

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Kenneth F. Sette Chair
Robert J. Ferderer Vice Chair
John W. Carey Commissioner

IN THE MATTER OF THE PETITION FOR)	<u>FINDINGS OF FACT</u>
THE DETACHMENT OF CERTAIN LAND FROM)	<u>CONCLUSIONS OF LAW</u>
THE CITY OF BRANCH AND ANNEXATION)	<u>AND ORDER</u>
TO THE CITY OF NORTH BRANCH PURSUANT)	<u>AND MEMORANDUM OPINION</u>
TO MINNESOTA STATUTES 414)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on February 26, 1992, and continued from time to time at North Branch, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, Chair, Robert J. Ferderer, Vice Chair, and John W. Carey, Commissioner. The petitioner appeared by and through Jay Squires, Attorney at Law, and the City of Branch appeared by and through William Radzwill, Attorney at Law. The City of North Branch made no formal appearance.

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 November 20, 1991 a petition for concurrent detachment

and annexation by the sole property owner was filed with the Minnesota Municipal Board.

The petition contained all of the information required by statute including a description of the area proposed for concurrent detachment and annexation, which is as follows:

The West Half of the Southeast Quarter (W 1/2 of SE 1/4) of Section Twenty-one (21), Township Thirty-five (35), Range Twenty-one (21), excepting those parts described as follows, to-wit:

A. A tract of land out of the SE 1/4 of Section 21, Township 35 North, Range 21 West, more particularly described as follows: Commencing at a point 1355.3 feet West of the East Quarter corner on the Quarter line and 40.4 feet South to the South right-of-way line of State Aid distance of 95.29 feet; thence Westerly with an inside angle of 90 a distance of 100 feet; thence Northerly with an inside angle of 90 a distance of 100 feet to the South right-of-way line of State Aid Road #2, thence Easterly with an inside angle of 87 18' a distance of 100.15 feet along the South right-of-way line of State Aid Road #2 to the point of beginning, which closure makes an inside angle of 92 42'.

B. All that part of the NW 1/4 of SE 1/4 of Section 21, Township 35, Range 21, described as follows, to-wit: Beginning at the Northwest corner of said NW 1/4 of SE 1/4 of said Section 21; thence South on the West line of said NW 1/4 SE 1/4 a distance of 28.33 rods; thence East parallel with the North line of said NW 1/4 of SE 1/4; thence West on said North line a distance of 28.33 rods to the point of beginning, said parcel containing 5 acres, more or less. Subject to highway right of way on the North and West line thereof.

Subject to easements of record.

A resolution supporting the concurrent detachment and annexation was received from the City of North Branch on December 3, 1991.

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

3. The area proposed for concurrent detachment and annexation, hereinafter referred to as "the subject area," is presently within the City of Branch, hereinafter referred to as

"Branch," abuts the City of North Branch, hereinafter referred to as "North Branch," and is approximately 75 acres in size. The perimeter of the subject area is approximately 22% bordered by North Branch.

4. Branch had a population of approximately 1,866 in 1980, and approximately 2,400 in 1990. It is projected that its population will continue to grow.

5. North Branch had a population of approximately 1,597 in 1980, and approximately 1,867 in 1990. Its population is projected to grow.

6. The subject area has no present or anticipated population.

7. Branch is approximately 22,115 acres in size.

8. North Branch is approximately 1,019 acres in size.

9. The subject area has a total acreage of approximately 75 acres with its exclusive use the High School Building itself along with the Athletic fields, parking lots, and a wooded environmental site.

There are no plans to sell any of the subject area.

10. The subject area is generally flat with trees on the southern portion of the land.

The Chicago County soil survey indicates that the subject area is primarily Sartell and Lino soils.

Immediately north of the subject area within North Branch is the present elementary school and Eternity Lutheran Church. Land west of the subject area in Branch is used for the school's

bus garage or residential development.

11. The subject area is served by a local street, Grand Avenue. This street is located in Branch, and north of the subject area it is in North Branch. Approximately one mile west of the subject area is Interstate 35, a freeway with access from Branch and North Branch to the Twin Cities.

12. Branch and North Branch provide for their own zoning administration. Under the Branch Zoning Ordinance, the subject area is zoned RR, Rural Residential.

13. Branch and North Branch have a building code inspection.

14. Branch and North Branch rely on the jointly prepared A Growth Management System and Code Ordinances for the Cities of Branch and North Branch, which was prepared by the East Central Regional Development Commission for their planning and zoning controls.

North Branch is currently in the process of a comprehensive plan update by its city planner. Branch continues to use the existing comprehensive plan.

15. North Branch provides its residents with fire protection, police protection, ambulance service, street improvements and maintenance, snowplowing, sanitary sewer and water, library and recreational opportunities.

North Branch provides the subject area with sanitary sewer and water service by contract.

16. Branch provides its residents with fire protection through a contract with North Branch, police protection through the

County Sheriff's Department, ambulance service, drainage service, street improvements and maintenance, snowplowing, parks and recreational opportunities, and administrative services.

Branch is investigating the provision of sanitary sewer and water to Branch residents.

17. The school district has contracted for plowing of Grand Avenue to accommodate its bus schedules.

18. Electric service to the subject area and Branch is presently provided by East Central Electric Association. North Branch is served by its own electric utility.

20. There are no existing or potential environmental problems in the subject area.

21. The school district pays to North Branch a rate for water that is two times the North Branch water rates and a sewer rate which is 1.3 times the North Branch sewer rate. The petitioner would receive a reduced sewer and water rate if the subject area were annexed. North Branch would see a reduction in its revenues from sewer and water if the subject area were annexed.

22. Payable 1991, Branch had a total market value of \$55,617,000.00 with a net tax capacity of 872,671.00 and a net tax rate of 25.218.

23. Payable 1991, North Branch had a total market value of \$39,540,800.00 with a net tax capacity of \$742,180.00, and a net tax rate of 27.575.

24. Branch and North Branch are located within the same school district.

25. Services to the subject area will not generally change if it is concurrently detached and annexed from Branch to North Branch.

CONCLUSIONS OF LAW

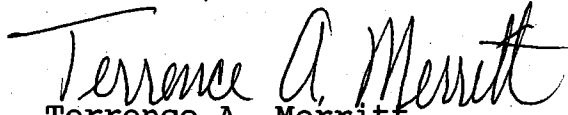
1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. Concurrent detachment and annexation of the subject area is not in the best interest of Branch and North Branch.
3. An order should be issued by the Minnesota Municipal Board denying the petition for concurrent detachment and annexation of the subject area.

O R D E R

1. IT IS HEREBY ORDERED: That the petition for the concurrent detachment and annexation of the property described in Findings of Fact 1 herein, be and the same hereby is denied.
2. IT IS FURTHER ORDERED: That the effective date of this order is October 29, 1992.

Dated this 29th day of October, 1992.

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


Terrence A. Merritt
Executive Director

M E M O R A N D U M

In denying the proposed concurrent detachment and annexation, the Municipal Board notes that there would be no change in land use and, no correction of a health, safety or welfare problem. The primary relief sought by the petitioner is from a contractual obligation between the school district and North Branch.

In denying the petition for concurrent detachment and annexation the Board stops to remind all of the parties before it that such action should not be viewed as the Municipal Board being supportive of one particular governmental entity over another. In fact, there is presently a consolidation request before the Municipal Board which is perceived as the more appropriate forum for the cities to work with each other, as well as the county, school district and other interested stakeholders.

The Board commends counsel for both parties on their presentation. The Board is confident that the parties will be able to work together so that the future is properly planned to serve all area citizens better and more efficiently.

JAM 10-29-92