

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Harley Boettcher	Ex-Officio Member
Douglas Krueger	Ex-Officio Member

IN THE MATTER OF THE JOINT RESOLUTION)	
BETWEEN THE CITY OF ROCHESTER AND THE)	<u>FINDINGS OF FACT,</u>
TOWN OF CASCADE FOR THE ORDERLY)	<u>CONCLUSIONS OF LAW,</u>
ANNEXATION OF CERTAIN LAND TO THE CITY)	<u>AND ORDER</u>
OF ROCHESTER)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on February 1, 1984, at Rochester, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Sub-division 12. Also in attendance were County Commissioners Douglas Krueger and Harley Boettcher, Ex-Officio Members of the Board. The City of Rochester appeared by and through Fredrick Suhler, Jr., City Attorney, and the Town of Cascade appeared by and through Stanley Hunter, Town Board Chairman. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. A joint resolution for orderly annexation was adopted by the City of Rochester and the Town of Cascade and duly accepted by the Minnesota Municipal Board.

2. A resolution was filed by one of the signatories to the joint

resolution, the City of Rochester, on November 3, 1983, requesting the annexation of certain property within the orderly annexation area. The resolution contained all of the information required by Statute including a description of the property subject to annexation, which is as follows:

A part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 33, Township 107 North, Range 14 West, Olmsted County, Minnesota described as follows:

Commencing at the Northwest corner of said Northeast Quarter (NE¼); thence South 00 degrees 09 minutes 30 seconds West, assumed bearing, along the West line of said Northeast Quarter (NE¼), 1296.00 feet for a point of beginning; thence South 89 degrees 50 minutes 30 seconds East, 348.48 feet; thence North 00 degrees 09 minutes 30 seconds East, parallel with the West line of said Northeast Quarter (NE¼), 366.00 feet; thence North 27 degrees 29 minutes 05 seconds West, 139.89 feet to a point in the Southerly right-of-way line of Seventh Street Northwest, as revised; thence on a continuation and extension of the previously described line North 27 degrees 29 minutes 05 seconds West to a point in the Northerly right-of-way line of Seventh Street Northwest as revised, thence westerly along said northerly right-of-way line to the West line of said Northeast Quarter (NE¼); thence South 00 degrees 09 minutes 30 seconds West along said West line to the point of beginning, except the West 66.00 feet thereof.

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

4. The area subject to annexation is unincorporated, within the orderly annexation agreement area, approximately 3.8 acres plus the road right-of-way, and abuts the City of Rochester by approximately 16%. The City of Rochester is approximately 19.91 square miles in size.

5. The Town of Cascade has a total area of approximately 23.9 square miles.

6. The South Run of the North Fork of Cascade Creek flows in a channelized ditch along the west boundary of the annexation area. The annexation area is elevated above the 100-year flood plain for Cascade Creek.

7. In 1970, the city's population was 53,766, in 1980 its population was 57,890, and in 1982 its population was 58,391.

8. The Town of Cascade had a population of 2,442 in 1970, 2,384 in 1980, and its population in 1982 was 2,498.

9. In the area proposed for annexation, there has been no population since 1970, and it is projected to have no future population since its use is exclusively commercial in nature.

10. The City of Rochester has approximately 6,400 acres in residential use, approximately 2,079 acres in institutional and park use, approximately 705 acres in commercial use, approximately 1,206 acres in industrial use, and approximately 1,247 acres in agricultural use and vacant land.

In the City of Rochester, there remains planned for various uses approximately 700 acres for residential use, approximately 250 acres for commercial use, and approximately 250 acres for industrial use.

11. In Cascade Township, land is zoned as follows: approximately 1,040 acres for residential use, approximately 107 acres for commercial use, approximately 313 acres for industrial use, and approximately 13,855 acres for agricultural use.

12. In the annexation area, 3.8 acres are used for commercial purposes. The remaining property is the right-of-way for 7th Street Northwest adjacent to the commercial area under consideration.

13. The City of Rochester has issued 1,138 building permits in 1980, 990 in 1981, 1,191 in 1982, and 1,707 in 1983.

14. The Town of Cascade has issued 19 building permits in 1980, 27 in 1981, 29 in 1982, and 52 in 1983.

15. The City of Rochester has a zoning ordinance, subdivision regulations, shoreland regulations, flood plain regulations, an official mapping program, a building code, Minnesota Plumbing Code, the NFPA Fire Code, and a capital improvement and budget program.

16. Olmsted County adopted a General Land Use Plan, which designates the annexation area in the Potential Urban Service Area of the City of Rochester. Olmsted County adopted a Future Revised Land Use Map in 1980. The text accompanying the map designates the annexation area as best suited for "commercial" use. Olmsted County has an official mapping program, a zoning ordinance, subdivision regulations, shoreland regulations, flood plain regulations, a building code, Minnesota Plumbing Code, sanitation ordinances, a capital improvement and budget program, and a human services program.

17. The Town of Cascade has no independent land use planning document.

18. The annexation area is presently zoned highway-commercial under Olmsted County Zoning Ordinance. If annexed to the city, the property will be zoned R-1, and the property owner would be allowed to petition for a zoning change to commercial district. The annexation area lies in an area planned for "commercial" use on the adopted Future Land Use Map.

The main building in the annexation area is presently being remodeled under zoning and building permits issued by Olmsted County.

19. The City of Rochester provides its residents with water, sanitary sewer and waste water treatment, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational facilities, and library services in conjunction with Olmsted County.

20. Cascade Township provides its residents with fire protection and street improvements and maintenance.

21. The annexation area has sought and received permission to extend the water and sewer service lines to the building. Under the building code, because of the nature of the business at the structure, it is necessary to have a sprinkler system in place, which is already hooked up to the city's

water supply.

22. The city is willing to extend all the services to the annexation area which it presently provides its residents and is not yet providing the annexation area.

23. The City of Rochester has 196.24 improved miles, as follows:
12.3 miles of Trunk Highway, 8.82 miles of County State Aid Highway, 2.02 miles of County-Municipal State Aid Highway, and 173.1 miles of local streets.

24. Cascade Township has 71.36 miles of improved roads, as follows:
6.5 miles of Trunk Highway, 32.21 miles of County Roads, and 32.65 miles of Town Roads.

25. The annexation area includes the right-of-way for 7th Street Northwest. Presently, that portion of 7th Street Northwest, in the annexation area is maintained by the City of Rochester Public Services Department.

26. The Olmsted County Health Department supports the annexation since the septic system presently in use on the annexation area has not functioned properly in the past and the construction of the system is unknown.

Extension of Rochester Sanitary Sewer Service to the annexation area will help protect the quality of ground water in the area from possible contamination from septic tanks.

27. In 1983, the assessed valuation of the City of Rochester was \$328,060,919.

28. In 1983, the assessed valuation of the Town of Cascade was \$14,161,317.00

29. The assessed valuation of the area proposed for annexation, in 1983, was \$67,946.

30. The mill rate for Olmsted County, in 1983, was 22.199 for the City of Rochester, and 23.716 for the Town of Cascade. School District #535 has a 1983 mill levy of 59.684.

31. Cascade Township mill levy, in 1983, was 6.818. Cascade Township has a bonded indebtedness of \$0 as of 12-31-83.

32. The City of Rochester mill levy, in 1983, was 26.763. The total bonded indebtedness for the City of Rochester, as of 12-31-83, is \$36,095,000.

33. The fire rating for the City of Rochester is 3. The fire rating for the Town of Cascade is 9.

34. The proposed annexation, if completed, will not impact on School District #535, as all of the City of Rochester and the annexation area are within the same school district.

35. The town does not have the ability to provide public sewer and water to the area proposed for annexation.

36. The City of Rochester is the only municipality adjacent to the area proposed for annexation.

37. The annexation is consistent with the joint resolution for orderly annexation between the Town of Cascade and the City of Rochester.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. The area subject to annexation is now or is about to become urban or suburban in nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.

3. The existing township form of government is not adequate to protect the public health, safety, and welfare of the area proposed for annexation.

4. The annexation would be in the best interests of the area proposed for annexation.

5. The annexation is consistent with the terms of the joint resolution for orderly annexation.

6. Three years will be required to effectively provide full municipal

services to the annexed area or to comply with terms and conditions of the orderly annexation agreement as it relates to the mill levy step up.

7. An order should be issued by the Minnesota Municipal Board annexing the area described herein.

O R D E R

1. IT IS HEREBY ORDERED: That the property described herein in Findings of Fact 2 be and the same hereby is annexed to the City of Rochester, Minnesota, the same as if it had been originally a part thereof.

2. IT IS FURTHER ORDERED: That the mill levy of the City of Rochester on the property herein ordered annexed shall be increased in substantially equal proportions over a period of three years to equality with the mill levy of the property already within the city.

3. IT IS FURTHER ORDERED: That the effective date of this order is March 26, 1984.

Dated this 26th day of March, 1984.

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


Terrence A. Merritt
Executive Director