

J-6

O R D E R

Upon the proper petition of the legally required number of freeholders residing in the area proposed for incorporation, to incorporate a Village to be known as St. Francis, Minnesota, which came regularly on for hearing, after due notice thereof was given as required by law, in the Commissioner's Room of the County Court House, Anoka, Minnesota, on December 14, 1961, at 10 o'clock A.M., and which was thereafter heard at a reconvened hearing, after due notice given, on February 27, 1962, at 10 o'clock A.M., in said Room, at which times testimony was heard and evidence taken, and at said second hearing an area in addition to the area proposed for incorporation in said Petition was considered for inclusion within the boundaries of the proposed village, and upon all of the files and records herein, and the Commission being fully advised in the premises,

IT IS ORDERED, that said Petition for incorporation be, and the same is hereby approved, and that the additional area determined to be added to the territory contained in said Petition is so added and approved, so that the boundaries of the proposed Village shall be:

Beginning at the Northwest corner of Township Thirty-four (34), North, Range Twenty-five (25) West, Anoka County, Minnesota, thence East (E), along the North (N) line of said Township Thirty-four (34) North, Range Twenty-five (25) West, and along the North (N) line of Township Thirty-four (34) North, Range Twenty-four (24) West, Anoka County, Minnesota, to the Northeast corner of said Township Thirty-four (34) North, Range Twenty-four (24) West; thence South (S), along the East (E) line of the Northeast Quarter of Northeast Quarter ( $NE\frac{1}{4}$  of  $NE\frac{1}{4}$ ) of Section Twenty-five (25), said Township Thirty-Four (34) North, Range Twenty-four (24) West, Anoka County, Minnesota, to the Southeast corner of said Northeast Quarter of Northeast Quarter ( $NE\frac{1}{4}$  of  $NE\frac{1}{4}$ ); thence West (W) along the South (S) line of said Northeast Quarter of Northeast Quarter ( $NE\frac{1}{4}$  of  $NE\frac{1}{4}$ ), and along the South (S) lines of the Northwest Quarter of Northeast Quarter ( $NW\frac{1}{4}$  of  $NE\frac{1}{4}$ ) and Northeast Quarter of Northwest Quarter ( $NE\frac{1}{4}$  of  $NW\frac{1}{4}$ ) of said Section Twenty-five (25), to the Southwest corner of said Northeast Quarter of Northwest Quarter ( $NE\frac{1}{4}$  of  $NW\frac{1}{4}$ ); thence South (S), along the East (E) line of the Southwest Quarter of Northwest Quarter ( $SW\frac{1}{4}$  of  $NW\frac{1}{4}$ ), and the East (E) line of the West one-half of the Southwest Quarter ( $W\frac{1}{2}$  of  $SW\frac{1}{4}$ ) of said Section Twenty-five (25), and along the East (E) line of the Northwest Quarter of Northwest Quarter ( $NW\frac{1}{4}$  of  $NW\frac{1}{4}$ ) of Section Thirty-six (36), said Township Thirty-four (34) North, Range Twenty-four (24), West, Anoka County, Minnesota, to the Southeast corner of said Northwest Quarter of Northwest Quarter ( $NW\frac{1}{4}$  of  $NW\frac{1}{4}$ ) of said Section Thirty-six (36); thence East (E) along the North (N) line of the Southeast Quarter of Northwest Quarter ( $SE\frac{1}{4}$  of  $NW\frac{1}{4}$ ), said Section Thirty-six (36), and along the North (N) line of the South one-half of Northeast Quarter ( $S\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Thirty-six (36), to the Northeast corner of the Southeast Quarter of Northeast

Quarter ( $SE\frac{1}{4}$  of  $NE\frac{1}{4}$ ) of said Section Thirty-six (36); thence South (S), along the East (E) line of said Section Thirty-Six (36), to the Southeast corner thereof; thence West (W), along the South (S) line of said Township Thirty-four (34) North (N), Range Twenty-four (24) West, to the Northeast corner of the West one-half of the Northeast Quarter ( $W\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of Section Five (5), Township Thirty-three (33), North, Range Twenty-four (24) West, Anoka County, Minnesota; thence South (S), along the East line of said West one-half of Northeast Quarter ( $W\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Five (5), to the Southeast corner of the Southwest Quarter of Northeast Quarter ( $SW\frac{1}{4}$  of  $NE\frac{1}{4}$ ) of said Section Five (5); thence West (W) along the South (S) line of the said Southwest Quarter of Northeast Quarter ( $SW\frac{1}{4}$  of  $NE\frac{1}{4}$ ) of said Section Five (5), and along the South (S) line of the Northwest Quarter ( $NW\frac{1}{4}$ ) of said Section Five (5), and along the South (S) line of the Northeast Quarter ( $NE\frac{1}{4}$ ) of Section Six (6), Township Thirty-three (33) North, Range Twenty-four (24) West, Anoka County, Minnesota, to the Southwest corner of said Northeast Quarter ( $NE\frac{1}{4}$ ) of said Section Six (6); thence North (N), along the West (W) line of the Southwest Quarter of Northeast Quarter ( $SW\frac{1}{4}$  of  $NE\frac{1}{4}$ ) of said Section Six (6), to the center line of State Highway No. 47, formerly State Highway No. 56; thence Northeasterly along the said center line to the South (S) line of the North one-half of the Northeast Quarter ( $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Six (6); thence East (E), along said South (S) line of said North one-half of Northeast Quarter ( $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Six (6), to a point thereon seventy-five (75) rods East (E) of the Southwest corner of said North one-half of Northeast Quarter ( $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Six (6); thence North (N), parallel with the West (W) line of said North one-half of Northeast Quarter ( $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of said Section Six (6), to the North (N) line of said Section Six (6), which is also the South (S) line of Township Thirty-four (34), North, Range Twenty-four (24) West, Anoka County, Minnesota, thence West (W), along the said North (N) line of said Section Six (6), and along the South (S) line of said Township Thirty-four (34) North, Range Twenty-four (24) West, Anoka County, Minnesota, and along the South (S) line of said Township Thirty-four (34) North, Range Twenty-five (25) West, Anoka County, Minnesota, to the Southwest corner of said Township Thirty-four (34) North, Range Twenty-five (25) West, Anoka County, Minnesota; thence North (N), along the West (W) line of said Township Thirty-four (34) North, Range Twenty-five (25) West, to the point of beginning.

Said boundaries encompassing all of the area approved for incorporation.

IT IS FURTHER ORDERED, that an election be held in the area so approved for incorporation, on the question of whether or not the total area so approved for incorporation should be incorporated as the Village of St. Francis.

IT IS FURTHER ORDERED, that the effective date of this ORDER shall be April 6, 1962.

IT IS FURTHER ORDERED, that such election shall be held on Tuesday, the 1st day of May, 1962, at the following place within the said area so approved for incorporation:

The High School of Independent School District No. 15, St. Francis Township, Anoka County, Minnesota,

and the polls be open at said polling place from 7:00 a.m. to 7:00 p.m., on said day; that the following three elector residents of the area so approved for incorporation shall act as judges; thereof:

H. P. Palmer, Lois Tennison, and Rebecca Stolz;  
with the following as alternate judges:

Helen Steinke and Viola Ramacher,  
and that such election shall be conducted, so far as practicable, in accordance with the laws regulating the election of Town officers. Only voters residing in the territory so approved for incorporation shall be entitled to vote. The ballots shall bear the words "For Incorporation" and Against Incorporation with a square before each of the phrases, in one of which the voter shall make a cross to express his choice. The ballots and necessary supplies shall be provided and the judges shall be paid by the petitioners.

IT IS FURTHER ORDERED, that the petitioners cause a copy of this ORDER, approving the petition and adding additional area to the territory contained in said Petition, including Notice of the election, to be posted not less than 20 days before the 1st day of May, 1962, said election day in three (3) public places in the area so approved for incorporation and to be published in the Anoka Union, a newspaper qualified a medium of official and legal publication of general circulation in the area so approved for incorporation for two successive weeks before the 1st day of May, 1962, said election day.

MINNESOTA MUNICIPAL COMMISSION

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Joseph Robbie, Chairman

Dated this 21st day of March, 1962.

## MEMORANDUM OPINION

We approve the petition to incorporate the proposed Village of St. Francis subject to the election provided by Laws 1959, Chapter 686, Section 2, Subdivision 3, as amended.

The area proposed for incorporation lying in the Northwest portion of Anoka County adjacent to the Southern boundary of Isanti County contains 15,227 acres of land of which 14,593 are unplatted. The area has been identified as St. Francis for the past several decades and contains 3 churches, a United States Post Office, a grocery store which sells gasoline, another store which sells groceries, hardware and gasoline, a feed, seed and implement store, 2 taverns, a barber shop, a restaurant which sells gasoline, a drive-in and three apartment buildings in the nucleus area. In the adjacent unplatted area another business maintains a service station and tavern and sells used auto parts, another handles damaged freight and there is an automobile repair shop.

The population in the nucleus residential area is of long-standing.

While St. Francis is not within the densely populated portion of the metropolitan area and expects no extension of the metropolitan population to reach it within the reasonable future, it has experienced the normal growth of a settled community in a rural setting. St. Francis Township issued 3 building permits in 1960 and 14 in 1961. The proposed area lies partially in St. Francis Township and partially in Oak Grove Township. Two new residential buildings have been constructed in the past 2 years in the Oak Grove portion and this Oak Grove property abutts on the South line of St. Francis Township and is a part of the general nucleus.

The platted property forms a nucleus and serves as the greater educational and cultural center for the surrounding unplatted lands which are included in the petition.

After the petition was submitted and the first public hearing held, the petition was amended to include additional property as shown in the attached Findings. There was no opposition to the

incorporation of St. Francis, but the owner of a business in the added property who deals in auto salvage appeared by counsel and protested at the reconvened hearing to consider the amendment.

While his cross-examination of petitioner's witnesses indicated that his opposition was based upon the lack of suitability of the added unplatted lands for municipal government, it clearly appeared that his real opposition was based upon an objection to having his business located within a municipality and subject to municipal government.

We hold that a newly incorporated area should include businesses on the fringe of the proposed boundaries, particularly those which by the nature of the business require some regulation in the public interest. This is true of auto salvage. This is especially the case where, as we develop in this opinion, the proposed municipality is in a basically rural setting and there is no adjacent village to which the land containing such business more properly belongs. There would be little reason to approve an incorporation in a rural environment where there are no nearby municipalities and to invite problems in the immediate future by leaving border areas already containing business property where unregulated land uses might hamper or destroy the benefits to be gained from municipal government by adequate planning, zoning and land use control. In this instance, the vested rights of the protestant to continue his present use of the land is fully protected and he can be only subjected to reasonable regulation to protect the public health, safety and welfare.

This is the first petition we have considered since the enactment of the Municipal Commission Act by the 1959 Legislature where the area proposed for incorporation does not lie within the densely settled area of the metropolitan region or expects immediate growth which will join it to the metropolis and make of it only one component part thereof. We do not foresee that this will occur in the next 20 years. It is not apt to happen at the present accelerated rate of urban growth for a much longer period. The Minnesota Supreme Court clearly distinguished between what is suitably conditioned for incorporation in a rural setting from suitability in

the metropolitan environment in the St. Anthony and Webb decisions. When these are read in contrast with the earlier Minnetonka Village decision, the distinction becomes evident. The Minnesota Legislature also drew the same clear distinction when it adopted the Municipal Commission Act. The Legislature applied Commission review only to petitions for incorporation within the census-defined metropolitan area. Section 2 of the Act limits the requirement of the Municipal Commission review of proposed incorporations to petitions for incorporation for a village in any county containing a city of the first or second class and in any county within any metropolitan area as defined in the Act creating the Twin Cities Metropolitan Planning Commission. (Minnesota Statutes 1957, Section 473.02 subd. 5) Petitions for incorporation elsewhere in Minnesota are only considered by the Municipal Commission if they include property within 4 miles of the boundary of an existing municipality. In any other area in Minnesota, the Board of County Commissioners applies the standards and procedures of the Municipal Commission Act to determine whether or not an incorporation election shall be ordered.

It is clear from the prior Court decisions and the Legislative history that an area is suitably conditioned for incorporation in the rural area which would not be an adequate individual entity for incorporation within the metropolitan area where urban growth is not limited by the suggested borders of the proposed municipality.

We distinguish this petition from previous proposals to this Commission for the incorporation of Minnetrista, Dayton Park and Orchard Gardens. We approved Minnetrista but rejected Dayton Park and Orchard Gardens. All three of these areas are within the heart of the Twin Cities metropolitan area, possess a unity with their surroundings beyond the boundaries of the proposed municipalities, and will experience their urban or suburban growth only in the context of their environment.

While we approved Minnetrista because it lies in the Western part of Hennepin County at the outer perimeter of the metropolitan region, was confronted with imminent growth which required municipal controls, and did not have a close unity of interest with Mound, Island Park or St. Bonifacius to afford the practical possibility of

annexation, our approval was reluctantly granted. We were somewhat persuaded by the merger of the Villages of Mound and Island Park which was accomplished in the process of the hearings and deliberations which led to our consent to the Minnetrista incorporation. This, accompanied by other indicated constructive boundary changes, led us to the conclusion that the public interest would be served by our approval of the Minnetrista petition. At some further time when the population density of Minnetrista approaches that of Mound, Island Park and St. Bonifacius (all carved from Minnetrista Township), we are convinced that all will be best served by merging into one municipality. This was not practical at the time Minnetrista was incorporated.

We denied the petitions to incorporate Dayton Park or Orchard Gardens because neither is an adequate entity for separate incorporation. Neither met the test of State ex rel (Childs) vs. Minnetonka Village, et al, 57 Minn. 526; 59 NW 972, 25 LRA 755, or the later modification to adapt this test to the creation of villages within the metropolitan area in State ex rel Burnquist vs. Village of St. Anthony, (1947) (223 Minn.) 149, 26 NW 2d 193 and State ex rel Twp. of Copley vs. Village of Webb (1957) 250 Minn. 22, 83 NW 2d 788. These and other decisions which covered the law with respect to the point at which an area became suitably conditioned for municipal government prior to enactment of the Municipal Commission Act are reviewed in our White Bear Lake annexation decision. (In the Matter of the Petition of Freeholders for the Annexation of Adjoining Unincorporated Property to the City of White Bear Lake, A-22-60, April 4, 1960). Nor did Dayton Park or Orchard Gardens meet the legislative mandate in the creation of the Municipal Commission Act which has modified the concept of when property is suitable to be included within municipal limits either by new incorporation or by annexation to existing cities or villages. We said in the Orchard Gardens' decision that a larger solution is required because Orchard Gardens is merely a component part of the metropolitan area and cannot be separately considered in establishing boundaries and responsibility for local government.

Such is not the case with St. Francis. While the proposed territory is included within Anoka County which is a metropolitan area by the statistical standards of the Bureau of Census and is among the seven counties which are under the advisory jurisdiction of the Twin Cities Metropolitan Planning Commission, St. Francis lies beyond the outer periphery of metropolitan population growth and there is little prospect within the next several decades that metropolitan population density will extend northwest of the City of Anoka to reach the St. Francis border. The included property is in the Northwest corner of Anoka County and borders on Isanti County. The surroundings of the proposed area are agricultural in character. There is little to indicate that the basic agricultural character of the surrounding lands will change during the next two decades of dramatic population growth of the metropolitan heartland. In short, St. Francis, lying beyond the outer perimeter of the counties included within what is usually defined as the metropolitan area, is more similar to villages in the farm areas of Minnesota than it is, or is soon likely to become, to the burgeoning metropolis. It is set in a rural environment, not a metropolitan setting.

We hold that the criteria for approval of the proposed incorporation of new municipalities is different in the area of anticipated rapid population growth of what is in reality (as distinguished from statistical definition) the Twin Cities metropolitan area than it is in rural Minnesota. We consider St. Francis to fit the latter more closely than the former category.

Many long-time residents of St. Francis are surprised to learn that they have not always been incorporated as a village. This results from the identification of St. Francis as a community in the public mind without reference to its township governmental status. This area, with its business nucleus, including a bank, service station and general store, has been identified as St. Francis for several decades, and the public may have considered it in the same sense as an incorporated municipality. An excellent consolidated school bears its name and serves the territory.



It is probable that St. Francis could have been incorporated under prior law at any time in the last several decades. While we have not examined the present petition with particularity in the light of the case law which governed municipal incorporations prior to creation of this Commission by the 1959 Legislature, it appears probably to us that St. Francis meets the tests for incorporation set forth in the three-factor formula in the Minnetonka Village decision. St. Francis has (1) a compact center or nucleus of population; (2) its adjacent unplatted lands are suburban in character; and (3) its unplatted lands have with the platted portion a unity of interest in the maintenance of a village government.

We therefore limit this decision to the individual case. If St. Francis were surrounded by other swiftly growing urban land where its proposed borders would very quickly become artificial and arbitrary and its growth would merge with the surrounding area, we would not consider it a proper unit for separate incorporation. One of the most persuasive arguments for the need to incorporate St. Francis lies in the fact that Anoka, 15 miles distant, presently provides fire protection. While the Anoka Fire Department quickly and consistently responds to fire calls, the most it can usually accomplish by the time it reaches St. Francis is to cool the ashes because of the distance involved. St. Francis represents the same type of incorporation as the villages which were created in an earlier era with the advent of the railroads. The only way that urban government can be brought to St. Francis is by separate incorporation. While it is not in the settled metropolitan community, it is close enough to benefit from urban controls or building permits and land use.

We are convinced that the St. Francis community, with its excellent consolidated school system, churches and greater enterprises will benefit from its long deferred status as a municipality.

BY THE FULL COMMISSION:

Joseph Robbie,  
C h a i r m a n

Opinion by Joseph Robbie  
Dated: March 29, 1962.