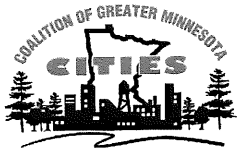
Executive Summary

Case Analysis of Annexation Issues in Greater Minnesota:

A comprehensive study regarding the issues related to annexation and land use planning in greater Minnesota

January 2005

Prepared by Flaherty & Hood, P.A. for the
Coalition of Greater Minnesota Cities,
Minnesota Association of Small Cities,
and League of Minnesota Cities



Introduction

Ineffective annexation policy undercuts the well-being of Minnesota. It impedes growth and economic development, weakens a local government's ability to efficiently provide services, unnecessarily destroys prime agricultural land and open spaces, and leads to poor land use decisions and degradation of the environment. While steps have been taken to improve the state's annexation law, cities are still hobbled by a process that tends to discourage annexation. Annexations are frequently not initiated because they are expected to involve costly, divisive litigation. Many cities simply cannot afford to pursue a drawn-out, contested annexation, and city officials generally fear the controversy that accompanies a contested annexation.

While the process that Minnesota currently uses to resolve disputed annexations is superior to the method that existed before 1999, it is not a panacea. When a city and township are embroiled in an annexation dispute, current law requires both parties to first try to resolve the dispute through facilitated mediation. If the dispute cannot be settled voluntarily, it is then scheduled for a hearing before an Administrative Law Judge. When a dispute cannot be settled amicably, it is crucial that the state have a reasoned judicial process in place that allows city and township officials an opportunity to present their positions to an impartial decision-maker.

For the most part, the process functions as planned, but many cities believe that it is also costly and divisive. They say the litigation option provided for in the current law is a course of action they would employ only as a last resort. Cities believe annexation should be made easier, less costly and less divisive. They believe that cities, township officials and property owners alike would be better served by a law that specifies annexation for areas where development is occurring and services are needed. Unless changes are made to the annexation law, cities will continue to be confronted with unchecked environmental pollution, unplanned urban development in the fringe areas adjacent to their boundaries, destruction of prime agricultural land and open spaces, and costly service delivery to township residents.

Township lobbying organizations agreed to the annexation process created in 1999. Nevertheless, they have attempted to amend the process in recent legislative sessions, so that it is more weighted in their favor. They have asked the Legislature to place arbitrary restrictions on appropriate annexations and to give township residents the right to veto proposed annexations, a voting requirement that was repealed by legislators in 1992.

The League of Minnesota Cities, the Minnesota Association of Small Cities and the Coalition of Greater Minnesota Cities commissioned this case analysis in response to significant differences between the cities' and townships' perspectives on the current annexation process in Minnesota. Cities commissioned a similar analysis in 1991.

The 1991 study uncovered several shortcomings in the annexation law: the process discouraged annexations and imposed significant costs on local taxpayers and the state. Cities regularly abandoned annexations when faced with township opposition or controversy. Cities urged the Legislature to make a number of changes in the annexation law, including:

- Empowering an administrative law judge rather than the Municipal Board to hear contested annexations.

- Repealing the right of township residents to vote on a proposed annexation.

- Shortening the time period for uncontested annexations.

- Giving cities the unilateral right to annex land within one-half mile of their corporate boundaries.

- Imposing land use restrictions on townships to ensure that townships retain a rural character.

- Establishing a state fund to pay for costs that could not be assessed for extending city services to areas with pollution problems.

While a number of the issues identified in the 1991 study were addressed through the creation of a new annexation process in 1999, many problems still exist. As part of our examination of annexation perspectives, we also updated the annexation analysis conducted in 1991.

The initial research was a brief survey of cities, asking them to provide information about their annexation history *(See Appendix 1 for a copy of the survey)*. Although cities have had a diversity of experience with annexation, our study revealed several underlying themes. From the survey results received, we selected cities for more in-depth studies to better focus on those themes. We also reviewed the current annexation laws and procedures contained in Minnesota Statutes. After conducting our case studies and reviewing the current law, we developed the following findings and recommendations.

Conclusions

Our research and case analysis identified the following major themes:

1. **In many instances, the current annexation process works well. The procedure, however, still imposes significant costs on local taxpayers and often generates controversy and divisiveness. More can be done to improve the process and prevent urban sprawl.**
   While the current annexation process is a huge improvement over previous practices, it still produces costly and divisive litigation. Urban development is still occurring outside city boundaries, and many cities do not annex the development because of the cost and divisiveness of a contested case. Cities maintain that annexations should be easier, less costly and less divisive. State law should make it clear that an area will be annexed when it is developed or proposed to be developed and services are needed.

2. **The roles of Minnesota cities and townships are not enforced.**
   Current state annexation and land use policy provides that urban areas be in cities and rural areas be in townships. Areas requiring municipal services should be annexed, and reduced government through local government mergers should be encouraged.

   Cities believe the current annexation and land use policy is sound. Townships generally do not have the staff or infrastructure required to provide the level of services needed in urbanizing and urbanized areas without wasteful duplication of existing city infrastructure or services.

   In spite of that long-standing policy, some Minnesota townships have developed areas that resemble city living. They have allowed high-density residential, commercial and industrial development to occur in their jurisdictions on individual septic systems and private wells without a sustainable long-term plan to accommodate growth and protect the environment. Many of these townships do not provide the services needed to support urban developments. A large number of the annexation conflicts arise as a result of township urban development, which could be prevented had these areas been annexed and served at the time they were developed. The current state policy should be enforced to prevent these situations from occurring.

3. **Urban or suburban development continues to occur outside city boundaries. Minnesota law must be tailored to prevent uncontrolled, unplanned development in townships.**
   Even though current state policy states that townships should remain rural, a significant number of cities reported that urban development has occurred or will soon occur outside the city boundaries. The cost to extend and retrofit urban or suburban development after an annexation is greater than if the property is first annexed and served before it is developed, and that cost falls on city taxpayers. Annexation laws should be tailored to prevent wasteful spending of taxpayer dollars by requiring proposed urban development first be annexed into city limits and served by city sewer and water services before the development occurs.

4. **Uncontrolled urban or suburban development that occurs outside city boundaries can create environmental problems that the city may be asked to solve at a later time.**
   Cities reported environmental problems that occurred as a result of unplanned urban or suburban development. Water quality is jeopardized when septic systems fail in large residential developments. Moreover, because townships are not required to meet the same environmental requirements as cities, there is currently an incentive for urban or suburban development to occur in townships. When cities are later required to annex the development, they are also often required to pay additional costs to retrofit the development for services.

5. **Most cities currently have little or no ability to control urban sprawl and land use growth areas just beyond city limits.**
   Although current law allows cities to extend their land use controls to growth areas just beyond their corporate limits, the law is so restrictive that few cities are able to regulate zoning and land use in those areas. In many instances, townships and/or counties have allowed urban or suburban development to occur outside a city that results in the destruction of valuable farmland, and additional service costs to cities. Because this sort of development directly impacts a city's budget and ability to grow, cities ought to be able to control the timing of the development.

6. **More can be done to train city and township officials in best annexation practices.**
   Among city and township organizations, there is a strong consensus that more can be done to train city and township officials to better communicate and jointly plan for potential annexations. Many annexation conflicts could be mitigated if the various interest groups would focus on training their members. Cities will take the lead in developing the necessary training materials and will work internally to prioritize that effort.

Recommended Changes

Based on our findings, it is apparent that the current annexation process should be revised. We recommend legislative changes that improve the current annexation process in Minnesota. The Legislature should:

1. **Streamline the annexation process.**
   Cities should be given more options to annex property by ordinance. A streamlined approach should be used when property owners petition to have their land annexed and when property is clearly urban or suburban or about to become so. Moreover, the contested annexation process should be improved to reduce unnecessary time delays.

2. **Clearly define the term "urban or suburban in character."**
   The Legislature should look at defining urban development according to specific factors, such as density of the development, the type of development (e.g. commercial or industrial), and whether the property is platted. When a proposed development meets this definition, it should be annexed into the city. Further, the state should more clearly define and enforce the role of cities and townships.

3. **Address some existing financial and environmental problems and prevent more problems from developing in the future.**
   A state fund should be established to pay for costs that cannot be assessed for the extension of city services to newly annexed areas with environmental problems. Land use restrictions should be imposed to ensure that township areas remain rural and do not develop urban or suburban density without city approval.

4. **Allow cities to extend land use and zoning controls to their nearby growth areas.**
   Cities should be allowed to extend their zoning and subdivision regulations to growth corridors just beyond their corporate limits. If cities control land use and zoning within their growth corridors, they would encounter fewer annexation problems. The change would help cities provide cost-effective services and would facilitate their economic development.

5. **Oppose any effort that would reintroduce statutory and procedural bias against the annexation process, such as efforts to reinstate an annexation election.**
   While cities are interested in improving the annexation process by addressing specific problems revealed by this study, they are not willing to accept small improvements at the cost of having to accept other changes that would reintroduce bias against annexation, such as a reinstatement of the annexation election. Such a trade off would likely not improve the problems this study revealed, and could potentially aggravate some problems.

6. **Devote resources to training on annexation best practices.**
   Many annexation conflicts could be avoided if resources were devoted to training city and township officials to better communicate and jointly plan potential annexations.

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Marshall

Bad Annexation Policy Hinders Economic Development

An orderly annexation agreement concerning 14 residential properties completely surrounded by the City of Marshall is now in progress. Annexation will allow the city to replace failing septic systems in the township area and develop a commercial area on the other side of the right-of-way. However, since the right-of-way is also the dividing line between the city and the township, an annexation study has slowed the city's ability to implement special assessments to install utilities and the street needed for the commercial development. Even this type of annexation, which according to the townships is too easy to implement, can have a negative affect on growth that will help the economy of the entire area.

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Moorhead - Americana Estates

Annexation Must Accompany City Services

Americana Estates is an older cluster of homes that was settled years ago well outside the city limits of Moorhead. Approximately 20 years ago, septic systems were failing, so the Minnesota Pollution Control Agency ordered the city to extend wastewater services to the community. The city now abuts the development. Despite the urban nature of the development and the services provided by Moorhead, the residents now have no incentive to be annexed into the city. Wastewater is not the only service provided by city, but it is the only service the township residents currently fund. Moorhead and other cities have found that being "good neighbors" by offering fee-based services without annexation has restricted future growth by removing incentives for future annexation.

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Rochester - Marvale Development

Cities Must Have Extraterritorial Planning Power

This urban development, once located outside Rochester's boundaries, was plagued by pollution problems caused by failed septic systems. Since it also threatened the City's water supply, Rochester embarked on an innovative, but very costly, approach to the problem. The city obtained legislative approval to use $22.5 million in local sales taxes to subsidize extension of sewer and water services to areas - like the one pictured - with failing systems. The township agreed to an orderly annexation proposal offered by Rochester under which properties receiving city services would remain in the township until five years after service was available. The only areas included in the Orderly Annexation (OA) area were those in which 50 percent or more of the township property owners petitioned for services. The city was proactive and creative in addressing both the pollution problem and the city/township conflict, but both could have been avoided by either restricting urban township development or providing the city with an extraterritorial planning and zoning area.

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Rochester - Oak Valley Development

Exurban Development Creates Tax Disparity between City and Township Residents

The majority of the annexation conflicts in the Rochester area are due to high value exurban township development, such as the one shown here, on large lots in close proximity to the city. This kind of ongoing development has restricted corridors of growth for Rochester. In addition, even though township residents benefit from city services, they do not pay property taxes to support the services. While city property taxes may increase to support the additional demand for city services created by exurban development, township taxes remain low.

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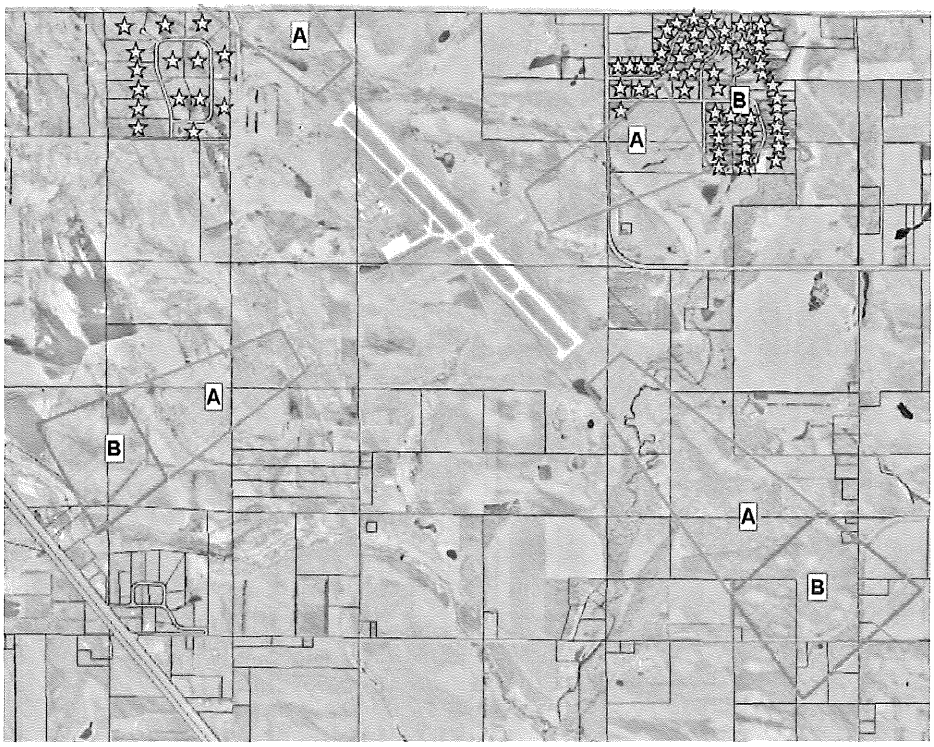
St. Cloud - Regional Airport



Land Use Controls Promote Smart Growth

The St. Cloud Regional Airport is an important link in the state's transportation system, with growth expected in the future. An adjacent township, however, is allowing non-farm, one-acre residences, designated by stars, to develop within its air safety zones. The stars in the A and B zones are affected by the current airport operations, with more expected to be included as the airport expands. County controls have restricted future growth on one side of the airport, but the lack of control in a neighboring county has allowed unchecked development within the township. Annexation would allow the city to control growth and save the state future financial fixes, but since there is a gap between the city and the airport, annexation is not currently an option.

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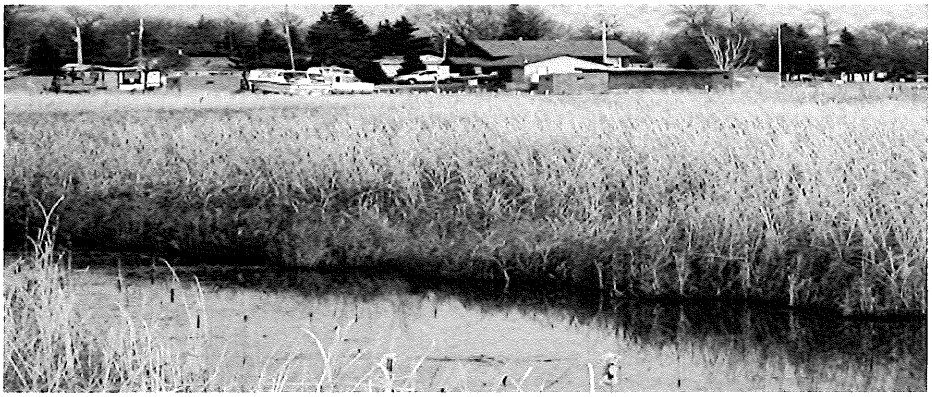
Warroad - Springsteel Island



Annexation Promotes Environmental Protection

Warroad, located six miles south of the Canadian border, is the only American port on beautiful Lake of the Woods. Located near many forests, islands, wildlife refuges and parks, one would expect pristine waters and clear blue skies. On Springsteel Island, however, over 100 mobile and permanent homes are clustered tightly together in small lots. Other clusters of homes also exist and continue to be developed outside of the city borders, with most of the sewage from the private systems believed to be draining into the lake. For the last eight years, the city has tried unsuccessfully to negotiate some sort of orderly annexation agreement with the township. The alternative of initiating a contested annexation is problematic, since the city has limited financial resources and cannot afford a possible trial. It is obvious that the developments outside of Warroad should be served by city services.

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Winona - Phillips Property

Even Simple Annexations Can Be Complex

Even simple annexations can become embroiled in the negotiations involving land use issues. The Phillips property is a case in point. After receiving a petition for annexation from the property owner, the city sent a proposed orderly annexation agreement to the township board chair. The agreement was for only the Phillips property and a section of the county road right-of-way. It included a commitment to adjacent property owners not to force annexation. The annexation was needed because an expert hired by the property owner recommended against the use of septic systems due to steep, clear-cut slopes as well as soil issues caused by the excavation of topsoils that the county and township had allowed on the site. The township suggested a long-term orderly annexation agreement instead, involving one other property as well, which led to a number of meetings but no agreement from the township. Despite environmental concerns, it appears the township will thwart annexation attempts and allow development with septic systems and wells.

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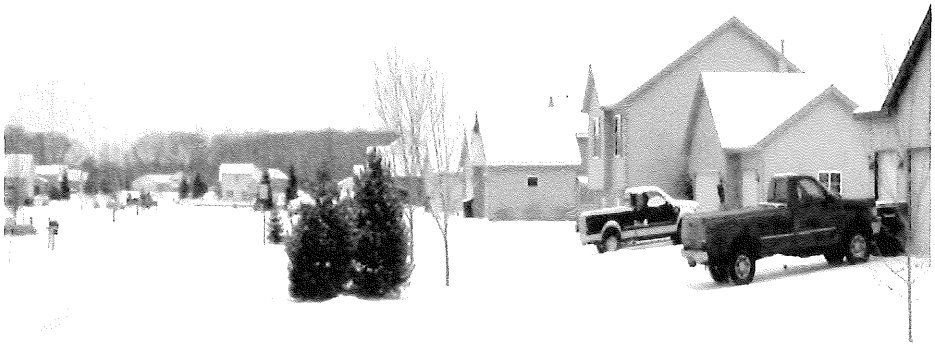
Wyoming and Wyoming Township



A Street Separates Environmental Standards

Wyoming and Wyoming Township share both a name and development styles. The housing along Goodview Road, pictured here, is a prime example of urban density in the township. Without inspecting the plumbing, it is impossible to tell which side is in the city and which is in the township. That's because the city provides municipal services to its residents, while the homeowners on the townships side rely on closely-spaced wells and septic systems - some within 60 feet of lines located just across the street. The lines between the city and the township blur because of the extensive development adjacent to Wyoming. The area is clearly urban, not rural, in nature, and should be part of the city.

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COALITION OF GREATER MINNESOTA CITIES

Dedicated to a Strong Greater Minnesota

Summary of Chisago City / Wyoming Township Contested Annexation Case

OAH Docket No. 3-2900-16083-2

Parties: City of Chisago City (hereafter the "City") and Wyoming Township (hereafter the "Township")

Form of Annexation: Contested case annexation pursuant to Section 414.031

Statutory Process: Contested case annexation is a trial-type proceeding. The current process involves facilitated mediation between the parties in an effort to settle the dispute. In the event the parties do not resolve the dispute in mediation, the matter is then presented to an Administrative Law Judge (ALJ) through hearings, which involve the presentation of evidence, testimony, a public hearing, and a decision by an ALJ based on the 14 factors and three decision standards contained in statute.

Background and History for Chisago City/Wyoming Township Annexation: Since 1996, the City has repeatedly attempted to work with the Township on annexation and economic development issues so that people can both live and work in the community. This remains the City's top priority, and the City worked cooperatively with the Township to pass legislation for a joint business park. In 2002, after the Township withdrew its support for joint legislation and revenue sharing for a business park, the City concluded that it would have to move forward on its own. The City developed a new comprehensive plan in 2002, and after subsequent discussions with the Township in 2003 related to annexation of the sewer right-of-way between Chisago City and the new Polaris Industries facility failed, the City having exhausted all possibilities reluctantly moved forward with the only remedy that remained; filing a contested annexation petition with the State of Minnesota.

Annexation Petition: The City filed its annexation petition with the state on November 26, 2003 and subsequently amended the petition on March 12, 2004 seeking annexation of approximately 5,000 acres.

Mediation: From December 2003 through July, 2004 (approximately seven months) the City again repeatedly attempted to negotiate an agreement with the Township. All such efforts were rejected by the Township.

Contested Hearing on Annexation: The Office of Administrative Hearings (OAH) heard the contested annexation dispute between the parties over six full days from November 8 - 15, 2004, including a public hearing. The matter was heard by Judge Kathleen D. Sheehy. At the conclusion of the six-day trial, the parties submitted closing briefs; proposed findings of fact, conclusions of law and order; and reply briefs.

ALJ Decision: The matter, having been fully adjudicated and briefed, was then decided by Judge Sheehy who issued a 42-page decision and order granting the annexation petition, containing 157 findings of fact and conclusions of law, on January 24, 2005. The ALJ's decision was based on the 14 criteria and three decision standards contained in section 414.031, the six full days of hearings, the presentation of extensive testimony by both the City and Township, the admission into evidence of over 125 exhibits, and the closing briefs and proposed findings filed by the parties. The transcript for the proceeding is over 1,600 pages in length. In addition, the ALJ held a public hearing to take public testimony on the matter.

Why did the City seek to annex over 5,000 acres? The Township is currently surrounded by the four cities of Stacy, Wyoming, Forest Lake, and Chisago City. All of these cities are growing and the Township itself has

experienced substantial growth in the last 20 years. Yet, the Township has no realistic plans or municipal infrastructure to support the growth. In fact, the Township land use plan and regulations allow suburban development on one and two acre lots throughout the Township using septic systems and individual wells thereby precluding future economic development and the cost-effective delivery of services needed to support growth and protect the environment.

The area annexed is in the City's future growth area taking into consideration the future growth areas of the surrounding cities. The City has planned for growth and services in the annexed area, which will hold down taxes, protect the environment, preserve wetlands, open space and agricultural areas, and provide for orderly residential growth and economic development for the betterment of the City, Township, and region.

Did the City attempt to work with the Township prior to filing its annexation petition? Yes, absolutely. As mentioned above, the City made every possible effort to work cooperatively with the Township on economic development, growth and annexation issues beginning in 1996 with the joint business park and revenue sharing legislation. This effort continued through 2001 when legislation was passed and the Township withdrew its support. Between 1996 and 2002, the City spent considerable time, effort and resources in working with the Township. It was the Township, not the City, that refused to enter into a reasonable agreement.

In 2003, when the Polaris Industries facility was proposed, the City was asked to extend sewer across the annexation area to the Polaris site. The City again tried to obtain an agreement from the Township for annexation of the right-of-way area for the pipe to give property owners along the pipe the right to merely petition for annexation and connection to sewer. The Township once again flatly refused to consider any annexation to Chisago City. Thus, the only remedy that remained to plan for anticipated growth and cost-effective service delivery was to ask the state to decide the matter.

Did property owners in the annexation area petition the City for annexation and services? Yes, the City received petitions requesting annexation and provision of services from over 700 acres in the annexation area.

Why did the ALJ order annexation?

Based on 157 separate findings of fact and conclusions of law, the law of the State of Minnesota, six days of testimony, the ALJ concluded the following:

1. The area proposed by the City for annexation is about to become urban or suburban in character;

2. Municipal government in the area proposed for annexation is required to protect the public health, safety and welfare of the area; and

3. Annexation of the subject area is in the best interest of the area.

What factors did the Judge rely on in ordering annexation? A summary of the ALJ's 157 findings and conclusions is listed below:

1. The City, Township and region have and are continuing to grow quickly, experiencing substantial growth pressure from the Metro area. Chisago County is one of the fastest growing counties in the country, and the Township is the fastest growing township in Chisago County.

2. The Township has grown from 1,262 persons in 1970 to an estimated population of 4,610 persons in 2004. This growth is expected to intensify based on growth of the area and region.

3. The Township is expected to see increasing growth pressure from the cities of Forest Lake and Wyoming and from other developments needed to support growth attributed to the new Polaris Industries, Anderson Windows and Fairview facilities; all located in close proximity to the annexation area.

4. The Township has experienced substantial conversion of farmland and forest land to residential subdivisions and business parks in the past 20 years and the Township itself has admitted in its comprehensive plan that it is becoming a metropolitan suburb.

5. The City does not have room for additional growth even though it has invested and continues to invest in major infrastructure to support the economic development of the community. The Township has no similar plan or infrastructure capabilities to accommodate economic growth and job creation.

6. Only about 48% of the 5,000-acre proposed annexation area is suitable for development because of area wetlands and lakes. While the quantity of land annexed is substantial, it includes the amount necessary to diversify the City's tax base through development of a business park, to protect the shoreline around Green Lake and to bring in the land owners who seek annexation for the purpose of receiving municipal services.

7. The Township plan for development on one and two-acre lots and continued reliance on individual septic systems and private wells is not sustainable and will preclude efficient and cost-effective delivery of municipal services.

8. Soils in the annexation area are either somewhat or very limited for use of individual septic systems. Soil conditions and the water table in the annexation area make intensive development using septic systems and private wells unsuitable in much of the annexed area.

9. Development at the densities planned and permitted by the Township with no plan to provide urban infrastructure will increase the potential for damage to the environment, and municipal sewer provided by the City will better protect the environment and the public health. A wastewater treatment facility and collection system can handle variations in harmful products and flow, which could occur as a result of urbanization in the annexed area.

10. The City has planned for and invested in the infrastructure to support the growth of the annexation area, while the Township has not. The City has made a major investment to accommodate the future growth of the area, including over $2.3 million in additional capacity in the regional wastewater treatment facility, and over $1.2 million to purchase capacity in the sewer trunk line now being constructed from the City, through the annexation area, and to the Polaris Industries facility. Without annexation, this public investment will be wasted.

11. There are over 1,900 septic systems in the Township. In a 2004 report, the MPCA estimated that 39% of the septic systems around the State are failing or are an imminent threat to public health. Yet, between 2000 and 2004, the Township inspected only 43 of the over 1,900 systems in the Township. The Township does not have an adequate inspection or monitoring program.

12. The City has a municipal water system and has invested in and planned for the development of the water system to accommodate growth of the annexation area. The Township has no municipal water system and no plans to accommodate the water needs of the annexation area.

13. The County has documented contamination in wells in the annexation area including contamination from fecal coliform and elevated nitrate levels.

14. The City's municipal water system provides public health benefits that are not available from the Township's reliance on individual wells and these include monitoring, testing, and reporting of water quality and bacterial issues; control and regulation of the water supply; chlorinated and fluoridated water; and reserve capacity. Further, the storage component of the system enables the City to provide for fire suppression far above and beyond the capacity of a private well.

15. The Township has over 4,600 people, but provides the lowest level of law enforcement available. Law enforcement from the City would provide enhanced protection and programs for the annexed area. Annexation would also result in increased city services, including administration, library, public works, and parks and recreation. The City has the financial ability and staffing to provide an enhanced level of services throughout the annexation area.

16. While taxes would increase in the Township, the level of taxes that residents pay are the same as the rate paid by City residents and are directly related to the increased level of services provided to the annexed area. Taxes will also be offset by the increased Local Government Aid (LGA) and future Municipal State Aid (MSA) for city streets, which are only available as a result of annexation of the area to the City.

17. The School District is looking for a new site for a school, but will only locate a school on a site that is connected to municipal sewer and water. The School District could put a school in the annexation area with annexation, but not under Township government.

18. The City can provide for the economic development of the region given the City's investment in infrastructure and the economic development tools available to the City including an Economic Development Authority (EDA), Tax Increment Financing (TIF) and an excellent bond rating, which will allow the City to borrow money at a lower interest rate than the Township.

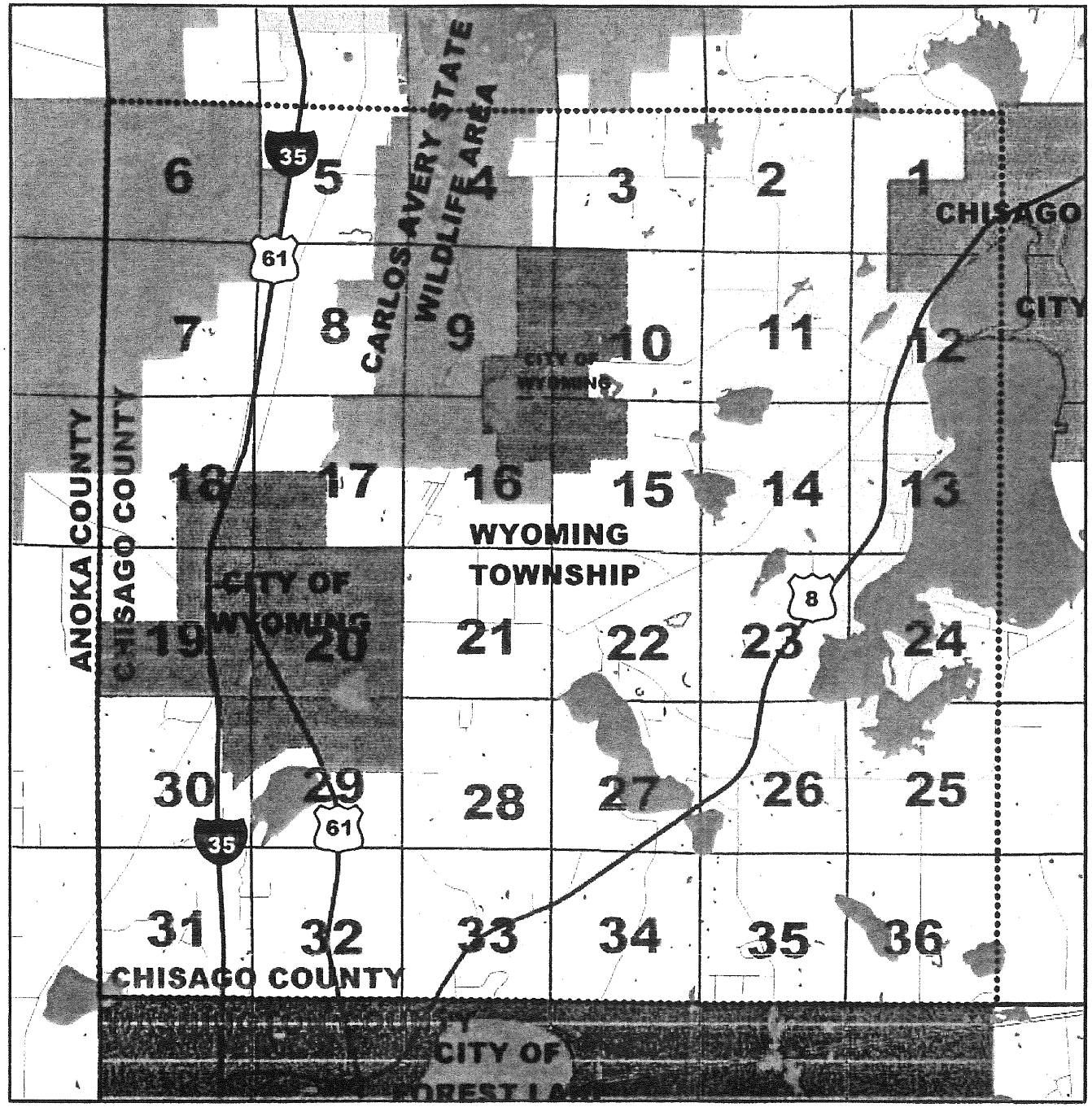
19. While taxes will go up in the Township to meet the City's tax rate and support services in the Township, the City does have the flexibility to increase tax rates proportionately over a six-year period and the City also has, and is considering adoption of a rural service district, which would set a lower tax rate for areas not immediately receiving all City services.

20. Following annexation, residents of the annexation area will be able to vote for two City Council positions in an election that will occur 60-days following the effective date of the annexation order. Thus, Township residents will have the opportunity to elect members to the City Council in addition to having the same rights as any citizen to participate in City government.

21. There is a reasonable relationship between the increased tax revenue for the City as a result of annexation and the monetary value of benefits conferred upon the annexed area.

22. The remainder of the Township will not suffer undue hardship by virtue of annexation. Following annexation, the Township will have a population of approximately 3,000 and a substantial tax base. Annexation will not impair the remainder of the Township from providing the low level of services that it has provided in the past and projects to provide in the future.

Map of Annexed Area: Attached to this summary is a map showing the City's amended petitioned annexation area. The annexation area is depicted in yellow. The map also shows the location of the cities of Wyoming and Forest Lake, which are also experiencing substantial growth just south and west of the annexed area. The Township has also proposed that these remaining areas be largely developed on one and two-acre lots with septic systems and wells. As the ALJ has concluded, the Township's development pattern is not sustainable and will preclude the cost-effective and efficient delivery of municipal services in the future.



AMENDED PROPOSED ANNEXATION

CHISAGO CITY

MUNICIPALITIES
- Chisago City
- Wyoming
- Forest Lake

ANNEXATION AREA
- Area in Wyoming Township Proposed for Annexation to Chisago City

PARKS AND LAKES
- Carlos Avery State Wildlife Management Area
- Open Water

OTHER
- Wyoming Township Boundary
- County Boundaries
- 32 Section Boundaries and Numbers in Wyoming Township
- U.S. Highways / Interstates
- Other Main Roads

4000 0 4000 Feet

March 8, 2004

Thibault

Mediation Center for Dispute Resolution
In Affiliation with Hamline University Law & Graduate Schools
Strengthen Relationships ○ Enhance Communication ○ Manage Decisions

January 4, 2005

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Dear City/Township Annexation Policy Mediation Participants:

I am writing at the request of all parties to summarize the outcome of your negotiations regarding annexation policy. You agreed that the following summary is accurate, and you will use it to explain the outcome of your discussions to others.

MEDIATION SUMMARY

Representatives of Cities and Townships began meeting in April 2004 to discuss the possibility of promoting joint legislation that would address both the Cities' and Townships' interests regarding annexation policy. The parties agreed to enter into formal mediation in October, 2004. Their first meeting was on November 1, 2004 and they met five times, also trading proposals between meetings. The last mediation meeting was December 28, 2004. Although the parties agree that their discussions were useful, there was not complete resolution. They agreed to some "housekeeping" issues that will clarify annexation-related issues and will pursue joint sponsorship of these clarifications. Major policy issues remain. The parties will maintain their positive working relationships and continue to look for solutions. They will end mediation to move on to the legislative process.

Sincerely,

Aimee Gourlay

Aimee Gourlay
Mediator

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TOWNSHIP GOVERNMENT 101

A Township Government Primer

WHAT ARE TOWNSHIPS AND WHY WERE THEY ESTABLISHED?

Townships are the original form of local government in Minnesota, established as part of the Northwest Ordinance of 1787 which created the State of Minnesota. The township form of government, a carryover from Europe, served as a familiar building block to develop the State by dividing land areas into 36 square mile units known as congressional townships. Today, the term township generally refers to organized but unincorporated communities governed by a local board of supervisors and created to provide services to their residents. There are 1,790 townships across the State.

HOW HAS THE ROLE OF TOWNSHIP GOVERNMENT EVOLVED?

While congressional township boundaries still exist, current townships are actually the result of Article 12, Section 3 of the State Constitution and Minn. Stat Ch. 379 which governs the creation of new townships. The physical size of most townships no longer resembles the original 36 square mile divisions. Instead, boundaries reflect mergers, annexations into cities, and the organization of new townships in smaller but more densely populated areas of rural counties. Townships have historically been viewed as rural areas with agriculture as their primary industry. In reality, however, townships exist in every area of the state, including the metropolitan area. In recognition of changing times, the state legislature created an option for townships with populations of more than 1,000 or which are located close to a city of the first class, to adopt what are referred to as "urban powers." These urban towns function in much the same way as a small city. The role of all townships, however, is continually evolving. Thus while many townships remain rural agricultural centers, others host a variety of residential, light commercial, and industrial development.

HOW ARE TOWNSHIPS GOVERNED?

Like every local unit of government, township powers are derived from state statutes. The primary statutes directly governing townships are Minn. Stat. Chapters 365 – 368.

A town board of supervisors, elected to staggered three-year terms on an annual basis, make up the governing body for most townships. The annual elections are held on the second Tuesday of March each year in coordination with the township's annual meeting. The annual meeting is what really sets townships apart from other forms of local government. At this meeting, the residents of the township have a direct opportunity to have a voice in how the township will be run. They do this by voting on a variety of matters on which the town board must receive elector approval, and most importantly, by directly voting on and approving the township's tax levy for the next year. This means that, with very limited exception, the town board can only spend that which has been authorized by the voters.

Some townships have opted to hold their elections in November, in which case the board members are elected to four-year terms, and elections are held in either the even or odd year depending on the choice of the township at the time of the switch from March elections. These townships, however, must still conduct the annual meeting in March.

The board of supervisors are joined by a township clerk and a township treasurer, although a few townships have adopted the Option D form of township government which allows the two offices to be combined. Most townships elect these positions, with the clerk being elected in the even years and the treasurer being elected in the odd years. The offices can be made appointed positions under the Option B form of township government.

WHO MAKES UP THE BOARD OF SUPERVISORS?

The board of supervisors in most townships consist of three members elected by the residents. A few townships have adopted the optional five member board, known as Option A. Supervisors must be residents of the township.

ARE THE SUPERVISORS THE ONLY DECISION MAKERS IN TOWNSHIP GOVERNMENT?

While supervisors are the only ones with an official vote on most final decisions, as indicated above, the residents play an important role in the decision making process through the annual meeting. Townships must also comply with State mandates, and on some issues the township can be ordered to do things by the county or, in the case of planning and zoning, must be consistent with or more restrictive than county regulations.

HOW ARE TOWNSHIPS MANAGED?

While the Option C form of township government authorizes the hiring of a town administrator, few townships have adopted this option. Most townships have a less formal management style. Day-to-day paperwork is usually handled by the town clerk. The board of supervisors appoint one of their own to serve as the chairperson, although other than running the board meetings and being the person required to sign official documents and checks, the chairperson has no extra powers. In most townships the supervisors will divide up certain tasks, such as overseeing work by contractors, etc., that would be done by staff in other units of government. But only the board as a whole can make decisions binding on the entity.

DO TOWNSHIPS HAVE COMPLETE AUTONOMY IN BUDGETARY DECISIONS?

While exempt from statutory levy limits, townships have a self-imposed limit by virtue of the residents' authority to approve the township levy, which in turn controls most budget decisions. Statutory reporting requirements, debt limits, and, changes in state-aid, etc., further restrict the fiscal autonomy of townships.

DO ALL TOWNSHIPS PROVIDE THE SAME SERVICES?

The types of services offered by townships vary greatly from community to community. Townships control approximately 47 percent of the roads in Minnesota, which means all townships have to provide or contract out for road maintenance services. Many townships provide volunteer fire department services or participate in joint powers departments with other townships and small cities. Several townships provide park and recreational services, and many others coordinate such services with other entities. An increasingly popular service being offered by townships are optional wastewater treatment services. A number of townships also maintain cemeteries. Joint powers arrangement and service contracts are also popular for a variety of services intended to benefit township residents and protect the public's health, safety and welfare.

WHERE DO TOWNSHIPS GET THEIR REVENUE?

According to a report by the Minnesota State Auditor's office on fiscal year 2000, local property taxes are the largest source of township revenues followed in order by state grants, county and local grants, special assessments, "other sources", interest on savings, service charges, license and permit fees, and federal grants. Most forms of direct state aid to townships have since been eliminated.

HOW DO TOWNSHIPS SPEND THEIR REVENUE?

The same State Auditor's report shows that road and bridge expenditures are by the far the largest expense for townships, followed in order by general government expenses, fire protection services, debt payments, "other expenditures", water and wastewater services, and public safety.

WHAT RIGHTS TO INFORMATION DO THE PUBLIC HAVE TO TOWNSHIP GOVERNMENT PROCEEDINGS?

While all townships except urban townships located in the seven county metropolitan area are exempt from the Minnesota Government Data Practices Act (a decision made by the legislature in recognition of the fact that most townships do not have the type of staffing required by the Act), members of the public can still obtain information in a number of ways. First, townships voluntarily provide access to public data upon reasonable requests.

Second, all townships are subject to the Minnesota Open Meeting Law, which means that all meetings of the town board and any official township committees must be accessible to members of the public and be preceded by proper notice. In addition, the Open Meeting Law requires that minutes be kept of the proceedings of the governing body and the minutes book must be available for review by members of the public.

Any ordinance adopted by the town board must be published in the designated official newspaper of general circulation within the township, so notice of all such regulations will always be provided.

Finally, the annual meeting affords residents the opportunity to guide much of the activities that will occur within the township through votes to authorize certain actions, and ultimately by authorizing the tax levy to be set, which in turns controls the total amount of expenditures that can be made by the board of supervisors.

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Annexation Issues: The Township Perspective Prepared for January 24, 2005 Joint Meeting of the Minnesota Senate State and Local Government and House Local Government Committees

Prepared in conjunction with the Local Government Alliance (LGA)

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Annexation Issues: The Township Perspective
Prepared for January 24, 2005 Joint Meeting of the Minnesota Senate State and Local Government and House Local Government Committees

Section I - Introduction

Annexation is a controversial yet important issue for both townships and cities. While some progress, such as the 2002 legislation making orderly annexation agreements mutually binding contracts and the 2003 legislation clarifying road maintenance obligations following an annexation, has been made, townships believe much work remains to amend the annexation process to one that is fair and provides an opportunity for both townships and cities to have their concerns addressed before any decision is made regarding a proposed annexation.

Neither the Minnesota Association of Townships (MAT) nor the Local Government Alliance (LGA), nor their respective members, have sought nor seek an absolute ban on annexation. Townships recognize that there are times when annexation is an appropriate action. MAT's legislative policy on annexation states that townships are seeking the following:

> Legislation to ensure fairness in all annexation proceedings by restoring a balance of power between townships and cities, reducing the costs of contested case proceedings, ensuring proper planning, and encouraging cooperative efforts between cities and townships.

Good lines of communications between cities and townships, and their respective organizations, are important in trying to resolve the remaining differences of opinion regarding annexation.

This paper summarizes the primary concerns of townships regarding the current annexation procedures set forth in Minnesota Statutes Chapter 414. It will also summarize the concepts of the various legislative proposals townships have placed on the table as possible means of restoring a balance to the annexation statutes, but it will not discuss in detail any specific piece of legislation.

Section II – Problems with Current Law

1. Annexations by Board Order (a.k.a. Contested Case Annexation) – Minn. Stat. § 414.031

   Although contested case proceedings make up the smallest percentage of annexation proceedings filed, they traditionally involve the most acres of land and the largest number of affected land owners. In fact, statistics provided by the Office of Boundary Adjustments show that in the 5-1/2 years between July 1, 1998 and January 31, 2004, the number acres of township property subjected to filed contested case proceedings nearly equaled the number of acres subject to orderly annexation agreements (54,639 v. 54,652) despite the fact that only 16 contested case proceedings were filed compared to 817 orderly annexation orders. Contested case annexations also have the greatest impact on property owner rights as the proceedings can be both initiated and approved without the support of a single property owner and against the desire of the majority of affected property owners. As a result, these proceedings are usually the most controversial, and they are by far the most expensive. Specific areas of concern with contested case annexations include:

   a. Excessive costs for contested proceedings. Between legal fees and hearing costs, a contested annexation proceeding can easily exceed $100,000 per entity. Many townships cannot afford to participate. Although ALJ's have recently allowed property owners to participate in the hearing process, there is no requirement for them to do so unless the owner is willing to be a formal party to the action, meaning that the affected owner would also have to share in the large legal costs of a contested annexation procedure.

   b. Insufficient notice. Under § 414.031, no notice is required until the hearing process under § 414.09 is initiated. This is simply too late into the process for meaningful dialogues to occur about alternatives to annexation or how to best approach a potentially needed annexation.

   c. Criteria to justify annexation insufficient and not applied uniformly. The current list of factors an ALJ or other decision maker is to consider is in sufficient to establish the true need for a proposed annexation. Further, in at least one recent annexation proceeding, the ALJ found that despite the property in question clearly not meeting the majority of the criteria to justify the annexation, the annexation was still approved. While there were some unique aspects to that particular annexation area, the precedent supports concerns that the current criteria are insufficient and allow too much discretion for the decision maker.

d. Cities use the process as a threat. Negotiating under the threat of a contested case process does not create a positive atmosphere, and many townships feel compelled to accept a less than ideal settlement because they cannot afford the expense of the formal contested case proceedings, especially given the current trend of opinions which do not support the likelihood of the township prevailing in a contested case process.

2. Abuse of annexation by ordinance process under § 414.033

   a. Serial Petitions. Large tracts of land can currently be annexed by the filing of a series of sequentially numbered 60 acre petitions, thus circumventing all together any safeguards intended under Minn. Stat. § 414.031 and resulting in major impacts on townships without any means for the township to participate.

   b. Fingers and "String and Balloon" Annexations. Because cities can annex any amount of land that has become surrounded by the city, some communities have used the 60 acre rule to take property surrounding a larger, more desirable tract of land and have then taken the larger island without the ability of either the township or the residents to object . Other cities have used small annexations of non-developable property in order to create points of abutment to an area of desirable tax base, which is then also annexed even though it may be an extended distance from the central part of the city.

3. General Concerns

   a. Lack of adequate planning, especially for the extension of municipal services

      i. Cities are not required to provide any service, much less enhanced services over those provided by the township. The preamble to Chapter 414 and the provisions of § 414.031 imply that the annexing city has the ability to and will extend municipal services that exceed those being provided by the township. There is, however, no requirement that they actually do so. In fact, cities without services of their own, or with municipal services inadequate to meet their own needs under applicable State and Federal standards, have the same right to annex as cities that can legitimately provide services.

      ii. No accountability to provide promised services. Cities often tell property owners that they will be able to connect to city sewer and water, or that they will receive extra police and fire protection, but some of those cities then fail to deliver the

promised services or will only deliver the services if excessive connection or similar fees are paid.

b. Faulty assumptions on use of traditional sewer systems. Both the MPCA and the Public Facilities Authority (PFA) now recognize the ISTS systems and small cluster systems provide more effective and efficient treatment of wastewater. Chapter 414, as applied, however, still creates a preference for the expansion of traditional big-pipe sewers.

c. Lack of incentive to promote more cooperative efforts or other alternatives to annexation. There is no incentive to encourage cities and townships to talk to each other first before property is annexed. Many alternatives exist that could help minimize the need for annexation, especially contested annexations. The following should be encouraged before any annexation option is explored:

   i. Joint powers agreements

   ii. Service contracts

   iii. Joint or Regional Planning

   iv. Orderly annexation agreements

d. Inadequate Fiscal Reimbursement. The current annexation laws do not allow for the adequate reimbursement to the township for lost special assessments and levies needed for the township to pay for debts and other fiscal commitments that were incurred prior to a portion of the needed tax base being annexed.

Section III – Township Position on Possible Legislative Proposals

In order to correct, or at least minimize, the problems associated with the current annexation laws, MAT and the LGA have attempted to present multiple legislative proposals during the past several legislative sessions. While it is not the intent of this paper to walk through any specific proposal, both MAT and the LGA believe it is important to understand the analysis that townships have applied to various proposals that have been raised over the years and that were discussed by the joint township-city-legislative annexation workgroup that began meeting in April 2004. This section identifies the eleven discussion points regarding legislative proposals agreed to by the towns and cities during the workgroup meetings, and briefly identifies the township position on each.

1. Development Issues.

   The City groups have indicated that they believe it is important to clarify the roles of cities and townships in terms of "urban" vs. "rural" development. MAT and the LGA believe it is pointless to debate "urban" vs. "rural" when the real issues are what services are needed to accommodate a proposed land use, and how those services can best be provided. MAT and LGA believe that such issues are best addressed under section 2, "Planning and Cooperative Efforts".

2. Planning and cooperative efforts, land use and zoning controls.

   Townships believe that there needs to be more cooperative efforts between Township, City and County units of government, especially with regard to land use and zoning controls in growth areas. The use of joint powers agreements, service contracts and other options should be exhausted before annexations, especially contested case annexations, are allowed to move forward. Further, Townships believe that annexations are only appropriate when there is a true need for services not being provided within the township and the annexing city has the ability and capacity to provide such needed services.

   To help achieve the objective of better and cooperative planning and zoning in growth areas bordering a city and a township, MAT and the LGA have proposed that the when a city and town cannot agree to an orderly annexation agreement, the city be allowed to establish an urban growth area that would be subject to a streamlined annexation process initiated primarily by the affected property owners. Planning and zoning within the growth area would be subject to a joint planning board.

   If any annexation other than annexations by ordinance were to be allowed outside of an orderly annexation agreement, the annexing city should be

required to develop a statement of need for the proposed annexation, and a service delivery plan that outlines at a minimum the type of services needed that are not currently being offered in the township and which the city has the ability to provide. The criteria currently provided in Minn .Stat. § 414.031 would need to be amended to assure that only annexations based on true need and which can be properly serviced are granted. The procedures should also provide a mechanism to hold cities accountable for providing the necessary services.

3. Environmental issues.

MAT and the LGA agree that environmental issues need to be discussed, but they exist in cities as well as in townships and thus any conversation on these issues must be comprehensive and not single out townships in the misleading manner in which they have historically been presented. The Township organizations believe that most of the environmental concerns usually raised by the City organizations (i.e., wastewater treatment and stormwater management, etc.) could best be addressed as part of the planning process by the joint planning boards, and also by the use of developers' agreements. The townships propose that if any deficiencies to the current environmental laws are discovered while discussing annexation issues, that the respective organizations work together at another time to amend the appropriate statutes.

4. Property owner rights.

Any discussion on this issue must be focused on the need to balance the rights of individual landowners to petition for annexation with the rights of others who will be impacted by the proposed annexation (especially those who could be forced into an annexation against their will). The annexation laws need to protect landowners from hostile annexations and need to guard against unduly burdening the remainder of the property owners in a township following an annexation.

5. Streamlining the annexation process.

The township organizations believe that the annexation process will become more streamlined once the risk of contested case annexations is removed. Orderly annexation agreements and joint planning areas would provide for streamlined annexations by removing the normal points of contention between cities and townships. An alternative approach to streamlining that the townships would be willing to discuss would be to replace contested case annexations with a limited referendum option by which the will of a majority of affected landowners would decide their own fate.

6. Encourage Use of Orderly Annexation Agreements.

The Townships believe that recognition of orderly annexations as the preferred method of annexation should be added to the preamble to the annexation statues as found in Minn. Stat. § 414.01. Further, townships believe that the use of any other annexation option, other than a revised annexation by ordinance process, be limited to situations when orderly annexation agreements cannot be negotiated because the township is unwilling to meet with the city, or both parties agree that an orderly annexation agreement will not be achieved within a set time period from the date negotiations were begun

7. Improved notice.

The Township organizations believe that improving the timing of when townships and residents are notified of proposed annexations may go along way to lessen the ill will that the annexation usually generates.

8. Public hearings.

The Township organizations propose that a public hearing, jointly scheduled, conducted by, and paid for by the city and township, be required on a proposed annexation outside of an orderly annexation agreement or a revised annexation by ordinance proceeding.

9. Money issues

A tentative general consensus that is contingent upon agreement of other proposals has already been reached on these two sub issues listed below.

a. Revenue Sharing.

The township organizations propose removing the six year cap for tax revenue sharing under Minn. Stat. § 414.036. The townships further propose inserting language that makes § 414.036 applicable to § 414.031 as well as to § 414.0325 and add language that allows the parties to mutually agree to a different revenue sharing. Townships propose that when a city and township cannot agree to a revenue sharing arrangement, that the annexation order or approval impose the decision maker's determination of an equitable revenue sharing plan of not less than two years and not more than 8 years. The concepts for this proposal can be found in Minn. Stat. § 414.033, subd. 12

b. Reimbursement of Outstanding Debt.

The Township organizations propose creating a new section within Chapter 414 to contain language comparable to the following:

Any annexation order or approval under this Chapter shall provide that the annexing municipality shall reimburse the affected township for the outstanding value of all special assessments previously assigned by the township to the annexed property, and for the annexed property's assigned or equitable share of payment for all outstanding township debt for which payment is not fully addressed by a special assessment. (Note: The concept here is not for the city to have to increase its tax base city-wide, but to simply impose the predetermined assessment only on the annexed property. Further, townships are okay with the city having the option to either prepay the full amount or to make annual reimbursements for the life of the debt. Additional language would be needed to implement the option desired by the cities.)

10. Stability of the process.

It is the desire of MAT, the LGA, and our members that a comprehensive reform be accomplished to restore equity and planning to the annexation process, thereby eliminating the need to seek annual reform. While we hope that any reform will resolve at least the most serious problems and eliminate the need for further legislative efforts, it is impossible for any of us to predict possible unintended consequences that may need to be addressed in the future.

11. Best practices.

MAT and the LGA are willing to work on a best practices manual to help townships and cities address the annexation issue in a productive manner. However, we propose that the development of this guide be a separate, although somewhat concurrent, process that does not supplant the need to correct the current statutory imbalance of power between cities and townships when it comes to annexation.

Both Mat and the LGA remain open to reviewing any comprehensive reform efforts that result in a balanced and equitable process that promotes cooperative efforts and planning, and which stresses the importance of need versus unilateral want in any annexation process. Legislative proposals, however, that grant cities even more unilateral power, especially those that do not provide any accountability or ensure enhanced services, will be strongly opposed.

Analysis of Existing Obstacles to Cooperative Boundary Adjustments in Minnesota and Recommendations for Effective and Equitable Procedures for Annexation

Minnesota Association of Townships

November, 2004

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Purpose

The purpose of this report is to analyze laws and procedures in Minnesota that have evolved over the past 45 years affecting boundary adjustments and to identify potential legislative initiatives that establish more efficient and equitable annexation methods for both cities and townships.

I. Chronology of Key Boundary Adjustment Legislation

1959 The Minnesota Legislature created the Commission on Municipal Annexation and Consolidation in 1957. The Commission cited inconsistencies with existing legislation affecting boundary adjustments and the need for more comprehensive procedures relating to detachment, annexation, incorporation and special power for urban towns. The Commission noted concerns over the unusual boundaries of many incorporated villages and the rapid increase in new incorporated villages in the 5-county metropolitan area from 57 in 1930 to 104 in 1958. The Commission recommended the legislation that became Minnesota Statutes Chapter 414 and created the quasi-judicial Minnesota Municipal (Commission) Board.

1963 Legislation is added to Chapter 414 that requires contested annexation decisions of the Minnesota Municipal Board to be subject to a vote of the residents in the affected area.

1969 Orderly annexation procedures were added to Chapter 414. In a 1974 Annual Report the Minnesota Municipal Board heralded this procedure as a win-win local solution in resolving boundary adjustment disputes. "Instead of generating division, it forces cooperation and long range mutual planning...No property can be annexed unless the city has available and is capable of providing full municipal services." The Board also noted that the 1959 legislative commission's concern for the proliferation ("multiplying villages like rabbits...") of "uneconomic villages" was being successfully resolved with the Chapter 414 procedures. It was reported in the nine years prior to the Board's existence that 62 villages were incorporated with an average size of 7.6 square miles. In the first nine years of the new Municipal Board only five incorporations were approved with an average size of 31.13 square miles.

1973 Chapter 414 is amended to allow concurrent detachment annexation proceedings to be initiated by 100% of property owners. Previously the proceeding could only be initiated by joint resolution of the municipalities.

1992 Township referenda provision on contested case Board orders is repealed. A 60-acre annexation by ordinance provision is added to Chapter 414. This provision allows

landowners with property abutting a city to petition for annexation provided the area is not served with public sewer facilities or public sewer facilities are not otherwise available and the area to be annexed is 60 acres or less. Annexations under this proceeding must be approved by the Municipal Board and there are no appeal procedures by affected townships.

It is interesting to note that the original bills for these initiatives were defeated in both the house and senate committee review process. The legislation resulted from a "midnight" amendment to a tax bill at the end of the legislative session.

1995 The annexation by ordinance provisions are amended to allow cities to annex land, ordered by the Minnesota Pollution Control Agency to be served with city sewer facilities, without appeal procedures by townships.

1997 The legislature enacts provisions which abolish the Minnesota Municipal Board, effective December 31, 1999. These provisions will eliminate county commissioner participation in contested annexation proceedings and allow an administrative law judge to resolve disputes.

1999 Legislation is approved to move the sunset date of the Municipal Board from December 31, 1999 to May 31, 1999. This action affected two contested annexation proceedings underway by the Municipal Board and forced the substitution of administrative law judges into the proceedings.

2000 Legislation requires cities and townships and other parties to the proceedings to split the costs of administrative law judges and mediators involved in contested proceedings. The administrative hearing costs in the first two proceedings affected by the elimination of the Municipal Board are approximately $30,000 each. In a subsequent report to the legislature, Minnesota Planning indicated that these costs would have been less than $2,000 for each hearing had the former Municipal Board conducted the hearings. Minnesota Planning also noted that the hourly rates of all administrative law judges had subsequently increased by approximately 65 percent. Proceedings similar to the two above would now cost nearly $50,000 each.

2002 Chapter 414 is amended to establish that orderly annexation agreements between cities and townships are binding and other provisions in Chapter 414 do not preempt the agreements. In other amendments, administrative law judges are required to order an immediate election for all city council seats in instances where an annexation encompasses an entire township. This amendment also allows discretion for administrative law judges to order an election in instances where less than the entire township is annexed.

2003 Chapter 414 is amended to require cities and townships to negotiate road maintenance agreements where annexations result in new common boundaries along existing township roads. Cities are further required to maintain roads were annexations occur on both sides of public roads.

II. Cause and Effects of the 1992 Amendments to Chapter 414

A 1991 report, "Case Analysis of the Annexation Process in Minnesota" (1991 City Report), was prepared for the League of Minnesota Cities (LMC) and the Coalition of Greater Minnesota Cities (CGMC). The primary findings of the 1991 City Report were:

1. Annexation attempts are likely to fail when there is significant controversy or township opposition.

2. There appears to be statutory and procedural bias against annexation.

3. The problems associated with the annexation laws and process impose significant costs on local taxpayers, residents, and the state.

The findings were proposed to be based upon the "case studies" of five cities and the "case examples" of six additional cities. To support the findings, these selected city experiences were fraught with references to poor planning in the townships, the freeloading of townships on city services, the waste of time and money required in annexation proceedings, the bias in favor of townships inherent in the current statutory provisions and the Municipal Board itself, orderly annexation agreements were unreliable because they are unenforceable, and the "threat" of township referenda precluded reasonable annexation efforts.

The recommendations of the 1991 City Report and subsequent city legislative lobbying did not, however, seek to improve city-township relations or balance alleged financial inequities. Nor did the 1991 City Report and subsequent city legislative lobbying seek to reduce controversy and opposition to annexation or "level the playing field" of alleged statutory and procedural bias against annexation. On the contrary, the legislation clearly intended and has resulted in procedures that allow cities to take land without clear purpose or need and without the threat of appeal.

The 1991 City Report was equally fraught with ironies that should have supported different emphases and outcomes. The 1991 City Report did not include any city experiences where township votes denied annexation – only the perception of failure and the threat of the vote was examined. The report also noted that some townships don't contest annexations when there is

"thoughtful planned growth" and the township understands the needs for city growth. One case example illustrated successful annexation efforts where a city adopted policies that required a financial analysis prior to annexation, that annexation must be consistent with the Comprehensive Plan, and that the city favored orderly annexation. Another community highlighted success through negotiated orderly annexation agreements that included pre-agreed phases for future annexation.

It is also ironical that one of the case studies highlighted poor planning in adjacent townships; yet, the city in the case study has a joint planning department with the county in question. It seems odd that the alleged poor planning in the townships is caused by townships when the county and city, in this case, have statutory authority for planning over the townships.

The 1991 City Report also included a section ("Social and Economic Needs Study") of a "draft" State Planning Agenda report. Noted only in the Executive Summary, the 1991 City Report concludes that the State report supports growing city concerns about ineffective annexation procedures, "unchecked environmental pollution, unplanned urban developments in the fringe area adjacent to the cities, lack of further growth and tax base potential, and costly service delivery to township residents."

The State report, in fact, was based upon a community needs survey, which indicated that land use issues ranked as the fourth highest area of concern for cities in Greater Minnesota. The report noted that all respondents were not specific in discussing particular issues, but previous studies and discussions with local officials cited concerns over annexation, tax base, scattered development and the provision of services.

The State report does say, "Anecdotal information from Capital for a Day visits and other meetings with local officials reveal a continuing concern about the inability of small cities to control and manage developments in areas adjacent to, but outside, city boundaries. Relationships with surrounding townships are frequently strained because of disagreements over annexation and plans for the area." The State report further notes that because of the divergent views by cities and townships "...coordination fails, resulting in piecemeal planning."

The State report notes that land use issues ranked much lower in the Twin Cities than Greater Minnesota due in part to the requirement for local plans and consistency with regional plans. Cooperative planning is required to promote fringe area growth management and resolve inter-community issues. The State report also notes that Twin Cities communities "are more likely to have professional planning staffs to promote discussions and mediate disputes with neighbors," than Greater Minnesota communities. The report further included, "Increasing efforts by townships to participate in a planning program may suggest that they are unhappy with existing county control or City efforts to control development from spilling into the township."

The five findings of the State report were:

1. Urban growth issues occur throughout the state but are particularly evident near regional centers.

2. Land use regulations vary widely from aggressive growth management controls to the absence of legally based controls.

3. The lack of coordination and cooperation among cities, counties, and townships often underlies growth management problems.

4. Urban fringe development, once annexed, frequently requires a disproportionate amount of public infrastructure.

5. Sometimes, agricultural and other land uses are being unnecessarily disrupted by unplanned and poorly regulated urban growth.

The case studies and case examples in the 1991 City Report reinforce the notion that cities had no problems with annexations when there was communication and cooperation with townships. The same city illustrations conclude that the trust and partnerships with townships resulted from evident city policies for annexation, reasonable needs for sustaining city growth, annexation plans consistent with local planning, and appropriately staged orderly annexations.

The State report also confirmed that the lack of cooperation among communities resulted in poor planning. Yet, the 1991 City Report attempts to argue that poor planning causes the growth management problems plaguing cities. This is a classic "chicken and egg" dilemma; however,

the data analysis presented by the cities in their own report and data references confirm that the lack of communication and coordination is the cause, not the effect, of poor planning and resulting growth management problems. The remedies sought by the cities, unfortunately, did nothing to suggest or promote better relationships with townships.

There were four recommendations in the 1991 City Report:

1. Eliminate the Municipal Board or allow administrative law judges to preside over contested annexations; and provide unilateral annexation authority to cities within ½ mile of their boundaries.

2. Reduce the discretion of the Municipal Board by requiring annexation if one of three criteria are met; by defining "urban or suburban in character;" and broadening the grounds for appeal of Municipal Board decisions.

3. Reduce the statutory and procedural bias against annexation by placing the burden of proof on townships opposed to annexation; eliminate the right to vote against annexation; eliminate county commissioner participation in contested annexation proceedings; eliminate the rights of townships to oppose or require hearings in proceedings where a majority of landowners petition; and reduce the time periods required for non-contested actions.

4. Require state funding to pay for some of the costs associated with annexation and impose development restrictions on townships that force rural development densities unless explicitly approved by the adjacent city.

While city problems with annexation seem to be the result of poor communication and coordination with townships and are often fueled by unplanned or unknown development aspirations, none of the cities' proposed legislative initiatives were aimed at improving communications, promoting cooperation, or encouraging joint planning. On the contrary, the cities' approach was not to remedy common problems. Its solutions and directions were aimed at selfish remedies that only benefited cities at the expense of townships, which worsened and perpetuated the problems that already existed.

The cities' proposed legislative actions, in their own choice words, included ELIMINATE, REDUCE, REQUIRE, IMPOSE, SHIFT BURDEN OF PROOF, FORCE, UNILATERAL DISCRETION, EXPLICIT AUTHORITY, and LOSS OF RIGHTS. As noted earlier, the House and Senate committees hearing these requests did not advance such legislation. However, this legislation did occur in a lobbying coup as a midnight amendment to a session-ending tax bill.

The immediate effect of the 1992 legislation was the increase in 60-acre annexations by ordinance which ELIMINATED any appeal provisions by townships. As just one example, in the year after the legislation was effective, one community alone enacted SIXTEEN 60-acre annexations by ordinance, taking 741 acres from a single township. All but one of these annexations included consecutive, back-to-back, or serial annexations. In fact, 11 annexations were enacted by this city, consuming 11 consecutive Municipal Board "docket numbers".

At even the lowest urban development standard, this amount of land could support 1,500 housing units and hundreds of thousands of square feet of commercial and industrial buildings. This amount of acreage would support many years of growth on its own; yet, there were many more subsequent annexations by the community in the years that followed. This type of land grabbing does not appear to be in the interests of good communications, cooperation or any sense of reasonableness. As examples of these types of actions spread through community circles, the prospects for inter-community communication and cooperation have been replaced with tools that allow border adjustments without the need for any coordination or accountability.

The intentions and consequences of the 1992 legislation were not to level the playing field of annexation disputes or create a more effective process to mediate the problems that existed. The 1992 legislation was not directed at solving problems that were identified as the obstacles to more effective annexation procedures and community relations. The legislation simply shifted what was purported as a "lose-win" relationship between cities and townships to a "win-lose" relationship. There remains the need to resolve the very problems that have persisted between communities in boundary disputes.

Statistically, it is interesting to note how many acres were annexed by ordinance before and after the 1992 60-acre legislative provisions were enacted. In the five years leading up to the new legislation, 13,794 acres or an average of approximately 2,760 acres per year were annexed by

ordinance. In the five years following the legislation, the acreage annexed by ordinance DOUBLED to 27,093 acres, or an average of approximately 5,420 acres per year.

III. Elimination of the Minnesota Municipal Board

The pattern of legislative changes in the boundary adjustment legislation since 1992 is apparent. Intense legislative lobbying by cities over the past 10 years has resulted in repeated "win-lose" legislation in favor of the cities. There have been no amendments to Chapter 414 that have advanced the simple notion of improving community relations and creating consensus for boundary adjustments. The cities' position is all too clear – it's all take and no give.

Prior to the 1997 legislative session, Minnesota Planning led a series of meetings with townships, counties, cities and a variety of other organizations to develop what would ultimately become the Community-Based Planning Act. The legislation was aimed at creating a joint planning process which allows townships, counties and cities to address common growth issues. One of the features of the planning process was the identification of urban growth boundaries around cities. The urban boundaries were need-based areas around cities to allow forecasted growth and urban expansion. The urban growth boundaries were targeted as the areas in which cities and townships would negotiate orderly annexation agreements for such growth.

In another last minute gesture in the legislative process, a new section was added to the Community-Based Planning Act, which called for the termination of the Municipal Board on December 31, 1999. This had not been the focus of any joint background efforts or consensus by the various parties involved in assembling and supporting the joint planning legislation. Unlike the bipartisan commission created in 1957 to study and recommend the boundary adjustment legislation which established the Municipal Board, the 1997 Legislature acted to eliminate the same Board without any independent analysis, findings, or recommendations.

In a 2002 report to the Legislature, Minnesota Planning summarized the effects of the sunset of the Municipal Board in 1999. Among the findings in the report it was noted, "Cities and Townships appear to be more divided than they were before the Municipal Board sunset and property owners are insisting on having more say in the land use decisions of their local governments. Crafting a boundary adjustment process that enjoys widespread support from all stakeholders and participants requires a clear statement of legislative policy as a first step."

The 2002 report indicated that the cities had pushed for and were pleased with the sunset of the Municipal Board, while the townships have bemoaned the decision as a continuation in the loss of rights and fair representation in the annexation process. The cities promoted the replacement of the Board with administrative law judges and were pleased with the results since 1999. Townships, on the other hand, noted increasing tensions with cities and complete dissatisfaction with the use of administrative law judges.

The 2002 Minnesota Planning Report also noted the skyrocketing costs of the contested proceedings employing administrative law judges. In the first two proceedings after the sunset of the Municipal Board, the costs for just the administrative law judges were nearly $30,000 in each proceeding. These costs were based upon hourly rates at the time of $91 per hour. Because the Municipal Board sunset legislation was not based upon any financial analysis nor did it address financial participation, the State of Minnesota paid over $23,000 of these hearing costs.

The estimated costs of the same proceedings if the Municipal Board had held them would have been less than $2,000 for each proceeding. Since 2001 the rates for administrative law judges have increased to $150 per hour. Applying this current rate to the above proceedings reveals the costs of administrative law judges in similar proceedings today would be nearly $50,000 each. This is more than 25 times higher than the costs for comparable proceedings held by the former Municipal Board.

These costs represent only the administrative costs of the proceedings themselves. Cities and townships also pay their own costs of preparation, testimony, and legal representation in contested hearings. Information from several townships provides examples of additional out of pocket costs for contested case proceedings under the former Minnesota Municipal Board and contested case proceedings under administrative law judges.

Out of pocket costs of contested case proceedings under former Minnesota Municipal Board (excluding costs of the Minnesota Municipal Board):

$175,000 Empire Township (1994)

$120,000 Fayal Township (1998)

Out of pocket costs of contested case proceedings under administrative law judges (excluding costs of the administrative law judge):

$120,000 St. Augusta Township (2000)

$130,000 Forest Lake Township (2000)

The point to be made is that over the years the legislative amendments to Chapter 414 have not reduced tensions between cities and townships and they have not reduced costs associated with annexations. Local out of pocket costs have remained the same as seen above, while costs of the proceedings have increased dramatically with administrative law judges.

In addition to the increased costs of contested proceedings conducted by administrative law judges, there is a loss of the municipal expertise inherent in the quasi-judicial Municipal Board which had been created solely to review boundary adjustments. Administrative law judges, on the other hand, have no particular specialty in municipal affairs or ongoing focus on boundary disputes. Additionally, recent decisions by administrative law judges appear to be made outside of the intent and standards established in Chapter 414. Two illustrations of this include decisions favoring the City of St. Cloud, the first case heard after the sunset of the Municipal Board, and the City of Mountain Iron, the latest contested hearing by an administrative law judge.

The St. Cloud case began as an incorporation proceeding by St. Augusta Township in 1999. Approximately six months prior to commencing the incorporation proceeding, the township approached the City of St. Cloud seeking its support for St. Augusta's incorporation and pledging to request, as part of its incorporation filing, that the Municipal Board annex to St. Cloud several hundred acres of property which was subject to a 1974 orderly annexation agreement between St. Cloud and St. Augusta. That same agreement prohibited St. Cloud from opposing the incorporation of St. Augusta.

Initially, the St. Cloud City Council indicated that it would remain neutral in the incorporation proceedings provided the township requested the annexation to St. Cloud of the property in the orderly annexation area. The township's incorporation petition remained true to this commitment. Shortly before the Municipal Board heard the case, the City of St. Cloud joined the proceeding as a party to the case. Although it purported to remain neutral, St. Cloud proceeded to cross examine St. Augusta's witnesses before the Municipal Board.

In May of 1999, prior to the conclusion of the Municipal Board proceedings in the St. Augusta incorporation, the cities' lobbying organizations lobbied the Legislature for the immediate termination of the Municipal Board. Like the 1992 cities' legislation, the 1999 Municipal Board immediate termination legislation was inserted into the tax bill on Sunday night, one day before the Legislature adjourned. The tax bill passed the following day.

St. Augusta's incorporation case was subsequently assigned to an administrative law judge (ALJ) and the City of St. Cloud filed a petition to annex approximately 8 square miles from the township in direct violation of its 1974 commitment not to oppose the incorporation of the Township. When the township requested that St. Cloud's petition be disallowed as a violation of the 1974 orderly annexation agreement, the ALJ ruled that that the 1974 agreement was not enforceable, and allowed St. Cloud to proceed with its request.

In opposing St. Cloud's request to annex 8 miles of township land, the township introduced evidence demonstrating that St. Cloud had nearly 5 square miles of vacant land available in its existing borders for development, enough land to satisfy growth needs for the next 20 years. The township argued that with so much land available for development in St. Cloud, the annexation of additional land was unnecessary. The ALJ concluded that "a calculation of St. Cloud's available acreage does not address the issues raised by the statutory criteria....Whether St. Cloud has other land it could develop or re-develop for other uses to accommodate its growth is not an issue." This decision eviscerates the first factor (past population and projected population growth of the subject area and adjacent units of local government) and second factor (quantity of land within the subject area and adjacent units of government) to be considered by the ALJ in Subd. 4 of Minn. Stat. § 414.031.

The ALJ's refusal to consider the land supply available within a city's borders has had the effect of encouraging cities to petition for the annexation of much more land than they need for their immediate growth, as can be seen in both the City of Monticello and the City of Chisago City contested case petitions filed in 2003.

A second case which illustrates both the hazards of applying the complex set of factors set out in Minn. Stat. § 414.031 without sufficient expertise as well as the problems inherent with the nebulous nature of the factors is the Mountain Iron case. In 2002, the City of Mountain Iron in

St. Louis County filed a petition for the annexation of 18 square miles from unorganized territory abutting the city. At the time of filing of the petition, the city contained approximately 52 square miles, of which approximately 15 square miles consisted of vacant and agricultural lands. The city's population at the time of annexation was 3,000 residents (down from 4,131 in 1980), while the 18 square miles to be annexed had only 17 residents.

After reviewing the 14 factors of Minn. Stat. § 414.031, the ALJ concluded that the 18 square miles were not urban, suburban, nor about to become so, nor was annexation required to protect the public health, safety or welfare. In fact, the ALJ specifically found that the city would not be extending municipal water or sewer to the annexed area. The ALJ ultimately annexed all 18 square miles on a finding that the annexation "would be in the best interest of the subject area." This in turn was based largely on the theory that the 17 residents were likely to receive more consideration of their needs in the U.S. Highway 53 re-routing process (i.e. where the highway would be rerouted to) under the city than under St. Louis County.

The implications of this decision are ominous. If 18 square miles of land containing a total of 17 people that will never receive municipal sewer and water can be annexed because the residents might receive "more consideration" in a one-time road realignment issue, then any property can be annexed on the thinnest of pretexts. This decision flies in the face of the Legislature's intent as detailed in Minn. Stat. § 414.01 Subd. 1a(2), which states "municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes." Seventeen people residing in 18 square miles cannot be considered "intensely developed." This case, more than any other, demonstrates that deficiencies of the current statutory standards and the current adjudication process, and, like the St. Cloud case, encourages cities to file large contested case annexation petitions.

IV. The Need for More Equitable Annexation Standards

As noted earlier, none of the annexation legislation from 1992 to 1999 has focused on improving relations between cities and townships; rather, the legislation has increased tensions and mistrust between cities and townships, increased costs of contested proceedings, and diminished the fairness of statutes intended to prevent or resolve disputes.

The root of the problem from the township perspective is that annexation procedures have been made easier for cities, but there has been no accountability to accompany these advantages. Annexations by ordinance seemingly have no limits and are viewed by many townships as tools to circumvent legislative intent. For example, serial annexations have allowed the taking of hundreds of acres of singly owned properties, which defeats the intent of a 60-acre provision.

Annexations by ordinance have occurred in finger-like extensions into townships that are not consistent with the "contiguity of boundaries" factor, which is a basic standard by which annexation decisions have historically been held to. Extensions of these finger-like annexations allow cities to surround other township areas where landowners will not petition for annexation. Yet, through these loopholes, once they are surrounded by other properties annexed by ordinance, unpetitioned properties can now be annexed by ordinance as well. These procedures impact taxpayers who have no right to appeal such actions or to participate in planning decisions that affect their lives and investments. These types of actions exacerbate and perpetuate the strained relations between cities and townships. Remedies to these problems are not in new procedures for quicker and bigger annexations by cities; rather, the remedies lie in restoring trust between cities and townships, and in protecting private property rights.

Townships, as a whole, are not opposed to annexations that are required to support the growth and vitality of their neighboring cities. The 1991 City Report provided examples that townships are cooperative when annexations are well planned and make sense. The number of orderly annexation agreements that continue to be negotiated is evidence that townships do support annexations in cooperative settings.

What townships oppose, on the other hand, are annexations that are done without need, annexations that are solely financially motivated, annexations that are done simply because the

authority exists, annexations that jeopardize the vitality of the townships, and annexations that are done against the will of the majority of the taxpayers. Townships simply want some accountability and reasonable standards applied to annexation proceedings that retain cost effective and time sensitive methods of annexation for cities, but tie the annexations to need and performance.

There have been arguments over the vagueness and interpretation of the term "urban or suburban in character" over the years, which is statutorily a factor in determining whether land should be annexed. In reviewing this and other factors in Chapter 414, the townships believe that there are other factors which may be more equitable and require less interpretation in determining the appropriateness of annexation. In instances where the taking of land becomes contested, the townships believe that the proceedings should simply be based upon the need of land for urban growth and the ability to serve the land with urban services.

There are instances where the presumably simple and harmless 60-acre annexations have created practical problems for communities. In many instances, a 60-acre annexation results in the creation of 20-acre remnants in townships. In some townships these have become illegal, nonconforming parcels of land based upon large lot zoning standards. In some instances these parcels also become landlocked. In other instances, annexations by ordinance result in joint city-township road ownership – a status often resulting before discussions are held to consider maintenance obligations.

Provided performance standards and other safeguards are in place, townships believe it may be appropriate to allow larger need-based annexations by ordinance. But townships will support this increase only with performance standards that limit current loopholes allowing serial annexations, that are in proximity to public utilities, and that resolve common road maintenance responsibilities. An additional provision is proposed that would allow cities and townships to agree to an environmental review process for areas involved in larger annexations by ordinance. The purpose of this provision is to promote better planning and analysis of the area prior to annexation. The environmental review would follow state rules for an Environmental Assessment Worksheet (EAW) or an Alternative Urban Areawide Review (AUAR), as

appropriate. While an appeal provision to subsequent annexation would remain effective, the factors to consider during the appeal would be narrowed in scope.

The League of Minnesota Cities (LMC) promotes similar types of analyses prior to annexation. In its "Handbook for Minnesota Cities" (Chapter 2, VII. Annexation), the LMC notes, "Annexations present such difficulties because sound, realistic facts and estimates regarding the financial and service implications of a proposed annexation are necessary. Annexation involves important policy questions relating to the welfare of the entire urban community, including both the city and surrounding land... The council must also decide whether the city can extend services to the surrounding developing areas and annex those areas without incurring a heavy financial responsibility that results in increased taxes or other fees and charges."

The LMC handbook cites five major questions that cities should study and resolve before considering annexation:

- How will annexation affect the residents, landowners, and property in the area to be annexed?
- What additional costs will the city incur when providing city services to the annexed area?
- How much revenue can and will the city obtain through taxes and other charges levied against the annexed area?
- What is the present status of land available in the area and the outlook for future development?
- What impact, if any, will annexation have on development in the area?

The EAW and AUAR processes noted above addresses many of these questions and require landowners or developers seeking to annex land into a city to participate in, if not pay for, the costs of these analyses before decisions on annexation are made. The environmental review process also guarantees that surrounding jurisdictions and area residents are involved in the analysis and understand the need for annexation and the potential impacts of annexation.

The purpose of all of these gestures is to improve cooperation between cities and townships in boundary disputes. The position of the cities has been that annexations are needed to allow the continued growth and vitality of the cities. The townships agree with this premise, **provided** legislative changes simplify, expedite and facilitate annexations that meet this purpose. It is proposed that the "findings" or purpose in Chapter 414 also be amended to support this position.

Simply stated, the Legislature should support need-based annexations through amendments such as those provided herein. The recommendations proposed by the townships provide for better

planning and cooperation between cities and townships, as well as expanded opportunities for non-contested annexations. The proposed recommendations close some of the loopholes in current legislation that perpetuate poor relations between cities and townships and controversy over border adjustments.

Finally, townships will not support legislation aimed at eliminating basic incorporation alternatives and procedures. Such legislation is inappropriate because there must remain a process in place in those instances where all parties agree incorporation is appropriate and necessary. Such legislation is also unneeded because there is no current groundswell or pressure for new annexations.

While the 1959 legislation was in part in response to what was viewed as a problem with incorporations, this is no longer a "crisis". In 1974, the Municipal Board highlighted the success of the 1959 Act with respect to this issue. In the nine years prior to the 1959 Act, there were 62 incorporations, while there were only five incorporations in the nine years following the legislation.

The original concern was also focused on the creation of smaller "uneconomic villages". The Municipal Board noted that the average size of the 62 new cities prior to 1959 was 7.6 square miles; whereas, the average size of the five cities created after 1959 was 31.13 square miles.

In the last 10 years, there have only been two incorporations. One city was created in the seven-county metropolitan area by the former Municipal Board. The other city was created by an administrative law judge in Greater Minnesota. The average size of these two new cities was 29 square miles. There has been no proliferation of smaller "uneconomic villages" since the current legislation was enacted.

There is no incorporation crisis and there is no need to eliminate the incorporation provisions that have worked well for the state. Efforts to eliminate incorporations appear to be another "back door" approach to limiting township opportunities and enhancing city opportunities. This only perpetuates the win-lose propositions that some cities seek.

MUNICIPAL BOUNDARY ADJUSTMENTS AT A GLANCE

Activity Description

Municipal Boundary Adjustments (MBA) is a quasi-judicial function that administers and adjudicates the uniform system of municipal boundary adjustments established in Minnesota Statutes Chapter 414 to facilitate the efficient and economical delivery of municipal services throughout the state. Legal orders are issued for the creation or dissolution of municipalities, or the alteration of municipal boundaries through consolidation, annexation or detachment of land.

Authority

Minnesota Statutes Chapter 414
Minnesota Rules Chapter 6000
17 other miscellaneous statutes that authorize additional MBA action or require the action of other entities as a result of MBA decisions.

Population Served

At the local level, individual property owners, townships, and cities have the right to initiate boundary adjustments and are directly affected by MBA decisions. At the state level, the Departments of Revenue, Transportation and Natural Resources, as well as the Offices of the Secretary of State and the State Demographer depend on MBA decisions to inform and assist in the performance of some of their various functions.

Services Provided

Adjudication: Implementation of decisions and orders of the Director* and other delegated decision-makers regarding the four major categories of municipal boundary adjustments; annexation, detachment, consolidation, and incorporation.

Review/Facilitate: Staff reviews and facilitates approximately 400 petitions for municipal boundary adjustments annually. The majority of petitions are from property owners; the remainder are from cities and townships. All adjustments affect local governments and have the potential for conflict or agreement.

Assistance: Staff provides consultation and technical assistance to local governments, property owners, planning authorities, the Legislature, government agencies, professional associations and private attorneys on issues relating to municipal boundary adjustments.

FY 2004 Statistics

419 Uncontested Files: Including 203 Joint Annexation Agreements between cities and townships
6 Contested Files: Including (1) Hearing

425 MBA decisions: 46,831 total acres of land in 61 counties; 325 cities and townships affected

*The Minnesota Municipal Board was created in 1959, with the enactment of Chapter 414 as the decision-making authority for determining municipal boundary adjustments. The Board operated as an independent agency until its sunset in 1999, when all its duties and responsibilities were transferred to the Minnesota Planning Agency. In 2003, the planning agency was abolished and certain statutory functions, including MBA, were transferred to the Department of Administration by a Reorganization Order of the Governor.

DECISIONS

Fiscal Year:	96	97	98	99	00	01	02	03	04	05*
Contested Annexations	4	5	4	7	6	9	3	3	4	2
Orderly Annexations	84	92	102	115	140	148	142	163	203	110
Detachments	6	4	4	3	2	5	3	8	3	5
Conc. Detach/Annexations	6	9	5	3	2	11	0	4	9	2
Incorporations	1	2	2	0	2	0	0	0	1	0
Consolidations	0	3	0	1	1	0	0	0	0	0
Dissolutions	0	0	0	0	0	0	0	1	0	0
Annexations by Ordinance	132	114	150	122	179	184	181	176	205	114
TOTAL DECISIONS	**233**	**229**	**267**	**251**	**332**	**357**	**329**	**359**	**425**	**233**

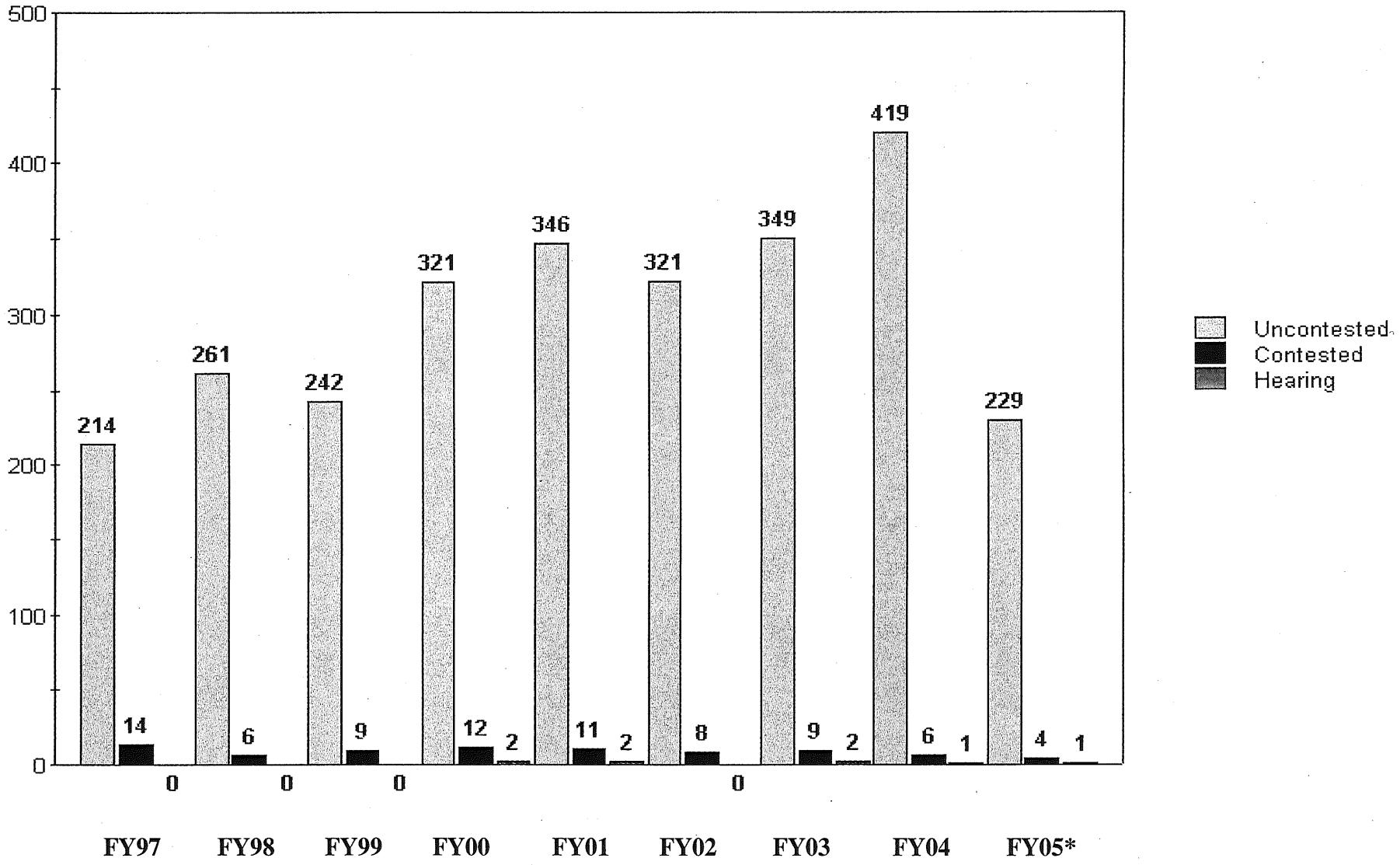
FILES OPENED

Fiscal Year:	96	97	98	99	00	01	02	03	04	05*
Annexations	143	125	167	142	201	179	198	185	195	103
Orderly Annexations	77	95	104	115	140	146	148	167	206	94
Detachments	11	10	11	6	5	15	4	5	4	4
Conc. Detach/Annexations	12	13	9	6	4	16	0	7	6	3
Incorporations	1	2	1	2	0	0	0	1	0	0
Consolidations	3	1	0	0	0	0	0	0	0	0
Dissolutions	0	0	0	0	0	0	0	1	0	0
TOTAL FILES OPENED	**235**	**233**	**283**	**265**	**346**	**340**	**350**	**366**	**411**	**204**

***Fiscal Year 05 (July 1, 2004 through December 31, 2004)**

Years represented are fiscal years. The Minnesota Municipal Board sunset was effective June 1, 1999.

Decisions: Municipal Boundary Adjustments



FY05* (July 1, 2004 through December 31, 2004)