properly held by a lawful quorum of the Commission. The hearings were closed and the matter taken under advisement.

6. A Petition of the Northern States Power Company for Further Hearings was filed pursuant to Minnesota Municipal Commission Rules of Procedure 14 (a) with the Commission on December 11, 1970. The petition came on for hearing on December 23, 1970. The petition was duly denied by the Commission.

7. A Petition of the Town of Burnside for Further Hearings and a Supplementary Petition of the Town of Burnside for Further Hearings were filed pursuant to Minnesota Municipal Commission Rules of Procedure 14 (a) with the Commission on March 11, 1971. The petitions were duly denied by the Commission.

8. The City of Red Wing is located in Goodhue County, Minnesota. It operates under a Home Rule Charter. It abuts and is contiguous to the Township of Burnside for approximately 1 mile along the City's northern boundary and for 2 miles along the City's western boundary.

9. The Township of Burnside is also located in Goodhue County, Minnesota. It is bounded on the north by the Mississippi River, on the west by the Townships of Welch and Vass, on the south by the Township of Featherstone, and on the east by the City of Red Wing. It has

no incorporated municipality within its boundaries and it abuts no incorporated municipality except the City of Red Wing.

10. All of Burnside Township either is urban or suburban in character or is about to become urban or suburban in character. The urbanization of Burnside Township will probably be accelerated by the upgrading of Highway 61 to freeway standards.

11. The population of the City of Red Wing was 9962 in 1940, 10,645 in 1950, 10,528 in 1960, and 10,191 in 1970. The population of the Township of Burnside was 652 in 1940, 891 in 1950, 1564 in 1960, and 2348 in 1970.

12. Both the City of Red Wing and the Town of Burnside contain land used and usable for residential, industrial, commercial, and institutional purposes.

13. Northern States Power Company is in process of constructing an atomic plant for generating electrical power in Burnside approximately  $4\frac{1}{2}$  miles from the City limits of Red Wing.

14. There is a shortage of space within the City limits of Red Wing for development. Burnside has grown largely in the area adjacent to Red Wing and has considerable land available for development.

15. The shortage of space in Red Wing and the expansion of Red Wing into Burnside is reflected in the trend of assessed valuation in Red Wing

and Burnside. Red Wing's assessed valuation has remained relatively constant over the last 10 years. In 1960 Red Wing had an assessed valuation of \$6,617,106.00. In 1969, Red Wing had an assessed valuation of \$6,552,379.00. Burnside's assessed valuation has grown rapidly in the last 10 years. In 1960 Burnside had an assessed valuation of \$561,279.00. In 1969 Burnside had an assessed valuation of \$2,373,846.00.

16. The mill rates for the City of Red Wing and the Town of Burnside were as follows:

<u>Year</u>	<u>Red Wing</u>	<u>Burnside</u>
1967	112.28	31.32
1968	132.74	41.05
1969	174.66	39.86

17. Red Wing has a presently existing bonded indebtedness for its sewage disposal system and its new library. The amount of indebtedness outstanding on the bonded indebtedness on principal and interest for its sewage disposal system was \$1,600,317.50 at the time of the hearings. The amount of indebtedness outstanding on the library bonds of 1968 on principal and interest was \$284,090.00 at the time of the hearing. At the time of the hearings Red Wing also had pending a bond issue to finance sewage treatment facilities for the S.B. Foot Tanning Company. The S. B. Foot Tanning Company has agreed to pay the City the amount necessary to amortize the bond issue over a period of 15 years less the sum of \$25,000.00 per year for 15 years which is the amount of the bond issue the City agreed to pay. The City of Red Wing has also passed a resolution levying a tax in aid of construction of an armory for each of the years 1970 through 1986 in the amount of one mill or \$6500.00 whichever is less.

18. Burnside Township has issued bonds for sewer laterals. The amount of the bond issue was \$760,000.00.

19. The Township form of government is not now adequate to deal with the problems of the area of Burnside.

20. Burnside Township has no full-time employees. It has no Town Hall. Although it uses the school in Burnside for its meetings, it has no definite room set aside for it and no public place to keep the Township records.

21. Red Wing has been providing fire service for Burnside for many years. The police services now existing in Red Wing are adequate to police the area of Burnside. Red Wing's Sewage Disposal Plant was designed to handle and is capable of handling Burnside's sewage. The supervisory personnel of the Red Wing Department of Public Works and Water Department would be adequate to assume those responsibilities in Burnside. Burnside is now using Red Wing's sanitary land fill and Red Wing's dog pound. Red Wing provides ambulance service for Burnside. Red Wing has a new library that can be used by Burnside residents.

22. Burnside is now constructing some sewer laterals but is waiting a decision of the Pollution Control Agency on whether it should construct a separate sewage disposal plant or connect with Red Wing and the Pollution Control Agency is waiting with its decision until these proceedings are decided. Burnside urgently needs a sewage disposal system.

23. Red Wing is capable of providing all of the municipal services that the entire area of Burnside needs.

24. Red Wing and Burnside are in the same school district.

25. Red Wing and Burnside are in fact one community, integrated economically and socially in many ways. Burnside has developed as a suburban part of the Red Wing area and not as an independent community.

26. It will be in the best interest of the entire area of Red Wing and Burnside that Red Wing and Burnside be consolidated into a single new municipality.

27. Annexation to an adjoining municipality would not be in the best interest of all or any part of the area proposed for consolidation.

#### CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission duly acquired and now has jurisdiction of these proceedings.

2. The area proposed for consolidation is the entire Town of Burnside and the entire City of Red Wing.

3. The area proposed for consolidation is now or is about to become urban or suburban in character.

4. Annexation to an adjoining municipality would not be in the best interest of all or any part of the area proposed for consolidation.

5. It is in the best interest of the combined area of Burnside and Red Wing that they be consolidated into a single new municipality to be known as Red Wing, and order of consolidation should be entered herein.



O R D E R

Pursuant to the above Findings of Fact and Conclusions of Law, and upon all of the files and records herein, IT IS HEREBY ORDERED:

1. Red Wing and Burnside are hereby consolidated into a single new municipality to be known as Red Wing.

2. The new municipality shall be governed by the Home Rule Charter of the City of Red Wing.

3. The effective date of this consolidation will be upon the election and qualification of new municipal officers.

4. An election of new municipal officers shall be held on June 1, 1971; said election to be held in accordance with Minnesota Statutes, Section 414.09. Councilmen shall be elected at large.

5. Robert Tubbesing is hereby appointed acting clerk for election purposes and instructed to submit to the Commission proposed polling places and a list containing an adequate number of election judges who shall be appointed by supplemental order of the Commission.

6. All money, claims of property, including real estate, held, or possessed by the Town of Burnside or the City of Red Wing, and any proceeds or taxes levied by said Town or Village, collected or uncollected, shall become and be the property of the new City of Red Wing herein created, with full power and authority to use and dispose of the same for public purposes.

Dated this 9<sup>th</sup> day of April, 1971  
MINNESOTA MUNICIPAL COMMISSION  
304 Capitol Square Building  
St. Paul, Minnesota



Bruce Rasmussen  
Executive Secretary

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

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Laurence Wagner	Ex-Officio Member
W. A. Nibbe	Ex-Officio Member

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IN THE MATTER OF THE PETITION AND THE )	
RESOLUTION FOR THE CONSOLIDATION OF )	<u>SUPPLEMENTAL ORDER</u>
THE TOWNSHIP OF BURNSIDE AND THE CITY )	<u>FOR ELECTION</u>
OF RED WING, GOODHUE COUNTY, MINNESOTA, )	
TO FORM A SINGLE MUNICIPALITY, MUNICIPAL )	
COMMISSION DOCKET C5-mt )	

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Pursuant to the Municipal Commission Order of April 9, 1971, consolidating the City of Red Wing and the Town of Burnside into a single new municipality to be known as Red Wing, whereby the effective date of this consolidation will be upon the election of new municipal officers, and election of new municipal officers shall be held on June 1, 1971, the Minnesota Municipal Commission issues its:

S U P P L E M E N T A L   O R D E R

IT IS HEREBY ORDERED THAT:

1. The polling places for the first election of officers on June 1, 1971, shall be as follows:

First Ward - First Precinct - -	Washington School - -	6 <sup>th</sup> & North Park Streets
First Ward - Second Precinct -	Hancock School - -	469 12 <sup>th</sup> Street
Second Ward- First Precinct -	Sunnyside School - -	1117 Maple Street
Second Ward- Second Precinct -	Sunnyside School - -	1117 Maple Street
Third Ward - First Precinct - -	Colvill School - -	269 E 5 <sup>th</sup> Street
Third Ward - Second Precinct -	Hancock School - -	469 12 <sup>th</sup> Street

Fourth Ward - First Precinct - - Jefferson School - - 615 Buchanan Street  
Fourth Ward - Second Precinct - Jefferson School - - 615 Buchanan Street  
Township of Burnside - - - - - Burnside School - - R. R. 2

IT IS FURTHER ORDERED THAT election Judges shall be as follows:

<u>First Precinct</u>	<u>1ST WARD</u>	<u>Second Precinct</u>
Lola Thermos-----307½ 3rd St.		Pearl Johanknecht-----455 11 <sup>th</sup> St.
Mabel Nordholm-----703 4 <sup>th</sup> St.		Gladys Haustein-----481 13 <sup>th</sup> St.
Palma Engelhart----417½ 4 <sup>th</sup> St.		Lillian Kull-----1003 Central Ave.
Marion Johnson-----418 Franklin St.		Frances Erickson-----620 20 <sup>th</sup> St.
Ellen Thygesen-----431 4 <sup>th</sup> St.		Lucille Koester-----462 15 <sup>th</sup> St.

<u>First Precinct</u>	<u>2ND WARD</u>	<u>Second Precinct</u>
Mary L. Mark-----1524 Roosevelt		Gladys C. Nelson-----1025 Sturtevant
Jane Fridell-----416 Seymour St.		Janet Fisher-----1103 Sturtevant
Violet M. Malueg---645 12 <sup>th</sup> St.		Viola Stumpf-----814 West Ave.
Helen Ottman-----602 Maple St.		Violet Carlson-----1809 Twin Bluff
Loretta Raetz-----1334 East Ave.		Yolanda Kasa-----1085 Putnam Ave.

<u>First Precinct</u>	<u>3RD WARD</u>	<u>Second Precinct</u>
Irene A. Biourn----319 E. 6 <sup>th</sup> St.		Dorothy McCarty-----758 McSorley St.
Marion R. Nystrom--617 Bluff St.		Karna Johnson-----463 8 <sup>th</sup> St.
Ruth E. Dubbe-----104 5 <sup>th</sup> St.		Hazel Haustein-----743 Plum St.
Mildred M. Zemke---273½ E. 4 <sup>th</sup> St.		Mildred Logan-----732 Plum St.
Beatrice C. Johnson-477 E 7 <sup>th</sup> St.		Helen Crandall-----1330 Bush St.

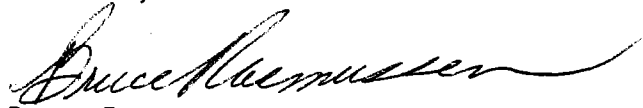
<u>First Precinct</u>	<u>4TH WARD</u>	<u>Second Precinct</u>
Mrs. R. J. Swanson--714 Cleveland St.		Dorothy Johnson-----1528 6 <sup>th</sup> St.
Mildred Peterson----1310 4 <sup>th</sup> St.		Lois B. Petrich-----1350 Red Oak
Lydia Hansen-----710 Cleveland St.		Pearl D. Englund-----1728 6 <sup>th</sup> St.
Mildred Dick-----1753 4 <sup>th</sup> St.		Edna Watson-----1739 5 <sup>th</sup> St.
Mrs. A. N. Sandt----1735 W 4 <sup>th</sup>		Pauline Betterley-----1715 6 <sup>th</sup> St.

TOWNSHIP OF BURNSIDE

Mrs. Sidney Mauer-----R.R.2  
Mr. Howard Knutson-----200 N. Service Drive  
Mrs. Rodney Douglas-----201 Hickory  
Mrs. Orville Johnson-----210 Spring Creek Road  
Mrs. H. R. Millsap-----R. R. 4

Dated this 28<sup>th</sup> day of April, 1971

MINNESOTA MUNICIPAL COMMISSION  
304 Capitol Square Building  
St. Paul, Minnesota 55101

A handwritten signature in cursive script, reading "Bruce Rasmussen", written in dark ink.

Bruce Rasmussen  
Executive Secretary

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IN THE MATTER OF THE PETITION AND THE )  
RESOLUTION FOR THE CONSOLIDATION OF )  
THE TOWNSHIP OF BURNSIDE AND THE CITY )  
OF RED WING, GOODHUE COUNTY, MINNESOTA, )  
TO FORM A SINGLE MUNICIPALITY, MUNICIPAL )  
COMMISSION DOCKET C5-mt )

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AMENDED  
SUPPLEMENTAL ORDER

IT IS HEREBY ORDERED THAT: The following replacement is made  
for Mrs. Violet M. Malueg to serve as Election Judge in the election  
on June 1, 1971, for election of new municipal officers in the above-  
described matter:

First Precinct      2nd Ward  
Ellamina Jarmuz-----722 Central Avenue

Dated this 18<sup>th</sup> day of May, 1971

MINNESOTA MUNICIPAL COMMISSION  
304 Capitol Square Building  
St. Paul, Minnesota 55101

*Bruce Rasmussen*

Bruce Rasmussen  
Executive Secretary

A-1850  
C5-mt  
I-38

M E M O R A N D U M  
BY PERMANENT MEMBERS OF COMMISSION

The Minnesota Municipal Commission was created by the legislature to implement the policies outlined in M. S. 414.01, Subd. 1, which states in part:

"The legislature finds that: (1) sound urban development is essential to the continued economic growth of this state;...and, (5) the consolidation of municipalities should be encouraged..."

Consolidation is markedly different than annexation, even though the resultant boundaries may be the same. Initiation of consolidation proceedings requires bilateral action whereas annexation proceedings can be initiated unilaterally. Consolidation results in a new governmental entity, whereas annexation is the enlargement of an existing one. The basic test for annexation is, "Is the area urban or suburban in character or about to become so?" The basic test for consolidation is, "Is it in the best interest of the area?" Thus, consolidation recognizes that new laws, such as M. S. 272.67 which provides for the establishment of rural and urban tax districts, encourage the coexistence of rural and urban land within the same unit of government. The urban character of the land is only one of the considerations of the Commission in consolidation cases.

M. S. 414.031, Subd. 3, which governs annexations by commission order, provides that " The petition shall be denied if the commission finds that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area." This provision is not present in M. S. 414.021, which governs consolidations. The provision has

no applicability with regard to consolidations because there is no taking from one government by another, rather the new government acquires the tax base of the entire area for the benefit of all of the people of the area.

There were three separate proceedings before the Commission here, which were consolidated for hearing. The first called for the consolidation of the City of Red Wing and the Town of Burnside. The second called for the annexation of the Town by the City. The third called for the incorporation of the Town to form a new village. The overriding issue for all of these proceedings, however, was the same: "Where an urbanized town is situated adjacent to an established city, should the commission create a new village, thus establishing two municipalities to serve the people of the area, or should the commission create one new city to serve the people of the area through the consolidation of the city and town." Given the facts of the instant case, and the legislative policy favoring consolidation, the decision was clearly for consolidation.

The testimony was voluminous. The great preponderance of the evidence showed a strong community of interest between the City of Red Wing and the Town of Burnside.

Mr. Robert Isaacson, the Goodhue County Planning Consultant, testified that it was his opinion that "except for the unusable and large amount of swamp, the bottom lands, that all of Burnside Township is either now or about to become urban or suburban in character." Within virtually every municipality there are undevelopable or unbuildable areas.

Under the system of ad valorem taxation in Minnesota, property within a community pays toward the support of the local government of that community. The Commission finds that the City of Red Wing and the Town of Burnside are one community geographically, economically and sociologically, and can best be served by a new City of Red Wing.

Northern States Power Company's Prairie Island nuclear generating plant, which is located within the new city, has an extremely high assessed valuation and is somewhat removed from the built-up area. The taxes paid on this facility will exceed the value of the services received. In this respect it is no different than most other industrial and commercial property. As a part of the Burnside-Red Wing community, the Prairie Island plant has the responsibility of supporting the government of the community.

The record shows that as the Prairie Island plant approaches completion, the tax rates in the new city will decrease to such an extent that Burnside taxpayers will pay less taxes than they are presently paying, including taxes paid on homesteads.

The record discloses that allowing the Town of Burnside to incorporate would impede the orderly growth of Red Wing.

M.S. 414.021, Subd. 3, provides that "...the commission may order the consolidation if it finds that it will be in the best interest of the area." This means the best interest of the entire combined area. The Township of Burnside is urban or suburban or rapidly becoming so. The residents utilize and are dependent upon the services of Red Wing. Their present and future needs for expanded municipal services can best be provided by expansion of the services of Red Wing. Red Wing needs additional area for expansion and the fiscal, human and political resources of Burnside to remain viable. Based on the present and projected needs of the area, it is the



the decision of the Commission that the government best able to serve the fine citizens of Burnside and Red Wing will be obtained by the creation of a new City to be known as Red Wing by consolidation of the town and present city.

Finally, we address ourselves to a transitional problem. The City of Red Wing presently has a ward system which becomes "inoperable" under the terms of M.S. 414.021, Subd. 3. Accordingly, the new councilmen will be elected on an "at large" basis. The Commission urges that the ward system be re-instated by the local officials under the terms of the city charter.