

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Joseph Robbie	Chairman
Robert W. Johnson	Vice-Chairman
Terrance S. O'Toole	Member
Carl Onischuk	Dakota County Auditor
Jerome Akin	Chairman, Board of Dakota County Commissioners

IN THE MATTER OF THE PETITION FOR THE INCORPORATION OF
THE TOWN OF BURNSVILLE AND CERTAIN ADDED PROPERTY IN
THE TOWNSHIPS OF LEBANON AND EAGAN

The petition for incorporation of the Town of Burnsville, Dakota County, Minnesota, was filed with the Minnesota Municipal Commission on the 29th day of August, 1961. This petition came on for hearing before the Municipal Commission on October 9, 10, 11 and 12, 1961; August 1 and 30, September 19, October 24, November 14 and December 18, 1962, in the Burnsville High School and in the Dakota County Court House, Hastings, Minnesota, after publication and posting of the proper notices pursuant to the provisions of Minnesota Statutes 1961, Chapter 414, as amended. All hearings were part of consolidated proceedings relating either to the petition of Bloomington to annex all of Burnsville Township or to Lebanon, Lakeville, Eagan and Inver Grove Townships.

APPEARANCES WERE MADE BY:

David L. Grannis, Jr. and Vance B. Grannis, Jr. of Grannis and Grannis, Schult Building, South St. Paul, Minnesota, Attorneys for Burnsville Township;

Richard E. Kyle and Frank N. Graham of Briggs, Morton Kyle and Macartney, West First National Bank Building, St. Paul, Minnesota, Attorneys for Independent School District 191;

John Pidgeon, City Attorney for the City of Bloomington;

A. Leonard Bentson, Lakeville, Minnesota, Attorney for Lakeville Township;

Martin H. Otto, Route #1, Box 203, Savage, Minnesota, Attorney for Orchard Gardens Area (Burnsville-Bloomington hearing);

Luther Stalland, 1400 Rand Tower, Minneapolis 2, Minnesota, Attorney for Eagan Township;

Edward B. McMenemy, 1st National Bank Building, Hastings, Minnesota, Attorney for Lebanon Township;

Gerald Kalina, Lakeville, Minnesota, Attorney for the Village of Lakeville;

Gordon G. Busdicker, Attorney for Lebanon Township, 1260 N.W. Bank Building, Minneapolis 2, Minnesota;

John McBrien, Farmington Village and School District Attorney

On October 10, 1962, the Commission notified certain property owners in Lakeville, Lebanon and Eagan Township and Northern States Power Company by proper legal notice served on each of the property owners that the Commission was considering adding their property to the area proposed for incorporation in the Burnsville petition. All parties of record were likewise notified. A hearing was held October 24, 1962, and continued to November 14, 1962. Evidence was taken and testimony was heard from all those appearing and indicating a desire to be heard. Certain exhibits were received in evidence. An additional hearing was held on August 28, 1963, upon notice to all property owners in Lebanon Township and all parties of record. On February 7, 1964, a hearing was held upon notice to all parties upon Proposed Findings of Fact and Conclusions of Law at which time all evidence, testimony and exhibits from the previous hearings listed herein was again received and new evidence was taken and exhibits received. The Commission having carefully considered all of the evidence, including all of the testimony and exhibits, being fully advised in the premises, and upon all of the files, records and proceedings herein, hereby makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:

FINDINGS OF FACT

I.

The area approved for incorporation is:

A. All of Burnsville Township

B. That part of Eagan Township in Sections 19, 30 and the portion of Section 31 lying north and west from the north right-of-way of Minnesota Trunk Highway 35E as finally established.

C. That part of Lebanon Township in Sections 16, 17 and 20 lying north of the north right-of-way of Minnesota Trunk Highway 35E as finally established

II.

The Town of Burnsville is a Township in Northern Dakota County having an area of approximately 16,541 acres and having a population of 3,908 persons according to the incorporation census attached to the Petition. The property proposed for incorporation lying in Lebanon Township is an area of approximately 245 acres having a population of 16 persons; The property proposed for incorporation located in Eagan Township is approximately 1785 acres having a population of approximately 1847 persons.

III.

In the Town of Burnsville approximately 2300 acres are platted and approximately 14,241 acres are unplatted. Of the adjacent portion of Lebanon Township to be included in the incorporation election there are no platted acres and approximately 245 acres are unplatted. Of the adjacent portion of Eagan Township to be included in the incorporation election approximately 335 acres are platted and approximately 1450 acres are unplatted.

IV.

In the Town of Burnsville, at the time the petition was filed, there were 988 residences, 52 farm homes and 33 commercial and industrial buildings. The buildings on the property to be incorporated lying adjacent to the Township of Burnsville are substantially all residences and farm homes.

V.

Population and construction in the area to be incorporated has grown in the past and is expected to increase in the future. Typical of the entire area is Burnsville which had a population of 583 in 1950, 2716 in 1960 and 3908 in August of 1961 and in which residence and commercial construction has grown rapidly during the same period. It is expected that population and

construction, both residential and commercial, will continue to grow at an increased rate in the future. A reasonable population projection for the area included in the present Town of Burnsville is a population of 28,000 by 1980.

VI.

The area of platted land relative to unplatted land and the assessed value of platted land relative to the assessed value of unplatted land is:

Eagan Township: (Sections 19, 30, and 31)			
Acres	1785.46	Valuation	\$876,798.
Platted	335.19	Platted	739,044.
Unplatted	1450.27	Unplatted	137,754.
Lebanon triangle set off by freeway:			
Acres	245	Valuation	\$5870
Platted	-0-	Platted	-0-
Unplatted	245	Unplatted	5870
Burnsville:			
Acres	16541	Valuation	\$12,270,200
Platted	2300	Platted	1,717,005
Unplatted	14241	Unplatted	10,553,195

VII.

The Town of Burnsville provides fire protection for its residents under contract with the Village of Savage and the Village of Rosemount and its police protection is provided by the Dakota County Sheriff's Office and two elected constables, one of whom is at the present time a full-time officer. Prior to August 1961, Burnsville had zoned the entire township, had its own planning commission, had employed a professional engineering firm, was working with the Dakota County Planning Commission and generally was planning for the town's future in regard to municipal services. At the time of the first hearing herein, Burnsville had no central water system although two housing developments were serviced under a private water franchise, said subdivisions containing approximately 600 homes. Since the first hearing the Town of Burnsville has planned a central water system, has issued its Municipal bonds in the amount of \$180,000.00 for that purpose, and has commenced

construction of a central water system. Portions of the adjacent lands in Eagan Township to be incorporated as serviced by private water and private sewer franchise .

VIII.

There is now and will be in the immediate future a need for increased governmental services in the area approved for incorporation. Municipal government is better suited to protect the public health, safety and welfare of the residents within the area to be incorporated. The township form of government is inadequate to cope with problems of urban or suburban growth in the area proposed for incorporation.

IX.

The area proposed to be incorporated can be best served as a municipality in the matter of community planning, installation of thoroughfares, street system, sewer and water systems, fire and police protection, and other vital and necessary community services.

X.

The assessed valuations of the area to be incorporated is:

Burnsville Township	\$ 12,270,200.
Eagan Township	876,798.
Lebanon Township	5,870.

XI.

Due and proper notice was given by the Commission pursuant to Minnesota Statutes 1961, 414.02 (3) to the property owners of those portions of the Townships of Lebanon and Eagan within the approved incorporation area.

XII.

The entire area approved for incorporation is, or is about to become, urban in character.

XIII.

The name of the proposed village should be Burnsville.

XIV.

It is just and equitable that the taxes levied in 1963 in Lebanon and Eagan Townships, which are payable in 1964, attributable to that portion of the property in such townships which is included in the area approved for incorporation, be retained by the respective township governments of Eagan and Lebanon.

XV.

The residential development known as Cedar Grove which is included in the area approved for incorporation has entered into a water franchise agreement with Cedar Grove Utilities Company on April 20, 1959 and amended October 7, 1963, which is a part of the record of these proceedings.

CONCLUSIONS OF LAW

1. The area to be incorporated is described in the attached Findings of Fact, Section I.
2. The area approved for incorporation is now, or is about to become, urban or suburban in character.
3. An election should be ordered on the proposition of whether or not the area above described should be incorporated.
4. The incorporation as a Village of the above described area will best serve the people, the area included, and the public interest.
5. It is just and equitable that the taxes levied in 1963

in Lebanon and Eagan Townships, which are payable in 1964, attributable to that portion of the property in such townships which is included in the area approved for incorporation, be retained by the respective townships governments of Eagan and Lebanon.

O R D E R

IN THE MATTER OF THE PETITION FOR THE INCORPORATION
OF THE TOWN OF BURNSVILLE AND CERTAIN ADDED PROPERTY
IN THE TOWNSHIPS OF LEBANON AND EAGAN

The Minnesota Municipal Commission has before it the petition for the incorporation of Burnsville Township pursuant to Minn. Stat. 1961, Section 414.02 and the review of the urban status of Burnsville, Eagan, Lakeville, and Lebanon Townships to determine whether all or parts of such townships should be incorporated, annexed to adjacent villages, or remain as townships under Minn. Stat. Section 414.05 as is set out in detail in the Findings of Fact and Conclusions of Law attached to this Order.

Upon the foregoing Findings of Fact and Conclusions of Law, and upon all of the testimony taken and exhibits recorded, and upon all of the findings and records, the Commission being fully advised in the premises, pursuant to Minn. Stat. 414.02 and Section 414.05:

IT IS ORDERED: That the following described area of Burnsville, Eagan and Lebanon Townships be approved for incorporation in the best interests of the affected area and in the public interest:

- A. All of Burnsville Township
- B. That part of Eagan Township in Sections 19, 30 and the portion of Section 31 lying north and west from the north right-of-way of Minnesota Trunk Highway 35E as finally established.
- C. That part of Lebanon Township in Section 16, 17, and 20 lying north of the north right-of-way of Minnesota Trunk Highway 35E as finally established.

IT IS FURTHER ORDERED: That an election be held on the 16th day of June, 1964, on the issue of whether such incorporation should be approved and that such election shall be held at the Burnsville Town Hall which shall be open from seven o'clock A.M. to eight o'clock P.M.

Judges: Pat J. Connelly, Wallace Day, and Betty Schlueter

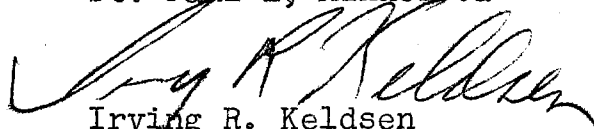
IT IS FURTHER ORDERED: That such election be conducted insofar as practicable in accordance with the election of town officers. Only qualified voters residing in the territory herein described shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases, in one of which the voters shall make a cross to express his opinion. The ballots and necessary supplies shall be provided by Burnsville Township.

IT IS FURTHER ORDERED: That Burnsville Township shall cause a copy of this Order to be posted not less than 20 days before June 16, 1964, in three public places in the area proposed for incorporation and to be published in a medium of official and legal publication of general circulation in the area proposed for incorporation, two successive weeks before June 16, 1964.

IT IS FURTHER ORDERED: That in the event the incorporation election is successful, a village election shall be held within 60 days at a time fixed by the Minnesota Municipal Commission.

The effective date of this Order
is May 7, 1964

MINNESOTA MUNICIPAL COMMISSION
51 State Office Building
St. Paul 1, Minnesota


Irving R. Keldsen
Secretary

MEMORANDUM OPINION

The Municipal Commission has approved an election for the incorporation of the Village of Burnsville. The issue will be submitted to the voters on June 16, 1964.

The approved area includes all of Burnsville and also parts of Eagan and Lebanon Townships. The included portion of Eagan is bordered on the east by Rahn Road, on the north by the northern boundary of Section 19 and on the southeast by proposed Highway 35E from Rahn Road extended, to old Cedar Avenue. The triangle of property lying northwest of proposed Highway 35E in Lebanon Township is also included in the Order.

The decision of the Minnesota Supreme Court invalidating the attempted annexation of Black Dog by Bloomington has cleared the way of the Commission for this action.

This is the Commission's first opportunity to approve the Burnsville petition to incorporate with Black Dog included. If Black Dog had been included provisionally in any prior Order, voters who approve incorporation only if the Black Dog tax base is available would have been deprived of a fair choice on the ballot. The disposition of Black Dog assures Burnsville of this essential tax base and of a solid community future.

The Commission had no part in the attempted annexation of Black Dog to Bloomington. This action was accomplished by ordinance with consent of the land owner under a provision of the law which left the Municipal Commission without jurisdiction.

The Commission is of the opinion that Burnsville will very quickly become one of the leading cities of the metropolitan area. The major thrust of metropolitan population growth is in its direction.

Incorporation will permit more orderly urban development than has occurred when new population came earlier to other

parts of the Minneapolis-St. Paul metropolis.

The Commission has respected the views of local people in determining the proposed boundaries. Some additional territory, particularly in an easterly direction, might avoid future fringe problems which will beset the Burnsville municipal government. Sensible future annexation practices may provide the answer. The opportunity to establish constructive local government that will anticipate problems of urban growth and provide answers is better in Burnsville and Northern Dakota County than it has been previously anywhere in this metropolitan area.

We filed proposed findings which were heard on February 7, 1964 suggesting more comprehensive boundaries extending to the east to County Road 19 in Eagan Township and including the entire Orchard Gardens area in Lakeville Township. These unanimous findings have been revised in the final order in a constructive compromise that recognizes competing claims and local opinion in the affected area.

The Chairman and Mr. O'Toole preferred including a greater portion of Eagan and part or all of Orchard Gardens in the area approved for incorporation. The Dakota County Auditor and Chairman of the Board of County Commissioners preferred locating the eastern boundary in Eagan Township at New Cedar Avenue and excluding Orchard Gardens from the area now approved for incorporation. The Vice-Chairman was of the opinion that the Eagan boundary should be retained at least as far east as Rahn Road when it appeared that the differing viewpoints might be settled by fixing the Eagan boundary at Old Cedar Avenue.

The result was achieved by recognition of competing claims in testimony before the Commission. The final boundaries were hammered out by reasonable and constructive effort by all members of the Commission to reach a comprehensive solution representing their respective points of view. The result is one which should be satisfactory to all reasonable people.

When we had under consideration the urban status of Burnsville, Lakeville, Eagan and Inver Grove Townships, we filed an

interim memorandum suggesting that the public officials and people of Northern Dakota County jointly counsel to find comprehensive solutions to their urban problems. We renew that unanimous recommendation. Much can be accomplished by voluntary accord to avoid the perils of uncontrolled growth and urban sprawl which may occur from a jurisdictional void.

There was strong opinion within the Commission that at least the Lakeville portion of Orchard Gardens which lies in the same drainage area as Burnsville should be included in the Burnsville incorporation. The final result recognized practical immediate problems in including Orchard Gardens but the Commission is of the unanimous opinion that should incorporation be approved by the voters, the new Burnsville municipal government and the adjoining property owners in Orchard Gardens may achieve inclusion of portions of Orchard Gardens with Burnsville by mutual consent under the annexation procedures of the Municipal Commission Act.

This same comment applies to the other portion of Eagan.

This decision properly respects the need of retaining sufficient tax base to support future township governmental activities in Eagan Township. Hence, the area north of Section 19, containing commercial and industrial property as tax sources, is left to Eagan.

The minutes of the Municipal Commission approving the Order are attached to and made a part of this Memorandum.

The Municipal Commission is confident that approval of incorporation by Burnsville voters within the recommended boundaries will be a giant stride toward proper direction and control of the enormous urban growth soon to be encountered.

BY THE FULL COMMISSION


Joseph Robbie, Chairman

Opinion by Joseph Robbie

MUNICIPAL COMMISSION MINUTES

DATE: April 29, 1964
PLACE: Minneapolis, Minnesota
PRESENT: Joseph Robbie, Chairman
Robert W. Johnson, Vice-Chairman
Terrance S. O'Toole, Member
Carl Onischuk, Dakota County Auditor
Jerome Akin, Chairman Dakota County Board of Commissioners

Mr. Onischuk moved that the petition of Burnsville to incorporate be approved; that all of Burnsville Township be included; that all of Eagan Township west of the proposed new Cedar Avenue be included; and that the portion of Lebanon Township lying northwest of the proposed Highway 35E be included. Mr. Akin seconded the motion.

Mr. Robbie then relinquished the chair to Mr. Johnson.

Mr. Robbie moved as a substitute motion that an Order be entered for an incorporation election in Burnsville to include all of Burnsville Township; that part of Eagan Township lying west of old Cedar Avenue, plus the residential development known as Cedar Grove, and the southeast quarter of Section 30 immediately adjacent to the south boundary of Cedar Grove; that part of Lebanon Township lying to the northwest of proposed Highway 35E; and that part of Lakeville Township which is in the natural water shed district of Burnsville Township which is more particularly described as the west one-half of Section 5 and all of Section 6, Township 114, Range 20, Dakota County, and that part of Section 1, Township 14, Range 21, lying east of Dakota County Highway 5. Seconded by Mr. O'Toole.

Mr. Onischuk moved to amend the substitute motion by deleting any property in Lakeville Township from the area approved for incorporation. Mr. Akin seconded the motion. The vote was then taken on Mr. Onischuk's amendment:

Mr. Johnson	Aye
Mr. O'Toole	No
Mr. Onischuk	Aye
Mr. Akin	Aye
Mr. Robbie	No

The amendment was adopted.

Mr. Johnson moved to amend Mr. Robbie's substitute motion by changing the description of the included area of Eagan Township to include that part of Eagan Township lying west of Rahn Road, extending north to Highway 13, and south to proposed Highway 35E and southwest on proposed Highway 35E to old Cedar Avenue. (Under this proposed amendment the north boundary of the area of Eagan Township included in the incorporation order would be the north boundary line of Section 19) Mr. O'Toole seconded the motion to amend.

A vote was then taken on Mr. Johnson's amendment:

Mr. Johnson	Aye
Mr. O'Toole	Aye
Mr. Onischuk	No
Mr. Robbie	Aye
Mr. Akin	No

The motion was adopted.

April 29th Commission minutes continued..

A vote was then taken upon Mr. Robbie's substitute motion as amended:

Mr. Johnson voted	Aye
Mr. O'Toole	Aye
Mr. Onischuk	Aye
Mr. Akin	Aye
Mr. Robbie	Aye

Mr. Onischuk and Mr. Akin announced that in voting Aye they preserved their objection to the east boundary contained in Mr. Johnson't amendment.

Mr. Robbie and Mr. O'Toole announced that in voting Aye they preserved their objection to the exclusion of any property in Lakeville Township from the Order.

