

OAH 60-0330-17138-BA

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

## FOR THE MUNICIPAL BOUNDARY ADJUSTMENTS UNIT

In Re Petition for Incorporation of the  
Town of New Scandia pursuant to  
Minnesota Statutes § 414

**FINDINGS OF FACT,  
CONCLUSIONS  
AND ORDER**

The above-entitled matter initially came on for hearing before Christine M. Scotillo, Executive Director, Municipal Boundary Adjustments, on February 14, 2006, in the New Scandia Community Center, 14727-209<sup>th</sup> Street North, Scandia, Minnesota. The hearing was continued to an indefinite date for an evidentiary hearing.

The hearing was reconvened before Administrative Law Judge James E. LaFave on July 19, 2006, at the New Scandia Community Center. The hearing was continued on July 20, 2006. At the conclusion of the hearing on July 20, 2006, the Administrative Law Judge toured New Scandia Township to view the area. Public testimony was heard on the evening of July 20, 2006, at the New Scandia Community Center. Approximately 50 people attended the hearing, and 11 persons offered comments on the record. The Administrative Law Judge allowed the public to submit written comments until July 31, 2006.

New Scandia Township received the transcript on July 28, 2006, July 31, 2006, and August 4, 2006. New Scandia Township submitted proposed Findings of Fact, Conclusions of Law and Order and Memorandum, which was received on August 21, 2006. The record closed on that date.

David K. Hebert of the firm of Hebert and Welch, P.A., 20 North Lake Street, Suite 301, Lake Forest, Minnesota appeared representing Petitioner New Scandia Township.

## STATEMENT OF THE ISSUE

Whether the Petition for Incorporation of New Scandia Township (I-69) be granted or denied based upon the factors set out in Minn. Stat. § 414.02.<sup>1</sup>

The Administrative Law Judge concludes that the Petition for Incorporation of New Scandia Township (I-69) should be granted.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

### *Procedural History of this Proceeding*

On December 28, 2005, the Town of New Scandia filed a petition with the Minnesota Office of Administrative Hearings - Municipal Boundary Adjustments ("OAH-MBA") requesting incorporation of all of the entire Township of New Scandia.

1. New Scandia Township is located in Washington County, Minnesota. It is bordered on the east by the St. Croix River; on the Southeast by the City of Marine on St. Croix; on the south by May Township; on the west by the City of Forest Lake; and on the north by the Townships of Chisago Lakes and Franconia in Chisago County.<sup>2</sup>

Its boundaries are legally described as:

Sections 1 through 36, Township 32 North, Range 20 West, Washington County, Minnesota, except that part of Section 36 lying within the corporate boundary of the City of Marine on St. Croix, Minnesota; and

All of Sections 5, 6, 7, 17, 18, 19, 30, 31 and 32, Township 32 North, Range 19 West, lying within Washington County, Minnesota, except those part of Sections 31 and 32 lying within the corporate boundary of the City of Marine on St. Croix, Minnesota.<sup>3</sup>

2. The Executive Director of OAH-MBA set the Petition for Incorporation on for hearing on February 14, 2006, at 9:30 am. Notice of the hearing was published in the *Country Messenger*.

3. On February 9, 2006, the Director referred the I-69 New Scandia Township Incorporation Petition to the Administrative Law Division of OAH.

<sup>1</sup> Unless otherwise specified, references to Minnesota Statutes are to the 2004 edition.

<sup>2</sup> Ex.3.

<sup>3</sup> See Ex. A to Petition of Town of New Scandia for Incorporation.

4. The hearing was convened by Christine M. Scotillo and continued to an indefinite date.

5. Resident John Lindell, 11240 – 218<sup>th</sup> Street, Scandia, MN 55073, filed a request dated February 14, 2006 to become a party to the proceedings together with a motion requesting the Administrative Law Judge to allow for the conduct of a referendum on the issue of incorporation of the Town or to permit residents to participate in the evidentiary hearing.

6. By letter dated June 8, 2006, directed to the Administrative Law Judge, John Lindell withdrew his Motion and his request to be a party.

7. By Resolution dated June 8, 2006 and filed with OAH-MBA, New Scandia Township amended its Petition for Incorporation requesting that the name of the new municipality be changed from New Scandia to Scandia.

8. The Notice of Reconvened Hearing was published in the Country Messenger on June 28, 2006, and July 5, 2006.

9. The reconvened hearing was held on July 19, 2006 and July 20, 2006.

***Factors for Incorporation, Minn. Stat. § 414.02, subd. 3.***

Present population and number of households, past population and projected population growth of the subject area and adjacent units of local government.

10. In 2004, New Scandia Township had a population of 3,970 and a household total of 1,412.<sup>4</sup> From 1970 to 2000 the population grew from 950 to 3,692.<sup>5</sup> The number of households grew from 408 to 1,294.<sup>6</sup> The Metropolitan Council projects that the population of the Town will grow to 4,370 by the year 2010 and to 5,000 by the year 2020.<sup>7</sup> Households will grow to 1,590 by 2010 and 1,890 by 2020.<sup>8</sup> The number of households is projected to grow by approximately 30 units per year between 2004 and 2010.<sup>9</sup>

11. The population of the metropolitan area has grown by 656,000 persons between 1980 and 2000. In 2000 it had a population of 2,642,056 persons. In 2010 it is expected to grow to 3,056,100 persons, and by 2020 to 3,430,100 persons.<sup>10</sup>

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<sup>4</sup> Ex. 4 at p.5.

<sup>5</sup> Ex. 4 at p. 5.

<sup>6</sup> Ex. 4 at p.5.

<sup>7</sup> Ex. 4 at p.8.

<sup>8</sup> Ex. 4 at p.8.

<sup>9</sup> Ex. 4 at p.5, 8.

<sup>10</sup> Ex. 8 at p.1.

12. Washington County grew by 87,559 persons between 1980 and 2000. In 2000 it had a population of 201,130 persons. It is expected to grow to 258,502 persons by 2010 and to 316,043 persons by 2020, or an increase of more than 200,000 persons since 1980.<sup>11</sup>

13. In 2000, New Scandia was the 13<sup>th</sup> largest municipality in Washington County out of 32 municipalities.<sup>12</sup> The Town had a larger population than approximately 11 other cities in Washington County.<sup>13</sup>

14. In 2000, the City of Forest Lake, adjacent to the westerly boundary of New Scandia, had a population of 14,440 and by the year 2010 is projected to have a population of 21,700.<sup>14</sup>

15. In 2000, May Township, adjacent to the southerly boundary of New Scandia, had a population of 2,928 and by the year 2010 is projected to have a population of 3,200.<sup>15</sup>

16. In the year 2000, the City of Hugo, to the southwest of New Scandia, had a population of 6,363. By the year 2010, it is projected to have a population of 19,100.<sup>16</sup>

17. The City of Marine On St. Croix, adjacent to New Scandia, at its southeast corner, had a population of 602 in 2000 and is projected to have a population of 760 in 2010.<sup>17</sup>

Quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.

18. New Scandia contains 25,447 acres or approximately 40 square miles of area.<sup>18</sup> In terms of area, it is the largest municipality in Washington County.<sup>19</sup> By comparison, Forest Lake has 35.5 square miles, Stillwater has 7.6 square miles, Woodbury has 35.8 square miles and Grant has 26.5 square miles.<sup>20</sup>

19. The landscape within the Town varies from level fields and forests and rolling hills to the bluffs of the St. Croix River. The northwest part of the Town is characterized by nearly level to gently rolling plains. The St. Croix River

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<sup>11</sup> Ex. 8 at p.1.

<sup>12</sup> Ex. 8 at p.2.

<sup>13</sup> Ex. 8 at p.2.

<sup>14</sup> Ex. 8 at p.2.

<sup>15</sup> Ex. 8 at p.2.

<sup>16</sup> Ex. 8 at p.2.

<sup>17</sup> Ex. 8 at p.2.

<sup>18</sup> Ex. 4 at p.8.

<sup>19</sup> Testimony of Richard Thompson, Tr. V.1 at p. 46-47, Ex. 5.

<sup>20</sup> Ex. 4 at p.8.

Valley, on the easterly border of the Town, contains a series of river terraces and numerous bedrock cliffs and bluffs. Most of the Town is a broad area of gently rolling hills formed by sand and gravel deposits left by the Superior glacial lobe.<sup>21</sup> Big Marine Lake is almost entirely within the Town in its southerly portion. At 1,756 acres, it is the largest lake in the area. Other lakes in the Town include Bone Lake, Sylvan Lake, German Lake, Goose Lake, Fish Lake, Hay Lake, Sand Lake, Long Lake, White Rock Lake, Clear Lake, Sea Lake and a number of small potholes, wetlands and unnamed lakes. Together, they make up approximately 15% of the Town.<sup>22</sup> The topography and soil types permit development to occur in any area of the Town.<sup>23</sup>

20. The Town has a number of natural communities including various types of marshes, deciduous and coniferous forests, shrub wetlands, bedrock and beach plant communities and aquatic plant communities.<sup>24</sup>

21. There are three watershed districts in New Scandia Township including Comfort Lake – Forest Lake, Carnelian Marine and Rice Creek. The southeasterly portion of the Town is subject to the Marine On St. Croix Water Management Organization.<sup>25</sup> The northeasterly portion of the Town is not subject to a watershed district or water management organization but is expected to be included within a merged Carnelian Marine Watershed District – Marine On St. Croix Water Management Organization.<sup>26</sup>

22. Waters within the Comfort Lake – Forest Lake Watershed District drain northwesterly to the Sunrise River drainage system and, ultimately, easterly to the St. Croix River. Waters within the Carnelian – Marine Watershed District drain southeasterly to Carnelian Lake and Little Carnelian Lake and, ultimately, to the St. Croix River. Waters within the Marine On St. Croix Water Management Organization drain, generally, easterly to the St. Croix River.<sup>27</sup>

23. Alluvial soils are found along the St. Croix River with sandy soils at the top of the bluff. The upland area is a mix of loamy, peat, and sandy soils resulting from glacial activity. The soils are generally suitable for onsite septic systems.<sup>28</sup>

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<sup>21</sup> Ex. 16 at p. 5.2.

<sup>22</sup> Ex. 4 at p.9.; Ex. 22.

<sup>23</sup> Test. of R. Thompson, Tr. V.1 at p. 48-49.

<sup>24</sup> Ex. 22.

<sup>25</sup> Ex. 44.

<sup>26</sup> Testimony of Dennis D. Seefeldt, Tr. V. II at p. 147; Ex. 44.

<sup>27</sup> Test. D. Seefeldt, Tr. V. II at p. 147 – 148.

<sup>28</sup> Test. R. Thompson, Tr. V. I at p. 48-49; Ex. 4 at p. 9.

Present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses.

24. New Scandia has a historic town center (Village Center) located at the intersection of Highway 97 (Scandia Trail North) and Olinda Trail. The remainder of the Town has a mixture of agricultural, rural residential, intensive lakeshore residential, spot commercial and public and private park and recreation uses.<sup>29</sup>

25. The Village Center is approximately one square mile and provides to the community the activities, amenities and services typical of a small city.<sup>30</sup> The Village Center is the location for many governmental, commercial and residential uses such as: a Community/Senior Center housing the municipal offices, board room, police and building inspector office, community room, meeting room and state of the art kitchen<sup>31</sup>; a municipal fire department and public works facility; the Scandia Post Office; such businesses as a grocery store, hardware store/gas station, bank, gallery, appliance services and repair facilities; such professional services as a dentist, chiropractor, accountant, veterinarian and attorneys offices; a number of restaurants, bar/restaurants and other eating facilities; Elim Lutheran Church and an associated Swedish heritage historical museum; a commercial business park which includes a number of retail businesses, surveyor, pet food store, manufacturing facilities, commercial excavation and landscape businesses and a storage facility; and residential uses including a number of older, traditional homes on smaller lots and a new development on 2.5 acre lots with community sewer and water installations.<sup>32</sup>

26. Oakhill Cottages, a senior housing development of 40 units comprising one and two bedroom rental units for people age 55 and up who are able to live independently, is situated within the Village Center. It is at 100% occupancy with a waiting list.<sup>33</sup> It was established to allow seniors the opportunity to live out their lives in the community.<sup>34</sup>

27. Scandia Elementary School is located within the Village Center, having grades K through 6 and approximately 475 students.<sup>35</sup> Two other schools have territory in the town. Chisago Lakes High School in the north central portion of the Township and Stillwater High School in the southeast portion.<sup>36</sup>

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<sup>29</sup> Ex. 10 at p.16.

<sup>30</sup> Ex. 4 at p. 9.

<sup>31</sup> Test. D. Seefeldt, Tr. V. II at p. 118.

<sup>32</sup> Ex. 4 at p. 9; Test. D. Seefeldt, Tr. V. II at p. 118 – 119.

<sup>33</sup> Ex. 4 at p. 9.

<sup>34</sup> Test. D. Seefeldt, Tr. V. II at p. 125-126

<sup>35</sup> Test. D. Seefeldt, Tr. V. II at p. 122.

<sup>36</sup> Test. D. Seefeldt, Tr. V. II at p. 123.

28. There are a number of recreational facilities in the Village Center including a lighted ball field, other softball fields, tennis courts, soccer fields and a skating/skateboard facility.<sup>37</sup>

29. In 1996, agricultural, natural areas occupied 11,813 acres of the Town's 25,078 acres. Agricultural activities included dairy farms, small hobby farms, hay fields, orchards, nurseries, truck farming and woodlands. It was estimated that there were only between 12 and 15 commercial agricultural enterprises in which the farming activity served as the primary occupation and source of income to at least one member of the residing household.<sup>38</sup> Today, only three dairy farms still remain.<sup>39</sup> Soil conditions and land values contribute to the inability to maintain farming operations in Washington County.<sup>40</sup> Specialty operations such as horse raising, goat farming or truck farming, however, may continue.<sup>41</sup>

30. Agricultural lands are transitioning to residential uses. In 1996, 6,208 acres or 24.76% of the Town was considered to be residential.<sup>42</sup> From 2001 to September 2005, 151 building permits were issued for single-family residences within the Town.<sup>43</sup> A number of open space – cluster developments were approved.<sup>44</sup>

31. The lakeshores of Big Marine Lake and Bone Lake have intensive residential lakeshore development.<sup>45</sup>

32. The Township has four gravel mining operations within the Town. One mining operation produces bituminous surfacing in addition to its gravel mining activities.<sup>46</sup>

33. The Township has a large number of private and public parks and recreational facilities.<sup>47</sup> Included are: William O'Brien State Park, consisting of 1620 acres located in the southeasterly corner of the Town along the St. Croix River Valley; Falls Creek Scientific and Natural Area consisting of 128 acres in the northeasterly portion of the Town; Big Marine Regional Park, a Washington County Park, located around the southerly edge of Big Marine Lake consisting of 1,920 acres, part of which is located in the Town; Camp Lakamaga, a Girl Scout Camp located on the easterly side of Big Marine Lake; Wind In The Pines Park, a 40 acre Town natural area located on the easterly side of the Town; Eko Bakken

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<sup>37</sup> Ex. 4 at p. 9.

<sup>38</sup> Ex. 10, p. 16

<sup>39</sup> Test. D. Seefeldt, Tr. V II at p. 157.

<sup>40</sup> Test. R. Thompson Tr. V I at p. 54.

<sup>41</sup> Test. R. Thompson, Tr. V I at p. 54.

<sup>42</sup> Ex. 10 at p. 16 and page opposite

<sup>43</sup> Ex. 4 at p. 10

<sup>44</sup> Test. R. Thompson, Tr. V. I at p. 50, 68-69.

<sup>45</sup> Ex. 4 at p. 10; Test. R. Thompson, Tr. V. at p. 49.

<sup>46</sup> Test. D. Seefeldt, Tr. V. II at p. 153-155.

<sup>47</sup> Ex. 18.

Recreation Area, a snow tubing facility; a golf driving range located on Highway 97, public lake and river access landings, ball fields, skating park and other recreational facilities located in and about the Village Center.<sup>48</sup>

34. It is expected that New Scandia will continue its present pattern of physical development with or without incorporation.<sup>49</sup> As a Township, New Scandia is subject to the Comprehensive Plan and Zoning Code of Washington County. As a metropolitan municipality, New Scandia Township is subject to the regulations of the Metropolitan Council.<sup>50</sup> As a City, the Town would no longer be subject to the regulations of Washington County.<sup>51</sup> The Town would continue to be governed by the Metropolitan Council, which classifies New Scandia as a diversified rural area recognizing a mix of residential, agricultural, and open space land uses.<sup>52</sup>

The present transportation network and potential transportation issues, including proposed highway development.

35. There are approximately 98 miles of roadway in the Town, of which 70 miles are Town roads.<sup>53</sup> State Trunk Highway 95 runs along the easterly edge of the Town. Proceeding south it passes through Marine, Stillwater and Hastings. Proceeding north, it runs to Taylors Falls and from there to St. Cloud. At Taylors Falls it intersects with Highway 8, which runs northeasterly across northern Wisconsin.<sup>54</sup> State Trunk Highway 97 intersects with State Highway 95 at its easterly terminus. It runs through the center of the Town and intersects with Highway 61 and then Interstate 35, which is the main artery between the Twin Cities and Duluth.

As the Town and County have grown, traffic has increased thereby increasing the need for improvement and maintenance of the roads.<sup>55</sup> The Town participated in a study with Washington County, the Minnesota Department of Transportation and other nearby local municipalities of the Trunk Highway 97 traffic in 2002.<sup>56</sup> It found that traffic between County Road 3 and County Road 15 on Trunk Highway 97 increased from 6,300 vehicles per day in 1998 to 7,250 vehicles in 2004. Vehicles proceeding north on State Trunk Highway 95 from Highway 97 increased from 6,100 vehicles in 1998 to 7,500 vehicles in 2004. Vehicles proceeding south on State Trunk Highway 95 increased from 3,300 vehicles in 1998 to 4,400 vehicles in 2004. Vehicles proceeding north of

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<sup>48</sup> Ex. 18; Ex. 16, page opposite to page 3-2.

<sup>49</sup> Ex. 4 at p. 10.

<sup>50</sup> Ex. 4 at p. 12.

<sup>51</sup> Test. R. Thompson, Tr. V. I at p. 81.

<sup>52</sup> Ex. 4 at p. 12.

<sup>53</sup> Testimony of Thomas W. Peterson, Tr. V. II at p. 90.

<sup>54</sup> Test. R. Thompson, Tr. V. I at p. 56.

<sup>55</sup> Test. R. Thompson, TR V. I at p. 58.

<sup>56</sup> Ex. 4 at p. 10



Highway 97 on Highway 15 increased from 1,800 in 1997 to 2,900 in 2005, an increase of 61.1%.<sup>57</sup>

36. In 1989, New Scandia embarked on a program to pave all of its roads with a project occurring every two or three years. At present, 12.38 miles of roads remain to be paved and it is expected that the roads will be paved in 2007 and 2009 at a cost of \$2,112,500.00 and \$1,920,000.00 respectively.<sup>58</sup>

37. At the present time, the east side of the I-35 Corridor is served by Hornsby Street which connects at the north with TH 97 and serves as frontage road for the northern part of the eastern portion of the corridor, south to 145<sup>th</sup> Avenue.<sup>59</sup>

38. Incorporation would cause the Town to lose county road aids of approximately \$26,000.00 per year.<sup>60</sup> That loss would be offset by the receipt of local government aid from the State of Minnesota in the sum of \$23,820.00 for which the Town would be eligible as a City.<sup>61</sup>

39. If the Town becomes incorporated it will be eligible for Minnesota state aid road funding of approximately \$225,000.00 when it reaches a population of 5,000, estimated to occur between 2017 and 2020.<sup>62</sup> The receipt of state aid road funds would have a significant impact on the Town's ability to improve and maintain its roads.<sup>63</sup>

Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land controls.

40. New Scandia Township has a Comprehensive Plan<sup>64</sup> that was adopted October 20, 1998. The Town had prior plans adopted in 1980 and 1993. The current plan must be revised and presented to the Metropolitan Council by the end of 2008.<sup>65</sup> Since the Town is located in the Metropolitan Area, its Comprehensive Plan must be approved by the Metropolitan Council based on its policy plan and its system plans.<sup>66</sup>

41. The Comprehensive Plan of the Town designates it as a rural diversified community, meaning that it has some rural elements that will take

<sup>57</sup> Ex. 4 at p. 11.

<sup>58</sup> Test T. Peterson, Tr. V. II at p. 90, 91; Ex. 36.

<sup>59</sup> Ex. 1 at 22, Fig. 7.

<sup>60</sup> Ex. 15 at p. 7.

<sup>61</sup> Ex. 15 at p. 13.

<sup>62</sup> Test. T. Peterson, Tr. V. II at p. 99-101; Ex. 15; Ex. 37.

<sup>63</sup> Test. R. Thompson, Tr. V. I at p. 59.

<sup>64</sup> Ex. 10.

<sup>65</sup> Test. R. Thompson, Tr. V. I at p. 60 – 61.

<sup>66</sup> Test. R. Thompson, Tr. V. I at p. 61.

moderate growth with some opportunity for economic commercial type development.<sup>67</sup>

42. The Town's Comprehensive Plan sets forth a growth management strategy that will maintain a pleasing and livable rural lifestyle environment while keeping the size and cost of government at a lower manageable level.<sup>68</sup> One of the primary goals of the Comprehensive Plan is to protect the natural resources, the rivers, streams, lakes, and wetlands of the Town.<sup>69</sup> Other goals include strengthening the Village Center, which is the hub of the community; supporting the continuation of agriculture insofar as it can be accomplished and providing for orderly population growth.<sup>70</sup>

43. The Plan provides for an orderly expansion of the Village Center; semi-rural areas developing at a density of one unit per five acres; and agricultural-rural agricultural areas developing at a density of one unit per ten acres.<sup>71</sup>

44. The Comprehensive Plan contemplates open space retention by maintaining the prescribed density, but requiring subdivisions of tracts into a number of smaller lots and one or more large lots and by permitting higher density developments in exchange for the preservation of open space.<sup>72</sup>

45. Additionally, the Comprehensive Plan has transportation, sewer, water, parks, and housing elements.<sup>73</sup>

46. The Comprehensive Plan has a water resource management section which addresses the issue of surface water management and the protection of natural resources with future development.<sup>74</sup>

47. In its implementation section, the Plan addresses the streamlining of development reviews and recommends additional park and open space planning. A Comprehensive Parks and Recreation Plan was adopted by the Town Board on July 18, 2006.<sup>75</sup>

48. Washington County has its own Comprehensive Plan entitled Washington County Comprehensive Plan, A Policy Guide to 2015 which takes

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<sup>67</sup> Ex. 10.

<sup>68</sup> Test. R. Thompson, Tr. V. I at p. 63.

<sup>69</sup> Test. R. Thompson, Tr. V. I at p. 63.

<sup>70</sup> Test. R. Thompson, Tr. V. I at p. 63.

<sup>71</sup> Test. R. Thompson, Tr. V. I at p. 66-67.

<sup>72</sup> Test. R. Thompson, Tr. V. I at p. 67-69.

<sup>73</sup> Test. R. Thompson, Tr. V. I at p. 69-70

<sup>74</sup> Test. R. Thompson, Tr. V. I at p. 71.

<sup>75</sup> Test. R. Thompson, Tr. V. I at p. 71; Ex. 16.

precedence over the Town's Plan.<sup>76</sup> Amendments to the Town's Plan must be consistent with the County Plan or the County Plan must also be amended.<sup>77</sup>

49. The Town has a Development Code consisting of three parts; Administration, Zoning Regulations, and Subdivision Regulations.<sup>78</sup>

50. The Town administers its Development Code, conducts public hearings, issues Conditional Use Permits and Variances and approves subdivisions.<sup>79</sup>

51. Washington County also has a Development Code, which governs the Town. The Town must conform to the County Code unless it wishes to be more restrictive.<sup>80</sup>

52. The Town is more restrictive in the shoreland district by requiring 2-1/2 acre lots as opposed to 1-1/2 acre lots allowed by the County.<sup>81</sup>

53. The application of the Town Development Code and the County Development Code results in a duplicative review process. For a major subdivision, reviews are conducted at both the Town and County levels at the concept stage, the preliminary plat stage and the final plat stage. In between those reviews, there are a number of committees, which conduct reviews at both the Town and County level.<sup>82</sup>

54. Incorporation would allow the Town to apply its own Comprehensive Plan and Development Code without the involvement of Washington County in the review process, similar to the other 26 cities in Washington County, thereby streamlining the review process as proposed by the Town's Comprehensive Plan.<sup>83</sup>

55. The Town has the ability to perform its own planning, subdivision and zoning functions.<sup>84</sup> The Town has a history of employing necessary consultants, including TKDA as its current planning consultant, Bonestroo Rosene Anderlik & Associates as its engineering consultants, and Sanders, Wacker, Bergely as its adopted Comprehensive Parks, Trails and Open Space Plan consultant.<sup>85</sup>

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<sup>76</sup> Test. R. Thompson, Tr. V. I at p. 74; Ex. 11.

<sup>77</sup> Test. R. Thompson, Tr. V. I at p. 74-75.

<sup>78</sup> Ex. 12.

<sup>79</sup> Test. R. Thompson, Tr. V. I at p. 76-79.

<sup>80</sup> Test. R. Thompson, Tr. V. I at p. 80,- 81; Ex. 13.

<sup>81</sup> Test. D. Seefeldt, Tr. V. II at p. 152.

<sup>82</sup> Test. R. Thompson, Tr. V. I at p. 72-73.

<sup>83</sup> Test. R. Thompson, Tr. V. I at p. 81.

<sup>84</sup> Test. R. Thompson, Tr. V. I at p. 82.

<sup>85</sup> Test. R. Thompson, Tr. V. I at p. 82- 83; Ex. 18.

Existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services.

56. The Town is an urban township with powers granted to it by Minnesota Statutes § 368.<sup>86</sup> Those powers are substantially similar to powers granted to a statutory city by Minnesota Statutes §§ 412, 465 and 429.<sup>87</sup> Powers granted to urban townships which are similar to the powers of a statutory city include: to construct or acquire structures for Town purposes, open streets and sidewalks, provide hospitals, regulate animals, prevent or abate nuisances, enact ordinances, finance equipment purchases, vacate streets and acquire property by eminent domain.

57. The Town is also subject to the provisions of Minnesota Statutes § 365, which is the Town General Law.<sup>88</sup> Chapter 365 grants to the electors (the voters of the Town) the authority to expend funds for Town purposes.<sup>89</sup>

58. The Town Staff prepares a budget on an annual basis by reviewing income and expenses of the prior year, consulting with department heads and meeting with the Town Board.<sup>90</sup>

59. In 2006, the Town had an expense budget covering such items as community center, roads, police, fire, and debt service of \$2,062,370.<sup>91</sup> At the end of the year 2005, the Town had cash and investments totaling \$2,644,000.<sup>92</sup>

60. The Budget is presented to the electors for approval at a re-convened annual meeting.<sup>93</sup> The budget is typically approved by 5 to 15 electors who attend the meeting.<sup>94</sup> The electors have the opportunity to modify the budget of the Town at the meeting.<sup>95</sup>

61. Sewer and water service is generally furnished by on-site sewage treatment systems and private wells.<sup>96</sup> The Town has three shared drain field sewage systems. The Village system serves six businesses that pay user fees. Two community wastewater treatment systems serve residences on Big Marine Lake.<sup>97</sup> Washington County provides inspection services for the on-site systems

<sup>86</sup> Ex. 40; Ex 41; Test. R. Thompson, Tr. V. I at p. 29-30.

<sup>87</sup> Ex. 41.

<sup>88</sup> Ex. 43.

<sup>89</sup> Test. D. Seefeldt, Tr. V. II at p. 105-107.

<sup>90</sup> Testimony of Colleen Firkus, Tr. V. II at p. 76.

<sup>91</sup> Test. C. Firkus, Tr. V. II at p. 77; Ex. 31.

<sup>92</sup> Test. C. Firkus, Tr. V. II at p. 85; Ex. 33.

<sup>93</sup> Test. C. Firkus, Tr. V. II at p. 78.

<sup>94</sup> Test. C. Firkus, Tr. V. II at p. 78; Test. D. Seefeldt, Tr. V. II at p. 107.

<sup>95</sup> Test. C. Firkus, Tr. V. II at p. 78,-79; Test. D. Seefeldt, Tr. V. II at p. 108-110.

<sup>96</sup> Ex. 4at p. 15; Test. R. Thompson, Tr. V. I at p. 85- 86.

<sup>97</sup> Ex. 4at p. 15; Test. R. Thompson, Tr. V. I at p. 86; Test. D. Seefeldt, Tr. V. II at p. 131-132.

in the Town, as it does for most areas in the County, whether incorporated or unincorporated.<sup>98</sup> The Town has purchased additional property in contemplation of the expansion of the Village system.<sup>99</sup> Community systems have been used in new developments.<sup>100</sup> The Village Center has two private community water systems each serving a number of residences.<sup>101</sup> Community water systems have also been provided in two new developments.<sup>102</sup> Part or all of a number of cities in Washington County are not served by municipal sewer and water. Large portions of the cities of Forest Lake, Hugo, Woodbury and Cottage Grove are not served by public sewer and water. The cities of Grant, Dellwood and Lake Elmo are not served with municipal sewer and water.<sup>103</sup>

62. The Town has a newly constructed fire station, which opened in the fall of 2000. The fire department has two Class-A pumpers, a 2200-gallon tanker, a 2000-gallon tanker, a medical rescue unit, a grass fire fighting rig and a boat for dive team water rescue.<sup>104</sup> The fire department also has defibrillators and vehicle extraction apparatus.<sup>105</sup> The fire department is serviced by a well with a 500 gallon per minute capacity capable of filling a tanker within four minutes.<sup>106</sup> The fire department also has the benefit of two dry wells enabling it to draw water from two lakes at different points in the Town.<sup>107</sup> The Insurance Service Organization (ISO) Fire Rating in New Scandia is 7, which is the highest rating it may have without being served by municipal fire hydrants.<sup>108</sup> The ISO Rating benefits Town residents by reducing their insurance premiums.<sup>109</sup>

63. The fire department offers both fire fighting and prevention services and medical rescue services. Medical rescue services include: basic life support and administration of certain medications. The department responds to car accidents and a variety of medical emergencies.<sup>110</sup> In the year 2005, the fire department responded to 209 emergency calls, of which 135 were medical calls and 74 were fire calls.<sup>111</sup>

64. The fire department is currently staffed by 27 volunteer members, including one chief, two assistant chiefs, two fire training captains, a rescue captain and twenty-one fire fighters. The members are required to obtain

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<sup>98</sup> Test. R. Thompson, Tr. V. I at p. 87.

<sup>99</sup> Test. D. Seefeldt, Tr. V. II at p. 128-129.

<sup>100</sup> Test. D. Seefeldt, Tr. V. II at p. 129-130.

<sup>101</sup> Test. D. Seefeldt, Tr. V. II at p. 130.

<sup>102</sup> Test. D. Seefeldt, Tr. V. II at p. 130.

<sup>103</sup> Testimony of Dennis Hegberg, Tr. V. III at p. 21- 22.

<sup>104</sup> Testimony of Stephen Yehle, Tr. V. III at p. 31, 33-34; Ex. 49.

<sup>105</sup> Test, S. Yehle, Tr. V. III at p. 33-36; Ex. 49.

<sup>106</sup> Test, S. Yehle, Tr. V. III at p. 32.

<sup>107</sup> Test, S. Yehle, Tr. V. III at p. 33.

<sup>108</sup> Test, S. Yehle, Tr. V. III at p. 40-41.

<sup>109</sup> Test, S. Yehle, Tr. V. III at p. 41.

<sup>110</sup> Test, S. Yehle, Tr. V. III at p. 36.

<sup>111</sup> Test, S. Yehle, Tr. V. III at p. 42.

extensive training. Thirteen members are certified medical first responders and fourteen are certified emergency medical technicians.<sup>112</sup>

65. The fire department belongs to a number of mutual aid associations, which gives it access to thirty-two fire department resources.<sup>113</sup> In addition to New Scandia Township, the fire department furnishes fire and rescue services by contract to a part of May Township.<sup>114</sup>

66. The Washington County Sheriff's Office provides law enforcement services to New Scandia. The Sheriff's Office has five divisions: administrative, investigative, special services, jail and patrol.<sup>115</sup> The Sheriff's Office acts as dispatcher for all municipalities in the County, including the New Scandia Fire Department. The County is divided into four patrol areas. An officer is available in each district 24 hours per day.<sup>116</sup> Additionally, the Town provides enhanced police protection to its residents by contracting with the Sheriff's Office for an additional deputy 40 hours per week at a cost to the Town for 2006 of \$84,319.40.<sup>117</sup> The Sheriff's Office contracts with a number of other cities in Washington County for additional police service, including Mahtomedi, Hugo, Dellwood, Willernie, Lake Elmo and the Lower St. Croix Valley Area cities.<sup>118</sup> The Sheriff's Office, basically, acts as the police department for these municipalities.<sup>119</sup> The contract officer has normal patrol duties and also works with ordinance violations, nuisance properties and other issues on a community based police model.<sup>120</sup> With the exception of one city, the Sheriff's Office keeps police records for all of the municipal police departments in the County.<sup>121</sup> Calls for services or incidents within the Town numbered 2220 in 2004 and 2778 in 2005.<sup>122</sup> If incorporated, the Town would continue to contract services with the Sheriff's Office.<sup>123</sup>

67. New Scandia employs two full time employees and one part time employee in its public works department, maintaining the Town's 70 miles of public roads.<sup>124</sup> The employees plow, grade and shoulder the roads, clear brush from the sides of the roads and maintain Township grounds.<sup>125</sup> The Town constructed a new public works facility in connection with its fire department in the year 2000 and also has a separate storage unit. The Town has a grader, two

<sup>112</sup> Test, S. Yehle, Tr. V. III at p. 40; Ex. 49.

<sup>113</sup> Test, S. Yehle, Tr. V. III at p. 43; Ex. 49.

<sup>114</sup> Test, S. Yehle, Tr. V. III at p. 42; Ex. 50.

<sup>115</sup> Testimony of Stephen Pott, Tr. V. III at p. 6-8.

<sup>116</sup> Test. of S. Pott, Tr. V. III at p. 11.

<sup>117</sup> Ex. 46; Test. of S. Pott, Tr. V. III at p. 13.

<sup>118</sup> Test. of S. Pott, Tr. V. III at p. 12.

<sup>119</sup> Test. of S. Pott, Tr. V. III at p. 13.

<sup>120</sup> Test. of S. Pott, Tr. V. III at p. 14.

<sup>121</sup> Test. of S. Pott, Tr. V. III at p. 15.

<sup>122</sup> Test. of S. Pott, Tr. V. III at p. 15; Ex. 47.

<sup>123</sup> Test. of S. Pott, Tr. V. III at p. 18.

<sup>124</sup> Testimony of Michael J. Heinz, Tr. V. III at p. 59.

<sup>125</sup> Test. M. Heinz, Tr. V. III at p. 59.

large single axle dump trucks/snowplow combinations, a large John Deere tractor and two pickup trucks.<sup>126</sup> Incorporation would not affect the operations of the public works department.

68. New Scandia has traditionally employed a full time clerk, a part time treasurer and two part time receptionists. The clerk has served as the lead administrator. The clerk's responsibilities include working with the public, supervising other staff, supervising work by contractors and consultants, administering ordinances, implementing policies, maintaining official records, overseeing elections, coordinating meetings, assisting with the development of the annual budget and other duties. The Treasurer is responsible for keeping the Township's financial records and administering its financial transactions as well as providing computer support within the municipal office.<sup>127</sup> Because of the retirement of the long time clerk/administrator, the Town is presently in the process of employing a full time Town administrator.<sup>128</sup>

69. The Town operates a wide range of parks and recreational facilities.<sup>129</sup> New Scandia maintains a relationship with the Forest Lake School District in the use of their mutual facilities.<sup>130</sup> The Town contributed funds towards the acquisition of land for the construction of a soccer field on the elementary school site. An adult recreation program makes use of the school gymnasium. The school district youth softball, football and baseball programs make use of the Town ball fields and facilities.<sup>131</sup>

70. New Scandia adopted an updated Comprehensive Parks, Trails, Open Space and Recreation Plan on July 18, 2006.<sup>132</sup> The Plan contemplates the expansion of the park system throughout the Town.<sup>133</sup> New Scandia is in the process of developing a number of bicycle and off-road trails through the Town including the establishment of the Gateway Trail, which is to run from St. Paul to Taylors Falls and, ultimately, to Duluth.<sup>134</sup>

71. The municipality is governed by a Town Board consisting of five supervisors similar to a Plan A City. In the 1980's it was converted from a three person Board by approval of the voters. The workload and the complexity of issues mandated the change.<sup>135</sup> Upon incorporation the municipality would be governed by a City Council consisting of four Councilpersons and a Mayor.<sup>136</sup> The major difference in the two governing bodies is that the Mayor of the City is

<sup>126</sup> Test. M. Heinz, Tr. V. III at p. 58.

<sup>127</sup> Ex. 4 at p. 16.

<sup>128</sup> Test. D. Seefeldt, Tr. V. II at p. 116.

<sup>129</sup> Ex. 18; Ex. 16, page opposite to page 3.2.

<sup>130</sup> Test. D. Seefeldt., Tr. V. II at p. 123-124.

<sup>131</sup> Test. D. Seefeldt., Tr. V. II at p. 123-124.

<sup>132</sup> Ex. 16; Ex. 18.

<sup>133</sup> Ex. 19.

<sup>134</sup> Ex. 16 at p. 4-10; Ex. 20; Testimony of Vera Westrum Ostrom, V. II at p. 58-59.

<sup>135</sup> Test. D. Seefeldt., Tr. V. II at p. 113-114.

<sup>136</sup> Test. D. Seefeldt., Tr. V. II at p. 115.

elected by the voters and the Chairperson of the Town Board is elected by the Town Board Supervisors.<sup>137</sup>

72. Trash removal is performed by two regular haulers who perform pickup services on a weekly basis. New Scandia promotes recycling by subsidizing the pickup of recyclable materials.<sup>138</sup> Heavy metal day is conducted twice a year on the Community Center grounds, providing for the disposal of used appliances, furniture, electronics and other items.<sup>139</sup> Washington County also conducts a hazardous waste disposal event at the Community Center annually.<sup>140</sup>

73. Library services are made available to the Town residents through the Washington County Library System. Library facilities are available in Marine On St. Croix, adjacent to the southeast corner of the Town and in Forest Lake, approximately five miles west of the Town border. Washington County is in the process of constructing a new library facility in the City of Forest Lake, south of its Highway 97/Highway 61 intersection.<sup>141</sup>

74. The Town has an architectural advisory committee to advise the Town Board on the architectural character of buildings constructed in its industrial/business park.<sup>142</sup> The Town Board is considering extending the jurisdiction of the architectural committee to all new commercial structures within the Town.<sup>143</sup>

75. Certain services once offered by Washington County to its residents are no longer offered. The County once acted as the planner for the Townships in the County, but no longer provides that service due to lack of staff and conflicts of interest.<sup>144</sup> The County formerly furnished building inspection services for the entire County and terminated that service requiring municipalities to obtain their own building officials.<sup>145</sup> The County has also turned back certain roads to the municipalities, which are then required to furnish necessary maintenance.<sup>146</sup>

76. In 2004, the New Scandia Town Board included the sum of \$15,000.00 in its 2005 budget for a study of incorporation and the sum of \$65,000.00 in its 2006 budget to complete the hearing process. A committee was appointed and conducted a thorough study.<sup>147</sup> The budget for the study was

<sup>137</sup> Test. D. Seefeldt., Tr. V. II at p. 115-116.

<sup>138</sup> Test. D. Seefeldt., Tr. V. II at p. 119-120.

<sup>139</sup> Test. D. Seefeldt., Tr. V. II at p. 120.

<sup>140</sup> Test. D. Seefeldt., Tr. V. II at p. 120-121.

<sup>141</sup> Test. D. Seefeldt., Tr. V. II at p. 121.

<sup>142</sup> Test. D. Seefeldt., Tr. V. II at p. 121-122.

<sup>143</sup> Test. D. Seefeldt., Tr. V. II at p. 122.

<sup>144</sup> Test. D. Seefeldt., Tr. V. II at p. 136-138; Test. D. Hegberg, Tr. V. III at p. 26.

<sup>145</sup> Test. D. Hegberg, Tr. V. III at p. 26-27.

<sup>146</sup> Test. D. Hegberg, Tr. V. III at p. 27.

<sup>147</sup> Testimony of Blair Joselyn, Tr. V. I. at p. 12-22.



approved by the electors at the annual Town meetings. An analysis of the statutory factors pertaining to municipal incorporation was prepared.<sup>148</sup> A fiscal analysis of incorporation was prepared.<sup>149</sup> The Town Board filed its Petition for Incorporation on December 30, 2005.

77. New Scandia is an urban township and operates as a small city.<sup>150</sup> It administers its own zoning and subdivision regulations and conducts its own planning. It furnishes all of the services of a small city, including fire protection, police protection, street improvements and maintenance, administrative services, parks and recreation services, and some community waste disposal services. These services will continue to be furnished upon incorporation of the Town. The residents of the Town will not be subject to the duplicative processes and the inefficiencies generated by being subject to both Washington County and Town Zoning and Subdivision Regulations.

78. If New Scandia is incorporated, it will be required to replace certain consulting services furnished by Washington County.<sup>151</sup> However, the Town has demonstrated its ability and willingness to hire such consultants, as it deems necessary in its operations. If New Scandia becomes incorporated, Washington County will not issue permits for mining operations in the Town. The Town has conducted inspections of the mines and issued its own permits for many years.<sup>152</sup> If the Town becomes incorporated, it will continue to receive the same services that are furnished by Washington County to all of its residents, including police protection, assessments, taxpayer services and elections, health and human services, court administration, jails, library services, and public health and environment.<sup>153</sup> Washington County will also continue to provide onsite septic system inspections.

79. New Scandia will continue to furnish its own building inspections services either by contract or employment.

Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.

80. New Scandia is not presently experiencing any environmental problems.<sup>154</sup> The Town is very protective of its water resources. It is a major consideration in every development proposal, land use request and variance request.<sup>155</sup> In the past few years, it helped fund a study of various streams running into the St. Croix River. The purpose of the study was to look at the

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<sup>148</sup> Ex. 4

<sup>149</sup> Ex. 15

<sup>150</sup> Test. R. Thompson, Tr. V. I at p. 29.

<sup>151</sup> Testimony of Jessie Hart, Tr. V. II at p. 16-18; Test. D. Seefeldt, Tr. V. II at p.135-136.

<sup>152</sup> Test. D. Seefeldt, Tr. V. II at p. 155.

<sup>153</sup> Test. D. Hegberg, Tr. V. III at p. 22-23.

<sup>154</sup> Ex. 4 at p. 16; Test. R. Thompson, Tr. V. I at p. 90.

<sup>155</sup> Test. R. Thompson, Tr. V. I at p. 89-90.

water quality of the surface waters flowing into the river and to identify flora and fauna and fauna needing to be protected.<sup>156</sup> The Town has adopted the Washington County Shoreland Management Ordinance by reference. The ordinance provides special regulations for the protection of lake, river and wetland shorelands.<sup>157</sup>

81. New Scandia has made its Shoreland Management Ordinance more restrictive than the County ordinance by requiring a minimum lot size of 2-1/2 acres on its recreational development lakes, as opposed to the requirement of 1-1/2 acres by Washington County.<sup>158</sup>

82. Individual sewage treatment systems are inspected under the supervision of Washington County on a regular basis.<sup>159</sup> The same inspection program would continue if the Town becomes incorporated.<sup>160</sup>

83. The Town has installed a community waste water system to serve a portion of its Village Center. It also has two community systems serving residential homes on Big Marine Lake.<sup>161</sup> New Scandia is encouraging the use of community treatment systems in new open space developments.<sup>162</sup> The Town Board has been proactive in acquiring land for future expansion of its Village Center waste disposal system.<sup>163</sup>

84. The protection of natural resources and preservation of open space is a primary goal of the Town's planning. Most recently demonstrated is its adoption of the New Scandia Township Comprehensive Parks, Trails, Open Space and Recreation Plan.<sup>164</sup> Incorporation will not reduce the community's focus on the protection of its natural resources.

Fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues.

85. Springsted, Inc. performed a fiscal impact analysis on behalf of New Scandia Township to review and assess the impact on the services and the finances if the Town were to incorporate.<sup>165</sup> If incorporated, Scandia would lose

<sup>156</sup> Test. D. Seefeldt, Tr. V. II at p. 152-153.

<sup>157</sup> Test. D. Seefeldt, Tr. V. II at p. 151-152.

<sup>158</sup> Test. D. Seefeldt, Tr. V. II at p. 152.

<sup>159</sup> Test. R. Thompson, Tr. V. I at p. 86-87.

<sup>160</sup> Test. R. Thompson, Tr. V. I at p. 87.

<sup>161</sup> Test. R. Thompson, Tr. V. I at p. 86.

<sup>162</sup> Test. D. Seefeldt, Tr. V. II at p. 129-130.

<sup>163</sup> Test. D. Seefeldt, Tr. V. II at p. 128-129.

<sup>164</sup> Ex. 19.

<sup>165</sup> Ex. 15.

\$26,000.00 per year of county road aid.<sup>166</sup> Due to legislation passed in the year 2005, New Scandia, as a city of less than 5000 persons, would receive local government aid of \$6.00 per person or approximately \$23,820.00 annually. This amount would offset the loss of road maintenance received from Washington County.<sup>167</sup> As a city, New Scandia would be eligible for Municipal State Aid for road maintenance and construction when it reaches a population of 5000, which is anticipated to occur between 2017 and 2020.<sup>168</sup> Using current eligibility requirements, the amount of the Municipal State Aid would be approximately \$225,000.00 per year.<sup>169</sup> The Springsted report concluded that there would be no change due to incorporation in the level of service or associated costs for services rendered in connection with law enforcement, fire protection, street maintenance, recreation, water service, sewer service or building inspections and code enforcement.<sup>170</sup>

86. The analysis observed that the 2006 adopted budget included building fee revenues of \$175,000.00 and a building official contract expense of \$100,000.00, leaving the Town with \$75,000.00 to cover the cost of providing office space and support services to the contractor.<sup>171</sup>

87. With regard to planning and zoning, the report assumed an additional expense to the Town of \$80,000.00 per year to replace certain planning and zoning services still offered by Washington County.<sup>172</sup> A scenario was described by which the contract building official would be converted to an employee position which would provide building inspection services and replace the planning services lost from Washington County. The cost of the position would be approximately \$75,000.00.<sup>173</sup>

88. In the Administration Department, the report suggested the creation of a zoning secretary/receptionist position at an approximate cost of \$34,000.00 per year.<sup>174</sup>

89. The cost of the two positions totaled \$109,000.00 or \$9,000.00 more than the current building official alone. The additional costs were presumed to be phased in over a period of two years.<sup>175</sup> Applying the various items of income and expense and using \$30,500.00 of capital reserves, the report demonstrated a revised 2006 expense budget of \$2,066,870.00 or \$4,500.00 more than the adopted 2006 budget.<sup>176</sup> The projected expense

<sup>166</sup> Ex. 15, at p. 2; Test. J. Hart, Tr. V. II at p. 13.

<sup>167</sup> Ex. 15 at p. 31 Test. J. Hart, Tr. V. II at p. 20.

<sup>168</sup> Ex. 15 at p. 2; Test. J. Hart, Tr. V. II at p. 13, Test. T. Peterson, Tr. V. II at p. 99.

<sup>169</sup> Ex. 15 at p. 13; Test. J. Hart, Tr. V. II at p. 13, Test. T. Peterson, Tr. V. II at p. 99.

<sup>170</sup> Ex. 15 at p. 7-9; Test. J. Hart, Tr. V. II at, p. 10-11.

<sup>171</sup> Ex. 15 at p. 9; Test. J. Hart, Tr. V. II at p. 15-16.

<sup>172</sup> Ex. 15 at p. 9; Test. J. Hart, Tr. V. II at p. 17-18; Test. D. Seefeldt, Tr. V. II at p. 135-136.

<sup>173</sup> Ex. 15, p. 10; Test. J. Hart, Tr. V. II at p. 18.

<sup>174</sup> Ex. 15 at p. 11.

<sup>175</sup> Ex. 15 at p. 5.

<sup>176</sup> Ex. 15 at p. 19.

budget for 2007 was reduced by \$61,100.00 due to the elimination of the one time incorporation expense resulting in a projected expense budget for 2007 of \$2,005,770.00.<sup>177</sup>

90. The taxable market value of property in New Scandia has increased rapidly. In the tax year 2000, the market value was \$270,786,673.00, and by the year 2005 it had risen to \$533,279,500.00.<sup>178</sup> Over the same period of time, the net tax capacity value increased from \$3,659,721.00 to \$5,576,820.00.<sup>179</sup> The Town's tax levy increased from \$860,387.00 in 2000 to \$1,483,752.00 in 2005.<sup>180</sup> The tax capacity rate for taxes payable in the year 2005 was 28.035%. The tax capacity rate for taxes payable in the year 2006 was 26.541%. The projected tax capacity rate for 2007 is 25.195% and for 2008 is 24.733%.<sup>181</sup>

91. Based on the known tax rates for taxes payable in 2005 and 2006 and the projected tax rates for the years 2007 and 2008, the report calculated the municipal share of real estate taxes for properties valued at \$353,000.00, \$500,000.00 and \$750,000.00. The municipal share of real estate taxes for a property valued at \$353,000.00 was \$935.00 for taxes payable in the year 2005 and fell to \$818.00 for taxes payable in the year 2008. For a property valued at \$500,000.00, the municipal share of real estate taxes for taxes payable in the year 2005 was \$1,402.00 and was projected to be \$1,237.00 in the year 2008. Likewise, a property valued at \$750,000.00 had taxes payable of \$2,278.00 in 2005 and was projected to have taxes payable of \$2,010.00 in the year 2008.<sup>182</sup> The projections did not include property value appreciation.<sup>183</sup>

92. At the end of the year 2005, the Township had six general obligation bonds or notes outstanding with a combined principal balance of \$2,567,000.00. The bonds were issued to finance improvements and/or installation of streets, acquire property for the Village Center sewer system and to finance the fire hall/public works facility.<sup>184</sup> It is anticipated that road paving projects slated for 2007 and 2009 will also be financed by general obligation bonds. It is not anticipated that incorporation would impact the repayment of current debt issues or the issuance of bonds for ongoing projects.<sup>185</sup> The Town has the debt capacity to be able to finance any needed major service improvements should they become necessary in the future.<sup>186</sup>

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<sup>177</sup> Ex. 15 at p. 19.

<sup>178</sup> Ex. 15 at p. 13.

<sup>179</sup> Ex. 15 at p. 14.

<sup>180</sup> Ex. 15 at p. 17.

<sup>181</sup> Ex. 15 at p. 17; Test. J Hart, Tr. V. II at p. 23.

<sup>182</sup> Ex. 15 at p. 18; Test. J. Hart, Tr. V. II at p. 27- 28.

<sup>183</sup> Ex. 15 at p. 18

<sup>184</sup> Ex. 15 at p. 15.

<sup>185</sup> Ex. 15 at p. 16.

<sup>186</sup> Ex. 15 at p. 3.

93. The Town has maintained substantial fund balances over the years. The Minnesota State Auditor recommends fund balances equal to forty to fifty percent of annual expenses. In 2000, New Scandia had a fund balance of \$963,462.00 compared to total budget for operations of \$815,955.00, or a fund balance of 118.9% of expenses. In 2001 the fund balance equaled 51.89% of expenses; in 2002 75.37% of expenses; in 2003, 75.64% of expenses; and in 2004, 62.38% of expenses.<sup>187</sup> At the end of the year 2005, the Town had operating fund balances of \$931,340.00.<sup>188</sup>

94. Incorporation would allow the municipality to utilize tax increment financing to encourage economic development and redevelopment financed by the increased property taxes which would be generated by the development.<sup>189</sup> Cities have broader authority than townships to issue general obligation debt without a referendum. Cities can finance, through a housing and redevelopment authority, the construction of senior housing facilities with general obligation bonds.<sup>190</sup>

95. Incorporation would allow New Scandia to have an economic development authority under Minnesota Statutes § 469.091 to § 469.108.<sup>191</sup> An economic development authority would give New Scandia a tool with broad powers to lend funds, purchase and sell land, and become limited partners in a private business venture. Tax increment financing would allow expanded economic development with a corresponding creation of new jobs and housing.<sup>192</sup>

Relationship and effect of the proposed action on affected and adjacent school districts and communities.

96. New Scandia is served by the Forest Lake, Chisago Lakes and Stillwater School Districts. The School Districts are not expected to be affected by the incorporation of the Town. Because of the capacity of the school buildings and anticipated growth of the Town, the various districts will eventually need to build additional facilities, whether or not incorporation occurs.<sup>193</sup>

97. The future development in the new city will add to the tax base of the districts where the development occurs, helping to share in the cost of payments on both the existing debt and any future debt in the impacted districts.<sup>194</sup>

<sup>187</sup> Ex. 15 at p. 17; Test. J. Hart, Tr. V. II at p. 36-37.

<sup>188</sup> Ex. 33.

<sup>189</sup> Ex. 15, p. 20; Test. J. Hart, Tr. V. II at p. 38.

<sup>190</sup> Ex. 15 at p. 15.

<sup>191</sup> Ex. 15, at p. 20; Test. J. Hart, Tr. V. II at p. 38-39.

<sup>192</sup> Ex. 15 at p. 4.

<sup>193</sup> Ex. 15 at p. 1-2.

<sup>194</sup> Ex. 15 at p. 2.

98. The adjacent cities/townships which could be impacted by incorporation are the cities of Forest Lake, Marine On St. Croix, Hugo, May Township, Franconia Township and Chisago Lake Township. The only measurable impact of the incorporation would be that the cities of Forest Lake, Marine On St. Croix and Hugo would not be able to annex property from the new city. The adjacent cities/townships do not provide services to the current Town. New Scandia provides fire protection services to a portion of May Township. New Scandia would continue to furnish fire service to May Township upon incorporation.<sup>195</sup>

Whether delivery of services to the subject area can be adequately and economically delivered by township government or would be best provided through incorporation, annexation or another type of boundary adjustment.

99. New Scandia is an urban township operating as a small city. It furnishes all of the services of a small city, including fire and police protection, street maintenance, parks and recreation and building inspection services. It has a professional administrative staff. It has adopted and administers its own zoning and subdivision ordinances. New Scandia has a strong focus on protecting its natural resources. It carefully prepares and administers its budget, delivering its services in an economical manner. If it is not incorporated, New Scandia would continue to deliver its services and protect its resources in an economical manner. By incorporating, the Town will not be subject to annexation by adjacent cities thereby protecting its tax base, will eliminate the inefficiency of duplicative planning required by Washington County and Town Ordinances, will have the benefit of economic development tools such as tax increment financing and the right to have an economic development authority and will not be subject to the uncertainty of the budget adoption process at the annual Town meeting.<sup>196</sup>

Analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment.

100. New Scandia is a community with the Village Center as its heart. School, commercial, governmental and religious services are provided in the Village Center. Separating the Village Center from the remainder of the community would not serve the community, because it could lead to duplication of services and it could leave the rural portion of the community without the financial resources to supply the level of services currently provided.<sup>197</sup>

<sup>195</sup> Ex. 15 at p. 2.

<sup>190</sup> See discussion of previous factors.

<sup>197</sup> Ex. 4 at p. 17.

Degree of contiguity of the boundaries of the subject area and adjacent units of local government.

101. The subject area is the entire Township. If it is incorporated, there will be no change in the contiguity of its boundaries and the boundaries of adjacent units of local government.<sup>198</sup>

Applicability of the State Building Code.

102. New Scandia has been subject to the State Building Code for a number of years. Its most recent adoption of the State Building Code occurred in 2003.<sup>199</sup> New Scandia employs a contract building official to administer the Code. The Town will continue to be subject to the Code whether or not incorporation occurs.

Washington County.

103. Washington County is in the Seven County Metropolitan Area subject to the Metropolitan Council. Of thirty-three municipalities having area within the County, only six retain the Township form of government. A large part of Stillwater Township has been annexed to the City of Stillwater. Parts of Grey Cloud Island Township have been annexed to St. Paul Park and Cottage Grove.<sup>200</sup> Similarly to New Scandia, Denmark Township has discussed incorporation.<sup>201</sup> The Washington County Board of Commissioners adopted a Resolution approving the incorporation of Denmark Township. Washington County does not furnish the services it once did to the Townships due to lack of staff and conflicts of interest between the County and the Towns.<sup>202</sup>

104. On June 13, 2006, the Washington County Board of Commissioners adopted a Resolution supporting the incorporation of New Scandia Township as a City, finding inter alia that the Town has prepared its own Comprehensive Plan and adopted its own Zoning and Subdivision Regulations; has a long standing Village Center with an industrial park, commercial businesses, professional services and governmental buildings; has its own fully equipped and staffed fire department furnishing fire fighting and rescue services to the Town and to part of an adjacent town; provides police service; has a community center staffed with full and part time personnel furnishing municipal administrative services to the Town; issues its own building permits; maintains its own roads; provides park and recreation services; has a Town Board with five members operating in the manner of a City Council; has the ability, talent and resources to govern itself and to determine its own destiny; and that it would be in the best interests of New Scandia Township to be able to preserve its

<sup>198</sup> See Petition for Incorporation.

<sup>199</sup> Ex. 45; Test. D. Seefeldt, Tr. V. II at p. 145

<sup>200</sup> Ex. 5; Ex. 8.

<sup>201</sup> Test. D. Hegberg, Tr. V. III at p. 21.

<sup>202</sup> Test. D. Hegberg, Tr. V. III at p. 26.

boundaries in order to efficiently plan and provide for the best interests of the residents of the Town.<sup>203</sup>

### **Public Comment.**

105. Approximately 50 residents attended the public hearing session of which 11 residents offered public comment. A number of the speakers had served on the incorporation committee. Most of the speakers spoke in favor of incorporation of the Town citing a desire for self-governance, annexation concerns, a desire to eliminate County oversight and the services presently being provided by the Town. Three people spoke in opposition to incorporation expressing concerns over losing the rural character of the community and possible increased costs. One person expressed a lack of concern as to whether Scandia became incorporated, but expressed a desire to vote on the issue.<sup>204</sup> In addition, thirteen people submitted written comments to the ALJ, twelve writing in opposition to incorporation.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge has jurisdiction in this matter through the Office of Municipal Boundary Adjustments, pursuant to Minn. Stat. §§ 414.01, 414.02, 414.031 and 414.12 and the assignment by the Director of the Municipal Boundary Adjustments Unit to the Office of Administrative Hearings.

2. On December 28, 2005 New Scandia Township submitted its petition for incorporation as the City of New Scandia pursuant to Minn. Stat. § 414.02. The Township later sought to amend the proposed name of the city to Scandia. All of the jurisdictional prerequisites have been met and New Scandia's petition is properly before the ALJ for disposition.

3. Proper notice of the hearing in this matter has been given.

4. The Township of New Scandia is about to become urban or suburban in character. New Scandia has a City Center and is experiencing significant residential development. Incorporation is necessary to protect the rural character of the community. Incorporation will also allow the community to guide its development and protect its natural resources.<sup>205</sup>

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<sup>203</sup> Ex. 48.

<sup>204</sup> Tr. V. IV.

<sup>205</sup> Minn. Stat. § 414.02, subd. 3(b)(1).



5. Municipal government is required to protect the public health, safety and welfare of New Scandia.<sup>206</sup>

6. Incorporation is in the best interests of Scandia.<sup>207</sup>

7. That the newly incorporated city's name shall be "City of Scandia".

8. No adjustment of the New Scandia boundaries is necessary.<sup>208</sup>

9. These Conclusions are arrived at for the reasons set out in the following Memorandum, which is incorporated into these Conclusions by reference.

Based upon these Findings of Fact and Conclusions, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

### ORDER

IT IS HEREBY ORDERED THAT:

1. The Petition for Incorporation (I-69) of New Scandia Township is GRANTED;

2. That the name of the City shall be "Scandia".

3. The form of government shall be "Optional Plan A." An election shall be held not less than 45 days nor more than 60 days of the effective date of this Order to elect a mayor and four council persons. Brenda Eklund shall be the acting clerk for the election and she shall prepare the official ballot. Affidavits of candidacy shall be filed not more than four weeks and not less than two weeks before the date of the election. The polling place shall be the New Scandia Township Community Center and the Election Judges shall be appointed from those serving in the last Town election. The hours of the election shall be 7:00 a.m. to 8:00 p.m.

4. An election of a mayor and four council members shall be held on December 12, 2006. The mayor and two city council members shall be elected for a two-year term commencing January 1, 2007, and two city council members shall be elected for a four-year term commencing January 1, 2007. The persons receiving the two highest number of votes for councilperson will be elected to the terms ending January 1, 2011. The persons receiving the third and fourth highest number of votes for council person will be elected to the terms ending

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<sup>206</sup> Minn. Stat. § 414.02, subd. 3(b)(2).

<sup>207</sup> Minn. Stat. § 414.02, subd. 3(b)(3).

<sup>208</sup> Minn. Stat. § 414.02, subd. 4(d).

January 1, 2009. Thereafter the city council members shall be elected for four year terms.

5. In all other respects, the elections shall be conducted in conformity with the provisions of the Minnesota Statutes concerning the conduct of municipal elections insofar as applicable.

6. The ordinances of New Scandia Township, as well as the Land Use and Planning Controls and other ordinances, and all license privileges, shall remain in effect within the boundaries of New Scandia until repealed or replaced by the new governing body of the City of Scandia.

7. Upon incorporation, all money, claims, or properties including real estate owned, held or possessed by the former New Scandia Township, and any proceeds or taxes levied by New Scandia Township, collected and uncollected, shall become the property of and inure to the benefit of the newly incorporated City with full power and authority to use and dispose of the same for such public purposes as the council deems best, subject to claims of the creditors. This will include cash reserves and fund balances of the Township and all public property and equipment held by New Scandia Township.<sup>209</sup>

8. New Scandia Township's outstanding indebtedness, if any, will become the financial obligation of the newly incorporated City.<sup>210</sup>

9. The incorporation shall be effective upon the election and qualification of new municipal officers for the City of Scandia as specified in Minnesota Statutes § 414.02, subd. 4.

10. This Order is effective October 16, 2006.

Dated: October 12, 2006

  
JAMES E. LAFAVE  
Administrative Law Judge

Reported: Transcript Prepared  
Shaddix & Associates  
Logan & Styrbicki

<sup>209</sup> Minn. Stat. § 414.067, subd. 2.

<sup>210</sup> *Id.*

## NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.02, 414.031, 414.07 and 414.09. Any person aggrieved by this Order may appeal to Washington County District Court by filing an Application for Review with the Court Administrator within 30 days of the date of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions, and Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100. However, no request for amendment shall extend the time of appeal from these Findings of Fact, Conclusions and Order.

## MEMORANDUM

This proceeding was commenced by New Scandia Township when it filed a petition for incorporation. In summary, the Administrative Law Judge concludes that New Scandia Township is about to become urban or suburban in character. And, although certain portions of the Township remain rural in character, and that there is an expressed desire to retain that rural character, the ALJ finds that incorporation of the entire Township as the City of Scandia is in the area's best interest and is necessary to protect the public health, safety and welfare of the area.

The Minnesota Legislature found that "sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state".<sup>211</sup>

The Legislature's goals for the extension of municipal government are to assure that urban services are planned for developing areas and are designed to protect the stability of land use. Although there is a presumption that open space and rural residential uses can be protected by an unincorporated township, the goals emphasize the integrity of land use planning and efficient local government.<sup>212</sup>

In this case, although much of New Scandia Township will retain its rural residential level of development, incorporation will help Scandia maintain the integrity of its expansive area of natural resources and plan development in a way that will help protect those resources for the future.

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<sup>211</sup> Minn. Stat. § 414.01, subd. 1(a)(1).

<sup>212</sup> Min. Stat. § 414.01, subd.1(b)(3).

Another goal expressed in statute is to form a municipality when it has the necessary resources to operate economically and efficiently.<sup>213</sup> New Scandia Township has steadily developed the resources to function as a municipality.

**New Scandia is about to become urban or suburban in character.**

New Scandia has a well-developed urban center with an industrial park, commercial businesses, professional services and governmental buildings. It has a fully equipped and staffed fire department furnishing fire fighting and rescue services to the community. As with other cities in Washington County, it provides additional police service to its residents by contract with Washington County. It has a Community Center staffed with full and part time personnel and it issues its own building permits. It has a fully staffed and equipped road maintenance department. It is within easy commuting distance of the larger, adjacent, City of Forest Lake and the Twin City Metropolitan Area as a whole.

New Scandia is subject to the growth pressure placed on it by the growth of the City of Forest Lake, the growth of Washington County and the growth of the Metropolitan Area itself. In addition to the more intensely developed Village Center and lakeshore developments, the Town has experienced a number of large lot and cluster/open space residential development in the past several years in concert with the reduction of lands devoted to agricultural purposes.

**Consideration of the factors set forth in Minn. Stat. § 414.02, subd. 3.**

Each of the factors is detailed in the findings of fact and was fully considered in reaching the decision to incorporate the City of Scandia. Certain aspects are emphasized here.

Present population and number of households, past population and projected population growth for the subject area.

The current population of New Scandia is 3,970 with a household total of 1,412. In 1970, the population was 950 persons with households numbering 408. The populations of the neighboring cities of Hugo and Forest Lake, Washington County and the Metropolitan Area are all rapidly increasing. While the population growth of New Scandia is somewhat constrained by its designation as a diversified rural area by the Metropolitan Council, the population growth of the area increases the pressure for growth in New Scandia. There are no impediments to growth from a physical standpoint. Growth will mandate the delivery of municipal services and a hands-on approach to the protection of the resources of the community.

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<sup>213</sup> Minn. Stat. § 414.01, subd. 1(a)(3).

Quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.

New Scandia is almost 40 square miles in size, being the largest municipality in Washington County. The landscape has a variety of natural terrain, including level fields and forests, rolling hills and the bluffs of the St. Croix River. It has a variety of large and small lakes, wetlands and woodlands. It is bordered on its easterly edge by the St. Croix River, which has been designated as a National Wild and Scenic River. The soil conditions in New Scandia are such that development may occur in any area of the Town absent proper planning and concern for natural resources. The Town Government and its citizen committees have demonstrated the Town's desire and ability to plan for reasonable growth and yet protect its valuable natural resources. There are no natural dividing lines created by the physical features of the Town which would prohibit the incorporation of the entire Town.

Present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses.

The Metropolitan Council has designated New Scandia as a diversified rural area. The Town operates as a city and to the same or greater extent than other cities in Washington County. It has its intensively developed Village Center with its variety of residential, commercial, industrial, professional and government uses. It has a senior housing complex, an elementary school, and a number of municipal recreational facilities. Agricultural uses are transitioning to residential uses. The lakeshores of the larger lakes have intensive residential lakeshore development. A large quantity of land in the Town is devoted to regional, state and local parks and recreational facilities.

The Town has comprehensively planned for growth and uses in the Town, as demonstrated by its Comprehensive Plan and its Comprehensive Parks Plan. The Town has had a Comprehensive Plan since 1980 and its most current version was adopted in 1998. It will update the plan as required by the Metropolitan Council in 2008. The Town has long had zoning and subdivision regulations applicable to the entire Town. Its Comprehensive Plans and Development Code require an orderly expansion of the Village Center with much less intensive development of agricultural and rural residential areas.

An overriding goal of the Town's plan is to protect its natural resources, including its rivers, streams, lakes and wetlands. The town is included within three major watershed districts and a water management organization. The soils of the Town in large part support onsite septic systems. The pattern of physical development with its Village Center, other intensively developed residential areas and rural residential development demands an array of municipal services which the Town has undertaken to provide. Incorporation would enhance the Town's

ability to plan and provide services. It would be better able to plan and control its own future by eliminating the duplicative planning, zoning and subdivision requirements of Washington County.

When its population reaches 5000 persons, New Scandia, as a city, will have available to it municipal state aid road funds to aid in the construction and maintenance of its road system. As a city, it will have available to it economic development tools including tax increment financing and the ability to establish an economic development authority. It will receive local government aid on an annual basis of \$6.00 per resident. It will have the authority to issue general obligation debt without a referendum. It could issue general obligation bonds through a housing and redevelopment authority to promote senior housing projects.

The present transportation system and potential transportation issues, including proposed highway development.

The Town is subject to and has the benefit of two state trunk highways connecting population centers in eastern Minnesota and Northwestern Wisconsin to the Metropolitan Twin City Area. It has the benefit of, and is subject to, a number of Washington County Highways and it also has its own network of approximately 70 miles of Township roads. The accessibility to the Town created by its road network will inevitably lead to additional demands for residential and commercial growth. Incorporation would allow the Town to receive Municipal State Aid Road Funds of approximately \$225,000.00, based on current formulas, when it reaches a population of 5000 persons. The Town provides the facilities, equipment and personnel necessary to maintain its road system in proper condition. It has embarked on a program which began in 1989 to pave all of its Town roads by the year 2009. Of its 70 miles of roads, only 12.9 miles of roads remain to be paved.

Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls.

The Metropolitan Council has designated New Scandia as a diversified rural area, which recognizes a mix of residential, agricultural and open space land uses. New Scandia has adopted Comprehensive Plans and development Ordinances which are consistent with Metropolitan Council Guidelines. The Town's Development Code recognizes a variety of zoning districts, including agricultural, semi-rural residential, single family estate, retail and general business. District densities are in compliance with Metropolitan Council Guidelines. New Scandia uses its Zoning Ordinance to strengthen its Village Center, concentrating in it more intensive development with surrounding rural and suburban landscape. New Scandia has demonstrated its ability to regulate its development. Incorporation would allow New Scandia to independently

provide for its future without supervision by Washington County, but in accordance with Metropolitan Council guidelines.

Existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services.

New Scandia has established and delivers a full array of municipal services in the manner of a city. Included are its fire department, law enforcement, administration, public works and parks department. The Town has established or cooperated in the establishment of community waste water treatment facilities in areas of need. Services and facilities are furnished by the Town Board in part through the urban powers granted to it by Minn. Stat. § 368 which, essentially, adopts the powers granted to cities by Minn. Stat. §§ 412, 465 and 429. While incorporation would not necessarily change the already high level of services furnished by the Town, it would lend more certainty to the planning and budgeting process of the governing body by eliminating the right of the electors to set the budget.

Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.

There are no environmental problems that are likely to be affected, other than the continuing need to plan for increased pressure on the natural resources in Scandia, as discussed above.

Fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues.

This factor is fully discussed in the Findings of Fact. Incorporation will have a neutral fiscal impact on New Scandia but will provide much needed stability.

New Scandia has a population of 3900. It has a budget in excess of \$2,000,000.00 per year and a levy of more than \$1,400,000.00 per year. It has a rapidly increasing taxable market value of more than \$500,000,000.00. At the end of the year 2005 it had bonded indebtedness of \$2,567,000.00 with the additional debt capacity needed to enable it to finance any needed major improvements.

This multimillion-dollar budget is approved by electors at a re-convened annual meeting. The electors also have the ability to modify the budget on the spot. Typically only five to fifteen electors participate.

In any given year a real danger exists that a handful of disgruntled electors, unaccountable to the public, could radically alter a well-conceived budget with disastrous effects. Incorporation would eliminate that threat.

Incorporation by itself will not adversely affect Washington County, or the school districts having territory in the Town or other governmental units. Incorporation will allow New Scandia to maintain its tax base by preventing encroachment on its boundaries by annexation of neighboring municipalities; will permit it to use economic development tools which are not permitted to be used by towns; will allow it to receive local government aid and, when it attains a population of 5000, municipal state aid road funds.

Relationship and effect of the proposed action on affected and adjacent school districts and communities.

Incorporation is not likely to significantly impact affected and adjacent school districts and communities. Incorporation would aid Scandia in protecting its boundaries from annexation of its property by adjacent communities.

Whether delivery of services to the subject area can be adequately and economically delivered by the existing government.

New Scandia Township adequately and economically provides services, but it does so by exercising the urban powers granted to it under Minn. Stat. § 368. Incorporation will not diminish the services provided. The inefficiencies created by the administration of duplicative Washington County jurisdiction would be eliminated.

Analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment.

Necessary government services can best be provided by incorporation of the entire Town. Incorporation of a portion of the Town, only, will leave the balance of the community without the financial resources to supply the level of services currently provided. The Town has a long history of planning for and providing services throughout its entire area.

Degree of contiguity of the boundaries of the subject area and adjacent units of local government.

Incorporation of the entire town will maintain the degree of contiguity of its boundaries with adjacent units of local government.

Analysis of the State Building Code.

New Scandia Township adopts, applies and enforces the State Building Code. No change will result by incorporation.



**Public Opposition:**

There was no public referendum, so there was no way to gauge the overall public support for the petition for incorporation. And, while there was no party of record opposing incorporation, at the public hearing and by written submission, several citizens articulated reasonable and valid objections to the petition. Their concerns were well considered and merit discussion.

The concerns and objections can be generally grouped under the following headings:

The new City would be ill equipped to handle the regulation of the four mining operations in New Scandia Township.

A serious concern was expressed that a newly incorporated City would be unable to adequately regulate the four mining operations in New Scandia Township. Washington County currently regulates these mining operations. It is true that upon incorporation Washington County would no longer have the authority to continue to do so.

The Township of New Scandia, however, has demonstrated it has experience in the inspection and regulation of the mines. The Town has inspected the mines on an annual basis for years.<sup>214</sup> When violations or problems occurred the Township was inspecting the mines on an almost weekly basis.<sup>215</sup> The Township has and currently issues permits for the mines annually.<sup>216</sup> And upon incorporation, the City of Scandia would have the authority to promulgate ordinances, rules and regulations to govern the mines.

There is no evidence in the record to suggest the City of Scandia would lack the resources to regulate the mines. And there is no evidence in the record to suggest that the newly elected municipal officers would fail to act to protect the health, safety and welfare of the citizens of Scandia.

What are the tax implications? Or my taxes will go up.

Several citizens expressed concern that they were not informed of the potential tax ramifications of incorporation or that they opposed incorporation because they feared their tax burden would increase.

The New Scandia Township Incorporation Committee published "New Scandia Incorporation: Issues/Questions/Answers"<sup>217</sup> in June 2005. That publication, predicted "an increase of \$9-\$10 per year ... for the *township (city)*

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<sup>214</sup> Test. D. Seefeldt, Tr. V. II at p. 155.

<sup>215</sup> Test. D. Seefeldt, Tr. V. II at p. 155.

<sup>216</sup> Test. D. Seefeldt, Tr. V. II at p. 155.

<sup>217</sup> See Ex. 2.

portion of the annual property tax bill for a home with a taxable market value of \$227, 500."<sup>218</sup> (Emphasis in the original.)

The Board members will personally profit or that Board members acted inappropriately.

There is absolutely no evidence in the record to support such allegations or to suggest that the Board members acted other than honorably and in the best interest of the community.

By incorporating, New Scandia Township will lose it rural character.

Preserving New Scandia's "rural character" was important to nearly everyone who testified at the evidentiary hearings, who spoke at the public hearing or who made written submissions. There was, however, a difference of opinion on how that should be accomplished. Some felt that by incorporating New Scandia Township would lose its rural character. Interestingly, a persistent theme in the evidentiary proceedings was that New Scandia Township needed to incorporate to preserve its rural character.

At first blush incorporating to "preserve rural character" seems counterintuitive, but given the Minnesota Legislature's stated findings and goals the Township makes a persuasive argument. New Scandia Township will face increasing developmental pressure. Washington County will not be as responsive to local needs or concerns as a directly elected municipal government. The goals and values of the community will be better served and fostered by a directly elected government.

### Conclusion

In conclusion, New Scandia Township already acts like a small city. It needs the statutory tools of municipal government to control and finance its growth and to protect its natural resources. The petition to incorporate the City of Scandia should be granted.

J. E. L.

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<sup>218</sup> Ex. 2 at p.1.