

OA-109-2 Fergus Falls  
Fergus Falls Township

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Robert Ferderer  
Kenneth Sette  
Richard Sand  
Sydney G. Nelson  
A. Hubert Nordgren

Chairman  
Vice Chairman  
Member  
Ex-Officio Member  
Ex-Officio Member

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IN THE MATTER OF THE JOINT )	AMENDMENT TO ORDER,
RESOLUTION OF THE CITY OF )	Dated March 23, 1983
FERGUS FALLS AND THE TOWN )	
OF FERGUS FALLS FOR THE )	
ORDERLY ANNEXATION OF )	
CERTAIN LAND TO THE CITY )	
OF FERGUS FALLS PURSUANT )	
TO MINNESOTA STATUTE 414 )	

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The above entitled matter came on for hearing before the Minnesota Municipal Board on April 29, 1981, and resulted in an Order dated March 23, 1983, directing the annexation of certain described property to the City of Fergus Falls. That Order was subsequently affirmed by the District Court of the Seventh Judicial District. On November 13, 1984, the Minnesota Court of Appeals, however, ruled that a referendum should be held upon the annexation pursuant to Minn. Stat. § 414.031, subd. 5. This holding was based entirely upon the Court's determination that the City and Town had unambiguously provided for such a referendum in their Joint Resolution for Orderly Annexation and that such agreement of the parties should be given effect in the circumstances of that case.

The City of Fergus Falls petitioned the Minnesota Supreme Court for further review. On or about December 27, 1984, while that petition was pending before the Minnesota Supreme Court, the City and Town entered into a stipulation for settlement of the appeal concerning the matter. That stipulation provides inter alia

1. That the area approved for annexation should be reduced to an area which has been specifically described by agreement through counsel for the City and Town as:

The Southeast Quarter (SE1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 25, of Township 133 North, Range 43 West, not presently within the City of Fergus Falls.

containing a population of 60 persons, and

2. that this reduced area may be considered annexed without the holding of any referendum or further judicial consideration.

The Board finds that this area and population is entirely contained within the area previously approved for annexation by the Order dated March 23, 1983.

In addition, the stipulation contains various agreements concerning amendments to the existing Joint Resolution for Orderly Annexation between the City and Town as respects possible future annexation of property to the City. Pursuant to this stipulation the City's Petition for Judicial Review was withdrawn on March 8, 1985, and the matter returned to the Municipal Board for further action.

As always, the Board supports the efforts of parties to reach mutually agreed settlement of their differences. Upon review of all the records and proceedings herein, the Board has determined that, in this matter, the annexation of the reduced area as described by the parties without the necessity of referendum is consistent with the findings and conclusions made by the Board on March 23, 1983, with the decision rendered by the Minnesota Court of Appeals entered on November 13, 1984, and with the best interest of the public and the parties concerned.

NOW THEREFORE the Minnesota Municipal Board makes the following:

O R D E R

1. IT IS HEREBY ORDERED: That Article 1 of the Minnesota Municipal Board's Order on OA-109-2, dated March 23, 1983, is amended to read as follows:

That the property described hereinafter be, and the same is hereby annexed to the City of Fergus Falls, Minnesota, the same as if it had been originally made a part thereof:

The Southeast Quarter (SE1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 25, of Township 133 North, Range 43 West, not presently within the City of Fergus Falls.

2. IT IS FURTHER ORDERED: That Article 3 of the Order above-mentioned in Article 1, herein, is amended to read as follows:

That the population of the City of Fergus Falls has been increased by 60 persons.

3. IT IS FURTHER ORDERED: That Article 4 of the Order above-mentioned in Article 1, herein, is amended to read as follows:

That the population of the Town of Fergus Falls has been decreased by 60 persons.

4. IT IS FURTHER ORDERED: That the Order of March 23, 1983, as herein amended is in all respects ratified and confirmed and applies, with respect to the property described in Article 1 as herein amended continuously from April 27, 1983.

IT IS FURTHER ORDERED: That this Order is effective immediately upon issuance.

Dated this 8<sup>th</sup> day of July, 1985.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101



Terrence A. Merritt  
Executive Director

## MEMORANDUM

The Board commends the parties for their cooperative efforts in resolving their differences concerning the present annexation, and hopes that this cooperation will continue and will serve to benefit the community as a whole in addition to the interests of the City and Town. The Board notes that a number of the provisions of the settlement stipulation address amendments to the orderly annexation agreement with respect to the manner and timing of potential future annexations. While the Board is not presently in a position to enter findings or orders upon annexations which may or may not occur at a future date, the Board asks the cooperation of the parties and their counsel in structuring their amendments and future annexations in the manner prescribed by statute and rules of the Board. The Board recognizes that the decision of the Minnesota Court of Appeals holds that the parties to a Joint Resolution for Orderly Annexation may preserve the statutory provisions for referendum as it would exist absent a joint resolution. However, the Board does not believe that the holding of the Court of Appeals calls for general abrogation of the applicable procedures set forth in statute for annexations within a designated area in deference to pre-existing agreement of the City and Town. Thus, for example, the Board is not presently able to determine whether or not the area described in paragraphs 3 and 4 of the stipulation will, in 1988, satisfy statutory criteria or will require a public hearing pursuant to statute. However, there do

exist statutory procedures which might be considered by the City and Town for the effectuation of their agreement when the time arrives. E.g. Minn. Stat. § 414.0325 provides, in part:

If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the board is necessary, the board may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

Absent an intervening change in the statutes or case law, this provision together with the decision of the Court of Appeals might be used in the future when a specific annexation is desired to avoid the necessity of a Board hearing while reserving the opportunity for referendum. *JAM 7-8-85*