

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Vice Chair
Shirley J. Mihelich	Commissioner
Paul Stellpflug	Ex-officio Member
Howard Stewart	Ex-officio Member

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IN THE MATTER OF THE JOINT RESOLUTION OF )	
THE CITY OF ROCHESTER AND THE TOWN OF )	<u>FINDINGS OF FACT</u>
CASCADE FOR THE ORDERLY ANNEXATION OF )	<u>CONCLUSIONS OF LAW</u>
CERTAIN LAND TO THE CITY OF ROCHESTER )	<u>AND ORDER</u>
PURSUANT TO MINNESOTA STATUTES 414 )	

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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on February 15, 1990 at Rochester, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were John W. Carey, Chair, Kenneth F. Sette, Vice Chair, Shirley J. Mihelich, Commissioner, and County Commissioners Howard Stewart and Paul Stellpflug, Ex-Officio Members of the Board. The City of Rochester appeared by and through Frederick Suhler, Jr., Rochester City Attorney, the Town of Cascade appeared by and through Al Wiens, Cascade Town Board Supervisor. 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 December 6, 1989 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:

SURROUNDED AREAS IN SECTIONS 23 & 24 OF CASCADE TOWNSHIP

1. MORRIS'S FIRST SUBDIVISION, except Lot 7 and Lot 8, as the same is of record and on file at the Office of County Recorder in and for Olmsted County, Minnesota, together with that part of the right-of-way for 31st Street NE as platted in Morris's First lying adjacent to the described lands

And,

2. MORRIS'S SECOND SUBDIVISION, except Lot 3 and Lot 4, as the same is of record and on file at the Office of County Recorder in and for Olmsted County, Minnesota, together with the right-of-way for 32nd Street NE as platted in Morris's Second lying adjacent to the above described land.

And,

3. MORRIS'S THIRD SUBDIVISION, as the same is of record and on file at the Office of County Recorder in and for Olmsted County, Minnesota, together with the right-of-way for 32nd Street NE as platted in Morris's Third Subdivision, and those unplatted lands and that highway right-of-way of Trunk Highway No. 63 described as bounded on the north by the extension of the North line of MORRIS'S THIRD SUBDIVISION; and bounded on the east by the easterly right-of-way line of said Trunk Highway No. 63; and as bounded on the south by the extension of the South line of MORRIS'S FIRST SUBDIVISION; and bounded on the west by MORRIS'S FIRST and MORRIS'S THIRD SUBDIVISIONS, as platted.

And,

4. RIVERVIEW SUB-DIVISION, together with the right-of-way for Riverside Lane NE (formerly Riverside Drive), Erin Lane NE (formerly Erin Court and 28th Street) and 27th Street NE as platted in Riverview Subdivision, except Lot 1, Block 1 and Lot 18, Block 2, as the same is of record and on file at the Office of County Recorder in and for Olmsted County, Minnesota, and including the west half of the right-of-way of East River Road adjacent to Lot 18, Block 2.

And,

5. RIVERVIEW SECOND SUBDIVISION, as the same is of record and on file at the Office of County Recorder in and for Olmsted County Minnesota. Together with Cheval Lane, a 66' wide easement for roadway as platted in Riverview Second Subdivision.

And,

6. Starting at the Northeast (NE) corner of the Southwest Quarter of Section 23, Township 107N, Range 14W (Cascade Township) for a place of beginning, thence south along the east line of said Southwest Quarter of a distance of 167 feet; thence west, along a line perpendicular to the east line of said quarter section a distance of 239.4 feet, thence north, along a line parallel to the east line of said quarter section, a distance of 267 feet, thence east to a point on the east line of the Northwest Quarter of Section 23, thence south to the point of beginning. Said property being located in Cascade Township, Olmsted County, Minnesota.

And,

7. All those unplatted lands lying in the East Half (E 1/2) of Section 23, Township 107 North, Range 14 West (Cascade Township) of the 5th PRINCIPAL MERIDIAN, described as follows: Bounded on the north by the centerline of C.S.A.H. 22; and bounded on the east by the westerly right-of-way line of East River Road N.E. (a.k.a. Third Avenue NE); and bounded on the west by the centerline of the Zumbro River, as it is located as of this day; and bounded on the south by the northerly boundary of RIVERVIEW SUB-DIVISION as platted in Block 1, between Lots 15 and 25; EXCEPT FOLLOWING DESCRIBED PARCELS a-d:

- a) That part of the NE 1/4 SE 1/4 Section 23, Town 107, Range 14, Olmsted County, Minnesota, described by metes and bounds as follows: Beginning at a point on the East line of Section 23 which is 981.0 feet South of the NE corner of the SE 1/4 of said Section, thence West at right angles to the Section line a distance of 204.7 feet, thence South parallel with the Section line a distance of 173.85 feet, thence Easterly at a deflection angle of 94°6' to the left a distance of 205.23 feet to the East line of said Section, thence North along the East line of said Section 188.52 feet to the point of beginning. Compromising approximately 1/2 acre. (Annexed previously by MMB order OA-122-7);

b) The East 900.00 feet of the North 619.20 feet of the Northeast quarter of the Southeast Quarter of Section 23, Township 107 North, Range 14 West, Olmsted County, Minnesota. (Annexed previously by MMB order OA-122-29);

c) The North 619.20 feet of the Northeast quarter of the Southeast Quarter of Section 23, Township 107 North, Range 14 West, Olmsted County, Minnesota, less the East 900.00 feet thereof together with a part of the Northeast Quarter of the Southeast Quarter of Section 23, Township 107 North, Range 14 West, described as follows: Beginning at a point on the East Line of the said Section 23 which is 840 Feet South of the Northeast Quarter of the Southeast Quarter; thence West at right angle to the section line a distance of 181.5 feet;

thence South parallel with the section line a distance of 141 feet; thence East a distance of 181.5 feet to the section line; thence North along the section line a distance of 141 feet to the point of beginning. (Annexed previously by MMB Order OA 122-43).

d) That part of the Northeast Quarter of the Southeast Quarter of Section 23, Township 107 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence southerly on a Minnesota State plan Grid Azimuth from north of 178 degrees 33 minutes 46 seconds along the east line of said Southeast Quarter 619.27 feet; thence westerly 269 degrees 25 minutes 32 seconds azimuth along the southerly line of River Court and a westerly projection thereof 953.93 feet to the point of beginning; thence southerly 179 degrees 25 minutes 32 seconds azimuth 132.00 feet; thence southerly 187 degrees 54 minutes 52 seconds azimuth 154.32 feet; thence westerly 260 degrees 29 minutes 11 seconds azimuth 332.23 feet to the westerly line of said Northeast Quarter of the Southeast quarter; thence northerly 358 degrees 28 minutes 36 seconds azimuth along said westerly line 336.30 feet; thence easterly 89 degrees 25 minutes 32 seconds azimuth 356.55 feet to the point of beginning. Said Tract contains 2.47 acres more or less. (Annexed previously by MMB Order OA-122-46).

Total acreage of the area described is 138.7 acres more or less inclusive of Road right-of-way.

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 138.7 acres in size, and abuts the City of Rochester by approximately 100% of its perimeter. The City of Rochester is approximately 18,707 acres in size.

5. On January 25, 1991, the Municipal Board approved the annexation of approximately 4.29 acres pursuant to an Orderly Annexation agreement between the City of Rochester and Town of Cascade. The remaining Findings of Fact, Conclusions of Law and Order primarily address the remaining land described in Findings of Fact 2, herein, not covered by the Board's Order dated January 25, 1991. The remaining land under consideration will be referred to hereinafter as the subject area.

6. The Town of Cascade is approximately 14,098 acres in size.

7. The area subject to annexation, west of East River Road, Northeast has the South Fork of the Zumbro River along its entire western boundary. Through this same area, Rocky Creek intermittently flows under East River Road, Northeast north of 27th Street, Northeast into the Zumbro River,

8. The general character of the subject area's soils is marginal for agricultural use and severely limited for septic tank absorption fields. Dickinson Sandy Loam and Plainfield Loamy Sand are two of the major soil types in the subject area.

9. The City of Rochester had a population of approximately

53,766 in 1970, approximately 57,880 in 1980, and a 1988 estimated population of approximately 64,797. It is projected to have a 1990 population of approximately 67,223.

10. The Town of Cascade had a population of approximately 2,442 in 1970, approximately 2,384 in 1980, and a 1988 estimated population of approximately 2,388. It is projected to have a 1990 population of approximately 2,460.

11. The area presently has a population of approximately 252.

12. The City of Rochester has approximately 9,082 acres in residential use, approximately 2,500 acres in parks and school use, approximately 975 acres in commercial use, approximately 1,000 acres in industrial use, approximately 1,475 acres in institutional use, and approximately 4,650 acres in agricultural use or vacant lands.

13. The Town of Cascade has approximately 1,989 acres in residential use, approximately 98 acres in commercial use, approximately 260 acres in industrial use, and approximately 11,751 acres in agricultural use.

14. The western most portion of the subject area is approximately 1.5 acres in size and contains three single family residences. The eastern most portion of the subject area is approximately 14.5 acres in size and is primarily platted land. A small area is unplatted or state highway right-of-way. There are approximately 24 single family residences in this portion of the subject area. The central portion of the subject area including

the already annexed area, is approximately 120 acres in size containing two platted subdivisions, which contain approximately 57 single-family residences. Additionally, there is land used for the boarding of horses.

15. The City of Rochester has a zoning ordinance, subdivision regulations, shoreland and floodplain regulations, an official mapping program, the Uniform Building Code, the Minnesota Plumbing Code, the NFPA Fire Code, and capital improvements and budget program.

16. Olmsted County has a zoning ordinance, subdivision regulations, shoreland and floodplain regulations, an official mapping program, a building code, the Minnesota Plumbing Code, sanitation ordinances, Human Services Program, and capital improvements and budget program.

17. The Town of Cascade has no independent land use planning document, it relies on Olmsted County.

18. The 1978 General Land Use Plan for the Olmsted County area, adopted by Olmsted County, designated the subject area in the "Potential Urban Service Area" of the City of Rochester. Staged growth is not specifically scheduled in the comprehensive plan. The future land use plan map designates the unplatted area lying north of Palmer Soderberg Tile Shop to 37th Street for future commercial land use. The remainder of the subject area is planned for low density residential use.

19. There are presently no plans to develop or redevelop

additional portions of the subject area.

20. The subject area is designated by the 1978 Olmsted County General Land Use Plan in the "Potential Urban Service Area" of the City of Rochester. There is no specific time line for the staged growth in the comprehensive plan.

21. The City of Rochester provides its residents with water, sanitary sewer, waste water treatment, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities, and library services.

22. The City is willing to provide the area subject to annexation with all of the services it presently provides its residents. The extension of municipal sewer or water services to the subject area was not considered in the five year plan of the City of Rochester in 1988.

23. The Town of Cascade provides its residents with storm sewer, fire protection, police protection, street improvements and maintenance, and administrative services.

24. The City of Rochester has approximately 231.83 miles of locals streets and roads.

25. The Town of Cascade has approximately 28.35 miles of local streets and roads.

26. The subject area town, county, and state roads.

27. The City of Rochester anticipates the reconstruction of the bridge over Rocky Creek on East River Road in 1991. That



portion of the right-of-way is completely within the City of Rochester. The City feels that those people within the subject area that use and will be serviced by the reconstruction of the bridge should be included in the assessable area for the bridge.

28. The jurisdiction over some of the roads in the subject area is confusing as portions of the road are within the City of Rochester and portions are not. To avoid additional confusion the inclusion of these roads under one jurisdiction would simplify the authority for police protection as well as road maintenance and improvement.

29. The 1988, payable 1989, assessed valuation for the City of Rochester is approximately \$1,748,044,800.00.

30. The 1988, payable 1989, assessed valuation for the Town of Cascade is approximately \$70,334,200.00.

31. The 1988, payable 1989, assessed valuation for the area subject area, including the already annexed land, is approximately \$6,099,800.00. In 1989, the Town of Cascade received \$15,168.54 in taxes from the area subject to annexation.

32. The tax rate for Olmsted County in 1989 was 32.189 for the City of Rochester and 34.816 for the Town of Cascade.

33. The school district has a 1989 tax rate of 48.501.

34. The Town of Cascade has a 1989 tax rate of 11.177, and has a bonded indebtedness of \$0.

35. The City of Rochester has a 1989 tax rate of 22.591, and a bonded indebtedness of \$39,365,000.00.

36. The proposed annexation, will not impact on the school district, as all of the City of Rochester and the area subject to annexation are within the same school district.

37. The Town of Cascade does not have the ability to provide public sewer and water to the area subject to annexation.

38. The City of Rochester's ability to provide the area subject to annexation with public sanitary sewer service will help protect the quality of the groundwater in the area from possible contamination from septic tank effluent. The present density of development in the platted areas of one home per half acre is four times higher than the present county standard. The County Geological Atlas identifies the subject area as a place with high sensitivity of the ground water system to pollution. There is little natural protection to retard the vertical movement of liquids, thus allowing contaminants to probably reach the water table in weeks to years.

There was no present showing of any pollution in the subject area.

39. The City of Rochester is the only municipality adjacent to the area subject to annexation.

40. 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 subject to annexation.

4. The annexation would be in the best interests of the area subject to 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 approving the annexation of the area described herein, effective January 1, 1992.

O R D E R

1. IT IS HEREBY ORDERED: That the property, not already annexed to the City of Rochester, described herein in Finding of Fact 2 be, and the same is hereby 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 population of the City of Rochester is hereby increased by 252 persons.

4. IT IS FURTHER ORDERED: That the population of the Town of Cascade is hereby decreased by 252 persons.

5. IT IS FURTHER ORDERED: That the effective date of this order is January 1, 1992.

Dated this 26th day of June, 1991.

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

  
Terrence A. Merritt  
Executive Director

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Vice Chair
Shirley J. Mihelich	Commissioner
Howard Stewart	Ex-Officio Member
Paul Stelpflug	Ex-Officio Member

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IN THE MATTER OF THE ORDERLY ANNEXATION	)	
AGREEMENT BETWEEN THE CITY OF ROCHESTER	)	<u>INTERIM</u>
AND THE TOWN OF CASCADE PURSUANT TO	)	<u>ORDER</u>
MINNESOTA STATUTES 414	)	

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WHEREAS, 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; and

WHEREAS, a resolution of the annexing municipality was received by the Municipal Board requesting annexation;

WHEREAS, a hearing was held on an area including land known as the "Soderberg Property" on February 15, 1990; and

WHEREAS, an amendment to the joint resolution was received from the City of Rochester and the Town of Cascade indicating their desire that the Soderberg property be annexed to the City of Rochester pursuant to M.S. 414.0325, Subdivision 1; and

WHEREAS, M.S. 414.0325 states that in certain circumstances the Minnesota Municipal Board may review and comment, but shall within 30 days

order the annexation of land pursuant to said subdivision; and

WHEREAS, on January 25, 1991, the Minnesota Municipal Board has reviewed and accepted the resolution for orderly annexation;

IT IS HEREBY ORDERED: That the following described property is hereby annexed to the City of Rochester, Minnesota, the same as if it had originally been made a part thereof:

That part of the Northeast Quarter of the Southeast Quarter of Section 23, Township 107 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence southerly on a Minnesota State Plane Grid Azimuth from north of 178 degrees 33 minutes 46 seconds along the east line of said Southeast Quarter 619.27 feet to the southeast corner of River Court, according to the plat thereof on file at the County Recorder's Office, Olmsted County, Minnesota, and the point of beginning; thence westerly 269 degrees 25 minutes 32 seconds azimuth along the southerly line of said River Court and the southerly line of River Court II, according to the plat thereof on file at the County Recorder's Office, Olmsted County, Minnesota, 953.93 feet to the northerly corner of Lot 8, Block 2 of said River Court II; thence southerly 179 degrees 25 minutes 32 seconds azimuth along the easterly line of said River Court II a distance of 132.00 feet; thence southerly 187 degrees 54 minutes 52 seconds azimuth along said easterly line 154.32 feet to the southeasterly corner of Lot 10, Block 2 of said River Court II; thence southerly 182 degrees 42 minutes 07 seconds azimuth 50.63 feet to the northerly line of Riverview Subdivision, according to the plat thereof on file at the County Recorder's Office, Olmsted County, Minnesota; thence easterly 111 degrees 07 minutes 36 seconds azimuth along said northerly line 403.87 feet to the southwesterly corner of Riverview Second Subdivision, according to the plat thereof on file in the County Recorder's Office, Olmsted County, Minnesota; thence northerly 358 degrees 31 minutes 19 seconds azimuth along the westerly line of said Riverview Second Subdivision 418.57 feet; thence easterly 89 degrees 25 minutes 32 seconds azimuth 611.96 feet to the east line of said Southeast Quarter; thence northerly 358 degrees 33 minutes 46 seconds azimuth along said east line 66.01 feet to the point of beginning. Said tract contains 4.29 acres more or less.

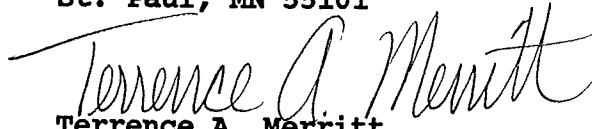
IT IS FURTHER ORDERED: That the Minnesota Municipal Board retain jurisdiction over the remainder of the land not ordered annexed in this

Order;

IT IS FURTHER ORDERED: That the effective date of this order is  
January 25, 1991.

Dated this 25th day of January, 1991.

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

  
Terrence A. Merritt  
Executive Director