

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Robert W. Johnson	Vice Chairman
Kenneth F. Sette	Member
Martin Holsen	Ex-Officio Member
Marvin Dauner	Ex-Officio Member

IN THE MATTER OF THE JOINT RESOLUTION BETWEEN)
THE CITY OF MOORHEAD AND THE TOWN OF OAKPORT)
FOR THE ORDERLY ANNEXATION OF CERTAIN LAND TO)
THE CITY OF MOORHEAD PURSUANT TO MINNESOTA)
STATUTES 414)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on May 4, 1983 at Moorhead, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, Board Member and County Commissioners Martin Holsen and Marvin Dauner, Ex-Officio Members of the Board. The City of Moorhead appeared by and through Robert Schaefer, the Town of Oakport appeared by and through William L. Guy III, and American Crystal Sugar appeared by and through W. B. Dosland. 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. That a joint resolution for orderly annexation was adopted by the City of Moorhead and the Town of Oakport and duly accepted by the Minnesota Municipal Board.
2. The resolution was filed by one of the signatories to the joint resolution, the City of Moorhead, on February 28, 1983, requesting the annexation of certain property within the orderly annexation area. The resolution contained all the information required by statute including a description of the property subject to annexation

which is as follows:

Parcel 4. That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 140, Range 48 described as follows: commencing at the Southwest corner of the said Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), thence East along the South line of Section Thirty-three (33) a distance of 240 feet, thence running in a Northwesterly direction to a point on the East line of Outlot 33-D, 160 feet North of the point of beginning, thence South along the East line of Outlot 33-D to the point of beginning, Section 33 T140N R48W.

Parcel 5. Auditor's Outlot 33-D, Section 33 T140N R48W.

Parcel 6. That part of Auditor's Outlot 33-C described as follows: commencing at a point on the South line of Section Thirty-three (33), 210 feet West of the Southwest corner of the Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), Section Thirty-three (33), thence West along the South line of Section Thirty-three (33) 180 feet, thence North 365 feet, thence East parallel to the South line of Section Thirty-three (33), 180 feet to the Northwest corner of Outlot 33-D, thence South along the West line of Outlot 33-D to the point of beginning.

Parcel 7. All of Auditor's Outlot 33-A, Section 33 T140N R48W.

Parcel 8. All of Auditor's Outlot 33-B, Section 33 T140N R48W.

Parcel 9. All of Auditor's Outlot 33-C in Township 140, Range 48, less three parcels of land located in said Outlot 33-C described as follows:

Parcel A: Commencing at a point located at the center of the road at the southeast corner of the West Half of Southwest Quarter of said Section 33, thence running West 210 feet to the point of beginning, thence West 180 feet, thence due North 365 feet, thence East for a distance of 180 feet to the northwest corner of Outlot 33-D thence South to the point of beginning (Parcel 6 herein).

Parcel B: Beginning at the southwest corner of said Section 33, thence East along the South line of said Section a distance of 925.71 feet; thence North 0°08' East a distance of 330 feet; thence West parallel to the South line of said Section a distance of 926.19 feet more or less to a point of intersection with the West line of said Section 33 thence South 330 feet, more or less, to the point of beginning.

Parcel C: Auditor's Outlot 33-C, Section 33 T140N R48W (Parcel 5 herein).

Parcel 10. The East Half of the Southwest Quarter of Section 33, Township 140, Range 48, less two parcels located therein described as follows:

Parcel A: Commencing at a point located at the center of the road at the southeast corner of the West Half of the Southwest Quarter of Section 33 thence running East from said point of beginning for a distance of 240 feet, thence running in a northwesterly direction to a point intersecting a line extended 160 feet due North of said point of beginning, thence running due South to the point of beginning (Parcel 4 herein).

Parcel B: That part of the East Half of the Southwest Quarter of Section 33, Township 140, Range 48 lying between two lines parallel and distant 50 feet and 125 feet Westerly measured at right angles

from the center line of the main track of the railway of the Great Northern Railway Company, now Burlington Northern Railway Company, as located and constructed on May 6, 1946 containing 4.55 acres, more or less.

Parcel 13. All of Auditor's Outlot 32-A, Section 32 T140N R48W.

Parcel 14: All of Auditor's Outlot 32-B in Township 140, Range 48 less: beginning at a point which lies 1,508.39 feet North of and 45.00 feet East of the Southwest Corner of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 32, Township 140 North, Range 48 West of the Fifth Principal Meridian, said 1,508.39 feet being measured along the East one-sixteenth line in said Section 32 and said 45.00 feet being measured along a line which is perpendicular to said East one-sixteenth line, said point of beginning being located also on the East Right-of-Way of County Road Number 3 (old Trunk Highway 75): thence North along the aforementioned East Right-of-Way line a distance of 660.00 feet; thence East perpendicular to the said East Right-of-Way line a distance of 660.00 feet; thence South along a line which is parallel to the said Right-of-Way line a distance of 660.00 feet; thence West a distance of 660.00 feet, more or less, to the point of beginning. Said tract of land contains 10.000 acres, more or less, exclusive of all Highway Right-of-Way.

Parcel 15. All of Auditor's Outlot 32-C in Township 140, Range 48, less: that part of Auditor's Outlot 32-C in Section 32, Township 140, Range 48, described as follows: Beginning at a point 705.0 feet East of the southwest corner of the Southeast Quarter of the Southeast Quarter of Section 32, Township 140, Range 48; thence North a distance of 330 feet; thence East a distance of 616.84 feet; thence South a distance of 330 feet; thence West a distance of 616.84 feet to the point of beginning.

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

4. At the hearing on May 4, 1983, the parties agreed that Parcel 9 of the area proposed for annexation should be more particularly described as follows:

Parcel 9. All of Auditor's Outlot 33-C in Township 140, Range 48, less two parcels of land located in said Outlot 33-C described as follows:

Parcel A: Commencing at a point located at the center of the road at the southeast corner of the West Half of Southwest Quarter of said Section 33, thence running West 210 feet to the point of beginning, thence West 180 feet, thence due North 365 feet, thence East for a distance of 180 feet to the northwest corner of Outlot 33-D thence South to the point of beginning (Parcel 6 herein).

Parcel B: Beginning at the southwest corner of said Section 33, thence East along the South line of said Section a distance of 925.71 feet; thence North 0°08' East a distance of 330 feet; thence West parallel to the South line of said Section a distance of 926.19 feet more or less to a point of intersection with the West line of said Section 33 thence South 330 feet, more or less, to the point of beginning.

5. The area subject to annexation is unincorporated, within the orderly annexa-

tion area, approximately 219 acres in size and abuts the City of Moorhead by approximately 41% of its total border. The City of Moorhead is approximately 5,734.7 acres in size.

6. The area proposed for annexation is generally flat terrain with the majority of the land being prime agricultural land. There is a drainage ditch #41 located in the area proposed for annexation.

7. In 1970, the City of Moorhead had a population of 29,687, in 1980, its population was 29,998, and its current population is 29,998. It is projected that in 5 years it will have a population of 31,000.

8. In 1970, the Town of Oakport had a population of 1,265, its population in 1980 and its current population is 1,714, and it is projected that in 5 years it will have a population of 1,900.

9. The area proposed for annexation has no present population, nor did it have any population in 1970 or 1980.

10. The City of Moorhead has approximately 1,643.6 acres in residential use, approximately 339.8 acres in institutional use, approximately 389.2 acres in commercial use, approximately 117.3 acres in industrial use, and approximately 1,258.4 acres in vacant land.

In the City of Moorhead, the 1,258.4 acres of vacant land are zoned for the following uses: approximately 636.4 acres for residential use, approximately 184 acres for commercial use, approximately 379.7 acres for industrial use, and approximately 58.3 acres for agricultural use.

11. The Town of Oakport has approximately 411.3 acres in residential use, approximately 103.2 acres in institutional use, approximately 8.5 acres in commercial use, approximately 365.6 acres in industrial use, and approximately 18,080.3 acres in agricultural or vacant land use.

Of the 18,030.3 acres listed as agricultural or vacant land use, 120 of those acres are zoned for residential use and the remainder of the land is zoned for agricultural use.

12. The area proposed for annexation has approximately 22 acres in industrial use, approximately 190 acres in agricultural use, and approximately 7 acres used as a drainage ditch.

13. In the past 5 years, the City of Moorhead has issued 270 building permits for one and two-family residential dwellings, 116 building permits for multiple-family residential dwellings, and 84 building permits for commercial structures. The City has issued 1,505 remodeling permits.

14. The City of Moorhead has a zoning ordinance, subdivision regulations, an official map, capital improvements program and budget, fire code, state building code, state plumbing code, flood plain ordinance, energy conservation program and urban renewal. The city has a comprehensive plan.

15. The Town of Oakport has a zoning ordinance. The town does not have a comprehensive plan.

16. Clay County has a zoning ordinance, subdivision regulations, an official map, flood plain ordinance, sanitation ordinance and human services program. Clay County has a comprehensive plan.

17. The annexation of the area proposed for annexation is consistent with the city's comprehensive plan.

18. The City of Moorhead provides its residents with water, sanitary sewer and waste water treatment, storm sewer, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities, health inspection, library and electrical service.

19. The Town of Oakport provides the township with fire protection through a contract with the City of Dilworth, street improvements and maintenance, and administrative services.

20. The City of Moorhead presently provides the area proposed for annexation with water, sanitary sewer and waste water treatment, fire protection, street improvements and maintenance, and electrical services. The city is willing to provide the

area proposed for annexation with all of the other services which it presently provides the residents of the City of Moorhead should the area be annexed.

21. The City of Moorhead has approximately 12.13 miles of highways and 136.09 miles of streets.

22. The Town of Oakport has approximately 6 miles of highways and approximately 40.50 miles of roads.

23. In the area proposed for annexation, there is approximately .52 mile of highway and 1.3 miles of streets.

24. Presently there are weight restrictions on 11th Street North, a portion of which is located within the area proposed for annexation.

The City of Moorhead intends to upgrade, widen and improve 11th Street North in the summer and fall of 1983.

25. The assessed valuation in 1982 for the City of Moorhead is \$91,514,193.

26. The assessed valuation for the Town of Oakport in 1982 is \$10,413,830.

27. The assessed valuation of the area proposed for annexation in 1982 is \$783,546.

28. In 1983 the City of Moorhead mill rate is 35.279, the county mill rate for land within the city is 20.787, the school district mill rate is 58.006, the Watershed District mill rate is 1.563, and the HRA mill rate is .516.

29. In 1983 the Town of Oakport's local government mill rate is 6.730, the county mill rate is 21.398, the school district mill rate is 58.006, and the special taxing district mill rate is 1.563.

30. The fire insurance rating for the City of Moorhead is a class 4.

31. The City of Moorhead has a total bonded indebtedness of \$29,005,000.

32. The Town of Oakport has no bonded indebtedness.

33. The annexation of the area proposed for annexation will not adversely impact Oakport Township. It is anticipated that the school district will suffer no impact from the annexation.

34. The City of Moorhead is the only municipality adjacent to the area proposed for annexation.

35. The annexation is consistent with the joint resolution for orderly annexation between the Town of Oakport and the City of Moorhead.

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. Six 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 and more particularly described as follows be and the same hereby is annexed to the City of Moorhead, Minnesota, the same as if it had been originally a part thereof:

Parcel 4. That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, Township 140, Range 48 described as follows: commencing at the Southwest corner of the said Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), thence East along the South line of Section Thirty-three (33) a distance of 240 feet,

thence running in a Northwesterly direction to a point on the East line of Outlot 33-D, 160 feet North of the point of beginning, thence South along the East line of Outlot 33-D to the point of beginning, Section 33 T140N R48W.

Parcel 5. Auditor's Outlot 33-D, Section 33 T140N R48W.

Parcel 6. That part of Auditor's Outlot 33-C described as follows: commencing at a point on the South line of Section Thirty-three (33), 210 feet West of the Southwest corner of the Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), Section Thirty-three (33), thence West along the South line of Section Thirty-three (33) 180 feet, thence North 365 feet, thence East parallel to the South line of Section Thirty-three (33), 180 feet to the Northwest corner of Outlot 33-D, thence South along the West line of Outlot 33-D to the point of beginning.

Parcel 7. All of Auditor's Outlot 33-A, Section 33 T140N R48W.

Parcel 8. All of Auditor's Outlot 33-B, Section 33 T140N R48W.

Parcel 9. All of Auditor's Outlot 33-C in Township 140, Range 48, less two parcels of land located in said Outlot 33-C described as follows:

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Parcel 10. The East Half of the Southwest Quarter of Section 33, Township 140, Range 48 less two parcels located therein described as follows:

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Parcel 14. All of Auditor's Outlot 32-B in Township 140, Range 48 less: beginning at a point which lies 1,508.39 feet North of and 45.00 feet East of

the Southwest Corner of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 32, Township 140 North, Range 48 West of the Fifth Principal Meridian, said 1,508.39 feet being measured along the East one-sixteenth line in said Section 32 and said 45.00 feet being measured along a line which is perpendicular to said East one-sixteenth line, said point of beginning being located also on the East Right-of-Way of County Road Number 3 (old Trunk Highway 75): thence North along the aforementioned East Right-of-Way line a distance of 660.00 feet; thence East perpendicular to the said East Right-of-Way line a distance of 660.00 feet; thence South along a line which is parallel to the said Right-of-Way line a distance of 660.00 feet; thence West a distance of 660.00 feet, more or less, to the point of beginning. Said tract of land contains 10.000 acres, more or less, exclusive of all Highway Right-of-Way.

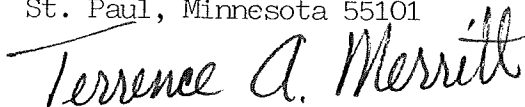
Parcel 15. All of Auditor's Outlot 32-C in Township 140, Range 48, less: that part of Auditor's Outlot 32-C in Section 32, Township 140, Range 48, described as follows: Beginning at a point 705.0 feet East of the southwest corner of the Southeast Quarter of the Southeast Quarter of Section 32, Township 140, Range 48; thence North a distance of 330 feet; thence East a distance of 616.84 feet; thence South a distance of 330 feet; thence West a distance of 616.84 feet to the point of beginning.

2. IT IS FURTHER ORDERED: That the mill levy of the City of Moorhead on the property herein ordered annexed shall be increased in substantially equal proportions over a period of six 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 July 22, 1983.

Dated this 19th day of July, 1983.

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



Terrence A. Merritt
Executive Director

M E M O R A N D U M

The Municipal Board wishes to commend the Town of Oakport and the City of Moorhead, as well as the American Crystal Sugar Company, for their cooperative efforts in working out the Orderly Annexation Agreement, which led to the board's order in this matter. The board was impressed with the air of cooperation it found at the hearing and prior to the hearing and encourages the parties to continue to work together.

To avoid confusion, please note that the total of the acreages listed in Findings of Fact 10 on page 4 do not correspond to the total acreage stated in Findings of Fact 5 on pages 3 and 4 for the City of Moorhead. The evidence presented did not specify 1,428.3 acres for land in right-of-way use and 558.1 acres in parks and recreation use which were included in the total in Findings of Fact 5.

TMP-1-19-83