



STATE OF MINNESOTA  
MUNICIPAL COMMISSION  
8 STATE OFFICE BUILDING  
ST. PAUL 1, MINNESOTA

CAPITAL 2-3013  
EXT. 2409

JOSEPH ROBBIE  
MINNEAPOLIS  
CHAIRMAN

ROBERT W. JOHNSON  
ANOKA  
VICE CHAIRMAN

IRVING R. KELDSER  
RICHFIELD  
SECRETARY

M E M O R A N D U M

TO: Joseph L. Donovan  
Secretary of State

FROM: Robert Edman, Secretary  
Municipal Commission

SUBJECT: S5-10 INCORPORATION OF VILLAGE OF EDEN PRAIRIE

Attached are the following documents covering the incorporation of the village of Eden Prairie:

1. Incorporation order of the Municipal Commission
2. Copy of Notice of Hearing under Section 5, pursuant to M.S.A. 414.05. (This notice which was properly posted, published, etc., takes the place of the certificate of the original petition mentioned under Section 2, Subdivision 4 FILED UNDER INCORPORATION DOCUMENT)
3. Original order affirming petition
4. Original proof of posting of election notice and incorporation order
5. Election Notice

Attached are four copies of the incorporation order, item 1 above. Would you please indicate on the bottom of three of these orders the date of the filing in your office so that we may, in turn, submit a certificate of the filing of the order to the County Auditor and the petitioners?

#15946  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
**FILED**  
OCT 23 1962

*Joseph L. Donovan*  
Secretary of State

ORDER OF INCORPORATION  
VILLAGE OF EDEN PRAIRIE

Upon proper notice the Minnesota Municipal Commission met on Tuesday, October 16, 1962, at 10:00 A.M. in Room 74 of the State Office Building, St. Paul, Minnesota, County of Ramsey, to canvass the results of the incorporation election for Eden Prairie Township held on October 6, 1962, as the result of an order of the Commission dated August 30, 1962. The canvass showed that all statutory requirements had been met and the incorporation had been favorably passed on by the electors, by a vote of 611 for incorporation and 79 votes against incorporation.


IT IS HEREBY ORDERED: That Eden Prairie be incorporated as a village as of November 12, 1962.

IT IS ORDERED: That the boundaries of the proposed village shall be the same as stated in the attached order of the Commission dated August 30, 1962, ordering the election.

IT IS ORDERED: That the new village immediately proceed under 412.021 of Minnesota statutes to set an election for first officers of the village for December 4, 1962, at the American Legion Club, 8123 Eden Prairie Road, Hopkins, Minnesota.

IT IS FURTHER ORDERED: That a copy of this order be filed with the Secretary of State and the Hennepin County Auditor.

MINNESOTA MUNICIPAL COMMISSION

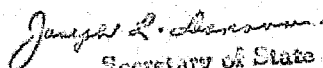
  
F. Robert Edman, Secretary

#15946

STATE OF MINNESOTA  
DEPARTMENT OF STATE

FILED

OCT 22 1962 - 4:00 p.m.

  
James L. Benson  
Secretary of State

Dated this 16th day of October, 1962

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THE UNIVERSITY OF CHICAGO PRESS

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MINNESOTA NATIONAL COMMISSION

100-443887-100

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
RECEIVED  
OCT 22 1962

Joseph L. Anderson  
Secretary of State

O R D E R

Upon the evidence presented to the Minnesota Municipal Commission at a hearing held pursuant to the authority and responsibility vested in the Commission by M.S.A. 414.05 on October 5, 1961, at the American Legion Hall, Township of Eden Prairie, Hennepin County, Minnesota, and upon all the files and records herein, the Commission being fully advised in the premises,

IT IS ORDERED: An election be held pursuant to law upon the proposition of whether or not the following described property should be incorporated as a village:

All of Eden Prairie Township, Hennepin County, Minnesota excepting therefrom the following described lands: That part of the Southwest Quarter of Section Seven (7) lying South of the railroad right-of-way. Also the North One-half of the Northwest Quarter of Section Eighteen (18) all in Township 116, Range 22.

IT IS FURTHER ORDERED that an election be held in the area approved for incorporation, which is all of the remaining unincorporated area of Eden Prairie Township, on the question of whether or not the area approved for incorporation should be incorporated as the Village of Eden Prairie.

IT IS FURTHER ORDERED: That the effective date of this Order shall be the 30th day of August, 1962.

IT IS FURTHER ORDERED: that the name of the village, if the election is successful, shall be "EDEN PRAIRIE."

IT IS FURTHER ORDERED: that such election shall be held on the 6th day of October, 1962, at the following place within the area proposed for incorporation:

American Legion Club, 8123 Eden Prairie Road  
Hopkins, Minnesota

that the polls be open at said polling place from 8:00 A.M. to 8:00 P.M.; and that the following three elector residents of the area proposed to be incorporated act as judges:

Arthur W. Miller  
Fred Holasek  
Calvin Anderson

-6-

#15946  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 22 1962

Joseph L. Anderson  
Secretary of State

and that such election be conducted insofar as practicable in accordance with the election of town officers. Only qualified voters residing in the territory herein described shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases, in one of which the voters shall make a cross to express his opinion. The ballots and necessary supplies shall be provided by Eden Prairie Township.

IT IS FURTHER ORDERED that the petitioners cause a copy of this Order to be posted not less than twenty days before the 6th day of October, 1962, in three public places in the area proposed for incorporation and to be published in the Hennepin County Review, a medium of official and legal publication of general circulation in the area proposed for incorporation, two weeks before the 6th of October, 1962.

Dated this 30th day of August, 1962.

MINNESOTA MUNICIPAL COMMISSION



-7-

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 22 1962

*Joseph L. Benson*  
Secretary of State

STATE OF MINNESOTA

COUNTY OF PENNINO

ADJUDICATE OF PUBLIC NOTICES  
AND ORDERS

Elmer E. Clark, being first duly sworn, and each deposes and says that he is the Clerk of the Town of Elm Prairie. That on the 19th day of September, 1962, he posted copies of the attached notice and order in the following places located within the Town, all of which places are customarily used for posting official notices:

1. Shady Oak Road and State Highway Number 15
2. Minnesota Township Road and County Road 4
3. County Road 4 and State Highway Road 15
4. County Road 4 and State Road

Done at St. Paul

Subscribed and sworn to before  
me this 20th day of September, 1962.

U. Harlan Perrin, Notary Public,  
Pennino County, Minnesota. My  
Commodator Expires February 13, 1969.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 22 1962

James A. Johnson  
Secretary of State

AFFIDAVIT OF PUBLICATION

The Hennepin County Review

Hopkins, Minn.

State of Minnesota  
County of Hennepin

JOHN E. TILTON, being duly sworn, deposes and says that he now is and during all the time herein

claimed has been JOHN E. TILTON, the publisher and printer of the newspaper known as The Hennepin County Review, and has full knowledge of the facts herein stated

That for more than one year immediately past he has published the contents of the printed

Notice of Election, Proposed Village of Eden Prairie

hereto attached, said newspaper was printed and published in the English language from its known office of publication within the County of Hennepin, State of Minnesota, on Thursday of each week in columns and sheet form equivalent in space to 480 running inches of single column two inches wide, has been issued from a known office established in said place of publication equipped with skilled workmen and the necessary material for preparing and printing the same. THE HENNEPIN COUNTY REVIEW has had in its contents not less than twenty-five percent of its news columns devoted to local news of interest to said community at purports to serve, the press work of which has been done in its said known place of publication; has contained general news, comments and miscellany; has not duplicated any other publication; has not been carried by mail up of patents, plate matter and advertisements; has been circulated at and near its said place of publication to the extent of 250 copies regularly delivered to paying subscribers; that there has been on file in the office of the County Auditor of said county the affidavit of a person having then and there knowledge of the facts constituting its qualifications as a newspaper for publication of legal notices; and that its publication have complied with all demands of said County Auditor for proof of its said qualifications. A copy of each issue has been filed with the State Historical Society, St. Paul.

That the printed Notice of Election, Proposed Village of

Eden Prairie, hereto attached as a part thereof was cut from the columns of said newspaper; was published

therein in the English language once a week for consecutive weeks; that it was

first so published on the 17th day of September, 1962

thereafter on the 24th day of each week to and including the 2nd

day of September, 1962; and that the following is a copy of the letter case

signature which is acknowledged to have been the size and kind of type used in the publica-

tion of said Notice of Election, Proposed Village of Eden Prairie

Publisher

Subscribed and sworn to before me this 22nd day of September 62

Thomas D. Williams, Notary Public, Hennepin County, Minn.

My Commission Expires June 10, 1967

(Official Publication)  
NOTICE OF ELECTION,  
PROPOSED VILLAGE  
OF EDEN PRAIRIE  
NOTICE IS HEREBY GIVEN  
that an election for all of the qual-  
ified resident voters of Eden Prai-  
rie Township will be held on the  
6th day of October, 1962, at the  
American Legion Club, 6123 Eden  
Prairie Road, from 9:00 a.m. to  
8:00 p.m. for the foregoing order  
of the Minnesota Municipal Com-  
mission.  
Dated this 22nd day of August,  
1962  
MINNESOTA MUNICIPAL  
COMMISSION  
By P. Robert Hanson  
Secretary  
(Capt. 13, 19, 1962)-R

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
F. H. J. BEED  
OCT 22 1962  
Joseph L. Hanson  
Secretary of State



# The Hennepin County Review

Published Weekly

State of Minnesota  
County of Hennepin

JOHN A. WILSON, Editor and Publisher, of said Review, do hereby certify that during the year 1962 the said Review

has been published weekly, except on the days when the publication of the said Review was prohibited by the laws of the State of Minnesota, and has been published in the form herein stated:

That the said Review was published weekly, except on the days when the publication of the said Review was prohibited by the laws of the State of Minnesota, and has been published in the form herein stated:

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That the said Review was published weekly, except on the days when the publication of the said Review was prohibited by the laws of the State of Minnesota, and has been published in the form herein stated:

## Official Publication

OFFICIAL

Upon the evidence presented to the Minnesota Municipal Commission at a hearing held pursuant to the authority and responsibility vested in the Commission by M.S.A. 414.03 on October 5, 1961, at the American Legion Hall, Township of Eden Prairie, Hennepin County, Minnesota, and upon all the files and records herein, the Commission being fully advised in the premises.

IT IS ORDERED: An election be held pursuant to law upon the proposition of whether or not the following described property should be incorporated as a village:

All of Eden Prairie Township, Hennepin County, Minnesota excepting therefrom the following described lands: That part of the Southwest Quarter of Section Seven (7) lying South of the railroad right-of-way, also the North One-half of the North-west Quarter of Section Eighteen (18) all in Township 110, Range 22.

IT IS FURTHER ORDERED that an election be held in the area approved for incorporation, which in all of the remaining unincorporated area of Eden Prairie Township, on the question of whether or not the area approved for incorporation should be incorporated as the Village of Eden Prairie.

IT IS FURTHER ORDERED: That the effective date of this Order shall be the 20th day of August, 1962.

IT IS FURTHER ORDERED: that the name of the village, if the election is successful, shall be "EDEN PRAIRIE."

IT IS FURTHER ORDERED: that such election shall be held on the 6th day of October, 1962, at the following place within the area proposed for incorporation:

American Legion Club, 5123 Eden Prairie Road Hopkins, Minnesota

that the polls be open at said polling place from 8:00 a.m. to 8:00 p.m.; and that the following three elector residents of the area proposed to be incorporated act as judges: Arthur W. Miller, Fred Holbrook, Calvin Anderson.

and that such election be conducted insofar as practicable in accordance with the election of town of Eden. Only qualified voters residing in the territory hereby described shall be entitled to vote. The ballot shall bear the words "For incorporation" and "Against incorporation" with a square before each of the phrases, in one of which the voter shall make a cross to express his opinion. The ballots and necessary supplies shall be provided by Eden Prairie Township.

IT IS FURTHER ORDERED that the publishers cause a copy of this Order to be posted not less than twenty days before the 6th day of October, 1962, in three public places in the area proposed for incorporation and to be published in the Hennepin County Review, a medium of official and legal publication of general circulation in the area proposed for incorporation two weeks before the 6th day of October, 1962.

Dated this 6th day of August, 1962.

MINNESOTA MUNICIPAL COMMISSION  
1961-1962

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
JUL 11 1962  
OCT 2 2 1962  
Joseph L. Anderson  
Secretary of State





STATE OF MINNESOTA  
MUNICIPAL COMMISSION  
8 STATE OFFICE BUILDING  
ST. PAUL 1, MINNESOTA

CAPITAL 2-3013  
EXT. 2409

JOSEPH ROBBIE  
MINNEAPOLIS  
CHAIRMAN

ROBERT W. JOHNSON  
ANOKA  
VICE CHAIRMAN

JOHN ROSS  
RICHFIELD  
SECRETARY

ORDER OF ELECTION,  
VETERAN VOTERS  
OF EDEN PRairie

ORDER IS HEREBY GIVEN that an election for  
all of the qualified resident voters of Eden Prairie  
Township will be held on the 6th day of October,  
1962, at the American Legion Club, 6123 Eden  
Prairie Road, from 8:00 A.M. to 8:00 P.M. per  
the foregoing order of the Minnesota Municipal  
Commission.

Dated this 30th day of August, 1962

MINNESOTA MUNICIPAL COMMISSION

By R. Robert Johnson  
Secretary

#15946

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 22 1962

Joseph L. Benson  
Secretary of State

S5-10

BEFORE THE MINNESOTA MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

#15946  
STATE OF MINNESOTA  
DEPARTMENT OF STATE

FILED  
SEP 5 - 1962

*James L. Anderson*  
Secretary of State

Joseph Robbie  
Robert W. Johnson  
F. Robert Edman

Chairman  
Vice-Chairman  
Secretary

IN THE MATTER OF THE REVIEW OF STATUS OF THE TOWN OF  
EDEN PRAIRIE, PURSUANT TO M. S. A. 414.05

This review pursuant to MSA 414.05 came on for hearing before the Minnesota Municipal Commission at the American Legion Hall in Eden Prairie Township, Hennepin County, Minnesota, on October 5, 1961, at 9:30 A.M. Joseph Robbie, Chairman; Robert W. Johnson, Vice-Chairman; and F. Robert Edman, Secretary, attended. W. Harlan Perbix, Esquire, appeared as Attorney for the Town of Eden Prairie.

The Commission having duly considered the evidence, and upon all the files and records, being fully advised in the premises, makes and enters the following:

FINDINGS OF FACT

I.

Due, timely and adequate legal notice of the hearing herein was posted, published, served and mailed. The hearing was called pursuant to the authority vested in the Minnesota Municipal Commission.

II.

The Town of Eden Prairie is located in the Southwest corner of Hennepin County and in general is bounded on the South by the Minnesota River; on the North by State Highway #101, County Roads #67 and #62 and the Village of Minnetonka; on the East by County Road #18; and on the West by the Village and Township of Chanhassen, Carver County. Eden Prairie is a

township containing approximately 36 square miles, with the exception of approximately 200 acres which was annexed by the Village of Chanhassen, and is legally described as follows:

Sections One (1) to Six (6), inclusive, Sections Eight (8) through Seventeen (17), inclusive, Sections Nineteen (19) through Thirty (30) inclusive, and all of Sections Thirty-one (31) through Thirty-six (36) inclusive, lying North of the centerline of the Minnesota River. Also all of Section Seven (7), except that part of the Southwest Quarter lying South of the railroad right-of-way. Also all of Section Eighteen (18), except the North One-half of the Northwest Quarter all in Township 116, Range 22. Also all of Sections One (1), Three (3) and Six (6) lying North of the centerline of the Minnesota River, all in Township 115, Range 22.

### III.

The population of the Town of Eden Prairie, according to the 1950 United States Census was 1,254 and according to the 1960 United States Census was 3,228. The projection by the Metropolitan Planning Commission of the population of the area encompassed by the Town of Eden Prairie is that there will be a population of 4,880 by the year 1970, and 14,000 by the year 1980.

### IV.

The Town of Eden Prairie had in 1940 a taxable rural acreage of approximately 19,810 acres. In 1960, the taxable acreage, according to the records of the Hennepin County Auditor was 17,229 rural acres and 2,789 platted acres. Although the records indicate approximately 3,000 acres as being platted land, there is, in fact, more land used as residential property as distinguished from farm land. In recent years, there has been a significant change in the use of the property within said town. In 1940 said town was essentially a farming community of about 200 farms. In May, 1961, there were 64 farms assessed for personal property. Of this number, there were only 22 that were operated by full-time farmers. The others classified as farmers had part-time jobs and other occupations. In the 20 years between 1940 and 1960 the Township has changed in character from a rural farming area to a rapidly developing and growing suburban community.

In 1957 the Town hired I. S. Shattuck, a professional planning consultant to prepare a master plan for the township. Thereafter such a plan was prepared, outlining the proposed future growth of said Township. In 1958, a comprehensive zoning ordinance in accordance with this plan was adopted. In addition, the Town has adopted ordinances relating to the construction of buildings, and the licensing of plumbers and electricians, and has employed inspectors to enforce such ordinances.

#### VI.

In 1958 and 1959 there were 300 permits for building issued within the Town of Eden Prairie. From October 16, 1959, to October 2, 1961, 161 house building permits, 47 garage permits, and 3 home permits were issued, 9 hangers were erected, 5 houses moved in, and 2 filling stations, 6 bomb shelters, 3 churches, one school, one motel, one large industrial building, one cabinet shop, one pickle factory, one greenhouse, and one large storage building were constructed. The type of homes generally authorized by building permits cost between \$15,000.00 and \$35,000.00. The outlook for the Town of Eden Prairie is for development of a well-balanced community with property set aside according to plan for residential, commercial, and industrial areas.

#### VII.

The Eden Prairie School District encompasses approximately 41 square miles in area, 36 of which are located within the Town of Eden Prairie, or approximately 90% of the School District is within the Town of Eden Prairie. Present enrollment of the Eden Prairie School District is 847 students. The projected enrollments for the year 1962-1963 are 1,024 pupils; 1963-1964 - 1,217 pupils; 1964-1965 - 1,433 pupils; and 1965-1966 - 1,600 pupils.

#### VIII.

As of May 1, 1960, the assessed valuation of the platted property within the Town of Eden Prairie was \$636,993.00. The assessed valuation of the unplatted property was \$855,658.00. In the report submitted to the Hennepin County Auditor for the taxable

year May 1, 1961, the assessed valuation was increased by approximately \$1,000,000.00, which was mainly due to an increase in the valuation of platted property. The trend has been toward a greater assessed valuation on platted property as compared to unplatted property.

IX.

The area encompassed by the Town of Eden Prairie can best be served as a Village in the matter of community planning, installation of thoroughfares, street system, sewer and water systems, fire and police protection, and other vital and necessary community services.

X.

The name of the proposed Village is Eden Prairie.

XI.

The area described is now, or is about to become, urban or suburban in character.

XII.

The township form of government is inadequate to cope with the problems of urban or suburban growth in the area.

XIII.

The Minnesota Municipal Commission requested the Village of Edina to inform the Commission whether or not such village has an interest in annexing any portion of the territory included in Eden Prairie Township. The following reply dated June 7, 1962, under the signature of Warren C. Hyde, Edina Village Manager, was received:

"Thank you for your letter of June 5 concerning the hearing for Eden Prairie Township. You state that you have received no indication that we are interested in annexing all or any portion of the township.

"I do not see how we can make any intelligent decision on this in the absence of any request from property owners in Eden Prairie for such action. If any such petitions were presented we would want to study each one on its own merits. If the Municipal Commission has any ideas that some of the area in the township could best be served by Edina we would be glad to go into the matter with you.

"The matter has not been considered by the Edina Village Council and therefore no official statement can be given you. Edina is not aggressively seeking annexation of any territory."

XIV.

The Minnesota Municipal Commission requested the Village of Minnetonka to inform the Commission whether or not such village has an interest in annexing any portion of the territory included in Eden Prairie Township. The following reply dated June 12, 1962, under the signature of Roy E. Swenson, Administrator, was received:

"This is to acknowledge receipt of your letter dated June 5, 1962, advising us of a hearing relative to the incorporation of Eden Prairie Township.

"The Village of Minnetonka did not attend the hearing on October 5th because they have no interest in the matter. We appreciate very much being notified."

XV.

The Minnesota Municipal Commission requested the City of Bloomington to inform the Commission whether or not such village has an interest in annexing any portion of the territory included in Eden Prairie Township. The Commission received no written reply.

CONCLUSIONS OF LAW

I.

The remaining unincorporated area of Eden Prairie Township is legally described as being all of Eden Prairie Township, further described as:

All of Sections One (1) to Six (6), inclusive, Sections Eight (8) through Seventeen (17), inclusive, Sections Nineteen (19) through Thirty (30), inclusive, and all of the Sections Thirty-one (31) through Thirty-six (36) inclusive, lying North of the centerline of the Minnesota River. Also all of Section Seven (7), except that part of the Southwest Quarter lying South of the railroad right-of-way. Also all of Section Eighteen (18), except the North One-half of the Northwest Quarter all in Township 116, Range 22. Also all of Sections One (1), Three (3) and Six (6) lying North of the centerline of the Minnesota River, all in Township 115, Range 22.

II.

The area described is now, or is about to become, urban or suburban in character.

III.

An election should be ordered on the proposition of whether or not the area above described should be incorporated.

IV.

The Commission determines that the incorporation as a village of unincorporated property of Eden Prairie Township will best serve the area.



O R D E R

Upon the evidence presented to the Minnesota Municipal Commission at a hearing held pursuant to the authority and responsibility vested in the Commission by M.S.A. 414.05 on October 5, 1961, at the American Legion Hall, Township of Eden Prairie, Hennepin County, Minnesota, and upon all the files and records herein, the Commission being fully advised in the premises,

IT IS ORDERED: An election be held pursuant to law upon the proposition of whether or not the following described property should be incorporated as a village:

All of Eden Prairie Township, Hennepin County, Minnesota excepting therefrom the following described lands: That part of the Southwest Quarter of Section Seven (7) lying South of the railroad right-of-way. Also the North One-half of the Northwest Quarter of Section Eighteen (18) all in Township 116, Range 22.

IT IS FURTHER ORDERED that an election be held in the area approved for incorporation, which is all of the remaining unincorporated area of Eden Prairie Township, on the question of whether or not the area approved for incorporation should be incorporated as the Village of Eden Prairie.

IT IS FURTHER ORDERED: That the effective date of this Order shall be the 30th day of August, 1962.

IT IS FURTHER ORDERED: that the name of the village, if the election is successful, shall be "EDEN PRAIRIE."

IT IS FURTHER ORDERED: that such election shall be held on the 6th day of October, 1962, at the following place within the area proposed for incorporation:

American Legion Club, 8123 Eden Prairie Road  
Hopkins, Minnesota

that the polls be open at said polling place from 8:00 A.M. to 8:00 P.M.; and that the following three elector residents of the area proposed to be incorporated act as judges:

Arthur W. Miller  
Fred Holasek  
Calvin Anderson

and that such election be conducted insofar as practicable in accordance with the election of town officers. Only qualified voters residing in the territory herein described shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases, in one of which the voters shall make a cross to express his opinion. The ballots and necessary supplies shall be provided by Eden Prairie Township.

IT IS FURTHER ORDERED that the petitioners cause a copy of this Order to be posted not less than twenty days before the 6th day of October, 1962, in three public places in the area proposed for incorporation and to be published in the Hennepin County Review, a medium of official and legal publication of general circulation in the area proposed for incorporation, two weeks before the 6th of October, 1962.

Dated this 30th day of August, 1962.

MINNESOTA MUNICIPAL COMMISSION

*Joseph P. Lohr*  
Chairman

#15946

-7-

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
SEP 5 - 1962

*James L. Anderson*  
Secretary of State

## MEMORANDUM OPINION

### I. HISTORY AND APPLICATION OF SECTION 5

Section 5 of the Minnesota Municipal Commission Act<sup>1</sup> provides that within one month after the effective date of each State or Federal census the Commission shall cause to be determined the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township.<sup>2</sup> It then requires the Commission to determine whether all or a part of the township area will best be served by incorporation or annexation or to remain as a township. By a 1961 amendment, the Legislature deems the land contained in such area to be urban or suburban in character for the purpose of incorporation or annexation.<sup>3</sup> After Commission determination that incorporation as a village will best serve the area, the law provides that it shall issue its order providing for an election incorporating the town or part thereof or including contiguous unincorporated area not within a township as a village under the same name, or in the event of duplication, under a name selected by the Commission.

This mandatory review of the governmental status of so-called urban towns was provided by the Legislature as a means of determining by administrative review the point at which increasing population density and urban development render township government no longer adequate as a means of effectively governing hitherto rural land. The Minnesota Legislative Research Committee filed an extensive report with the 1955 Legislature, "Problems of Urban Towns (Townships) in Minnesota,"<sup>4</sup> which pointed out that under Minnesota laws towns are organized units of local government generally based upon the Congressional-planned survey that townships are 36 square miles although they have larger or smaller areas; that towns are usually rural in character and provide certain limited local governmental services for people living outside of incorporated cities or villages;

1. Minn. Stat. 414.04 (1)

2. Subd. 2, supra.

3. Subd. 3, supra.

4. Minnesota Legislative Research Committee, "Problems of Urban Towns (Townships) in Minnesota", Publication #58, November, 1953.

Section 5 of the Municipal Commission Act which requires mandatory review by the Municipal Commission of the governmental status of urban towns. The Commission on Municipal Annexation and Consolidation created in 1957 referred to the problem of urban towns as "perhaps the thorniest problem presented to this Commission for study and construction of a new statutory technique."<sup>8</sup>

The 1953 Legislative Research Committee had said that there are two main approaches to the problems of urban towns:

- (1) To adopt a strict policy of not giving them such dispensation (special laws) by encouraging them to seek fundamental and lasting means of meeting their problems through annexation and incorporation; and
- (2) To create a separate classification of urban towns and grant them specific authority relating to special assessments for local improvements and other public undertakings short of those which can be accomplished by incorporated municipalities.

The Legislative Research Committee added that "which policy to be followed is properly a matter for Legislative determination" and passed the problem along. The 1957 Commission on Municipal Annexation and Consolidation made the choice "between the two alternatives posed by the Legislative Research Committee...we find that the first suggestion, 'to seek fundamental and lasting means...through annexation and incorporation' is preferable. The creation of a State Municipal Commission to hear petitions for incorporations or annexation furnishes the machinery by which suitable annexation or incorporation can be accomplished when such townships become more urban than rural in nature."

The latter Commission found that it would be much more difficult and complex to create a separate classification of urban towns and to grant them specific authority relating to special assessments for local improvements and public undertakings short of the authority given to incorporated municipalities. The Commission observed that such a separate special classification of urban towns would only complicate the situation, and said it could "find no valid reason why an urban township which has lost its agricultural character should not be governed by the laws relating to municipalities and should not assume urban responsibilities."

8. Report of the Commission on Municipal Annexation and Consolidation submitted to the 1959 Minnesota Legislature, available at Legislative Research Committee, State Capitol, St. Paul, Minnesota, pp. 17-18.

"We recognize the difficulty of determining when a town passes from predominantly rural to urban characteristics. In defining when this transposition has occurred, we are intentionally more conservative as to population minimum than in the definitions of urban towns contained in the 1953 Legislative Research Committee Report or in the law creating our study Commission." Hence, the provision applying Section 5 to townships containing more than 2,000 of population in the unincorporated area.

## II. REVIEW OF EDEN PRAIRIE TOWNSHIP

Eden Prairie Township, lying in close proximity to the City of Minneapolis, and bordering the City of Bloomington and the Villages of Edina and Minnetonka in Southwest Hennepin County, contains an estimated population of 4,002 in 1962; and an increase of 769 over the 1960 census.<sup>9</sup> These proceedings are the Section 5 review of Eden Prairie's governmental boundary status. The area is becoming suburban in character as the location for upper-income level residences.

Because the Municipal Commission has 30 townships in Minnesota under Section 5 review, most of them in the metropolitan area, the foregoing history and application of Section 5 has been set out to place in context the considerations in determining what action, if any, should be taken pursuant to Section 5 to transform part or all of Eden Prairie and similar urban towns to municipal status.

We have previously considered petitions for the separate incorporation of Minnetrista, Dayton, Burnsville, Eagan and Inver Grove Townships as complete units. We have before us the separate petition for incorporation of Cottage Grove Township and the joint petition of Cottage Grove and Woodbury Townships as one municipal unit. We have conducted the Section 5 hearings as to the possible incorporation for annexation of part or all of Lakeville Township.

We approved the incorporation of Minnetrista Township in Western Hennepin County near Eden Prairie. We were impelled to approve what was otherwise a doubtful incorporation by the agreement

9. Metropolitan Planning Commission, 1962 estimate.

of the Villages of Mound and Island Park to merge. The merger of these villages, previously carved out of territory in Minnetrista Township, improved local government in the area and left it with only the same number of governmental units after the incorporation of Minnetrista. This expedient reason does not furnish precedent for other township incorporations.<sup>10</sup>

We denied the incorporation of Dayton Township because it has not reached a point of urban or suburban development to justify separate incorporation.<sup>11</sup>

We issued an Interim Memorandum Opinion on May 2, 1962, with reference to the separate petitions to incorporate Burnsville, Eagan and Inver Grove Townships and our Section 5 review of Lakeville Township.<sup>12</sup>

We said there that we were not satisfied that an adequate case had been made for the separate incorporation of any one of those four townships which lie in an adjacent group in Northern Dakota County which is directly in the pathway of the most rapid expected population growth in the Twin Cities metropolitan area. We invited those townships to jointly counsel with one another and to suggest an additional plan or plans for the solution of the problems of urban growth in their common area or to submit additional evidence relating to their proceedings before the Commission. The Dakota County Opinion sets forth the policy of this Commission in reference to the prospective incorporation of property within the metropolitan area:

10. In the Matter of the Petition for the Incorporation of the Proposed Village of Minnetrista, MMC I-1-59.
11. In the Matter of the Petition for the Incorporation of the Proposed Village of Dayton Park, MMC I-2-59.
12. In the Matter of the Separate Petitions to Incorporate the Entire Townships of Burnsville, Eagan and Inver Grove, and Proceedings to Review Lakeville Township pursuant to Section 5 of Laws 1959, Chapter 686 as Amended, MMC I-3-61, I-8-61, I-9-62, S5-17, issued May 2, 1962.



"In general, urban experience indicates that the remaining unincorporated land within metropolitan districts should be annexed to existing cities and villages as the need arises for municipal services except where there remains within one unified portion of the metropolis a sufficient amount of unincorporated property experiencing a rapid population growth to provide an adequate economic base so that the resulting newly created municipality can furnish governmental services as effectively and efficiently as they could be obtained by annexation...

"The Municipal Commission will shoulder its responsibility by approving no incorporation of a new municipality until it is convinced by reasonable proof that the proposed entity has an adequate tax base, a reasonable prospect of providing necessary services when it is completely organized, is not a part of a larger entity which would more adequately sustain municipal responsibilities, and would not be served better by annexation."

Pursuant to this policy, the Commission added in the Northern Dakota Opinion:

"It is equally impossible to decide if the standards for incorporating a new municipality are met without considering the impact on the surrounding metropolitan complex when the proposed new city or village lies within the metropolis or on the suburban fringe."

At the Section 5 hearing relating to Eden Prairie Township, the Town Board unanimously recommended to the Commission that Eden Prairie Township be separately incorporated. Donald Rogers, Chairman of the Town Board, and Kenneth Anderson and Alvin Bren, Supervisors, appeared at the hearing in support of incorporation. Arthur Miller, Treasurer; Elmer Clark, Town Clerk; Archie Carter, Town Engineer, Lloyd Whitmer, Town Assessor; members of the Town Planning and Zoning Commission; and a member of the Eden Prairie School Board also appeared in support of this proposition.

Applying the same standards as were applied to the proposed separate incorporation of the Northern Dakota Townships, the Commission frankly preferred strengthening existing cities adjacent to Eden Prairie Township, including Edina, Minnetonka and Bloomington, by annexation. While the City Manager of Bloomington audited the hearing, none of these municipalities expressed any interest to the Commission in annexing all or any part of Eden Prairie Township. The Commission contacted each of these municipalities again after fully considering the record to determine if it proposed annexation as a practical alternative to incorporation.<sup>13</sup>

13.. Again on June 5, 1962, the Commission notified all communities of their intention to close the Eden Prairie Record. The communities were invited to place in the Record any interest that they might have in annexing all or a portion of Eden Prairie Township by June 20th. None expressed such an interest.

Again, none expressed an interest. As a result, the Commission finds that it does not have the practical alternative of annexation because of the provisions of the Municipal Commission Act which require the consent of a municipality before adjacent incorporated land can be annexed to and become a part of such city or village.<sup>14</sup>

This is regrettable. Based upon our previous Opinion that the statute prefers annexation to the creation of additional municipalities within the metropolitan area, and that municipal services may thereby be furnished more economically and efficiently in that manner, the Commission preferred to go into the annexation of the developed portions of Eden Prairie Township to existing municipalities in far greater depth. We were precluded from this by the lack of any expressed willingness of the adjacent municipalities to annex Eden Prairie land. We, therefore, must consider whether all or part of Eden Prairie Township requires municipal government to give direction and control to the rapid urban growth which is anticipated. We find that the township form of government is inadequate to control expected urban growth in Eden Prairie Township. We find the area to be expanding in population, construction and other activities. We find an alert town government which has used all of the resources available to it as a township. The community has adopted extensive zoning and building ordinances. It has employed competent professionals to help plan future growth. The civic groups have carried on extensive fact-finding and educational programs. The tools provided municipalities to govern themselves are now needed to insure future growth. Since this is not available through annexation, we have no alternative except to approve an incorporation election for all of the remaining unincorporated property in Eden Prairie Township.

We are impressed by the showing made by the Town Board and their consultants and employees. The evidence in this petition is superior to that in any previous consideration of the incorporation of a township within the developed portion of the Twin Cities metropolitan district. Nevertheless, we limit the effect of this opinion to the facts before us. It does not furnish precedent to future proceedings involving attempts to incorporate separate townships within the

14. Minn. Stat. 414.03 (1).

metropolitan area where the practical alternative of annexation or more comprehensive incorporation exists. We adhere to the position that where annexation can be accomplished within settled and developed metropolitan areas, and services may be more economically and effectively served thereby, annexation is preferred by the statute to the creation of additional villages within the metropolitan district.

We find a unity of interest socially, economically, culturally, and civically within Eden Prairie Township in attaining urban status. Our Supreme Court has held that such an area which is rapidly becoming urban or suburban in character is entitled to incorporate under the judicial standards which applied prior to the adoption of the Municipal Commission Act.<sup>15</sup>

We have considered enlarging the area to be incorporated by adding property to the West where a common boundary is shared with Chanhassen Township. The officials of Eden Prairie have indicated that if at the conclusion of the Chanhassen hearings the Commission determines that there is an area of common interest they will accept any territory assigned by the Commission for annexation. The Commission is, therefore, approving the incorporation of Eden Prairie at this time without requiring the community to wait for the conclusions of the Chanhassen hearings.

The question of a defensive incorporation similar to the petitions of Northern Dakota County obviously does not apply to Eden Prairie.

An incorporation election is approved for Eden Prairie because the community has made a strong case for incorporation and because neighboring communities have seen fit by their actions to close their boundaries to any future expansion.

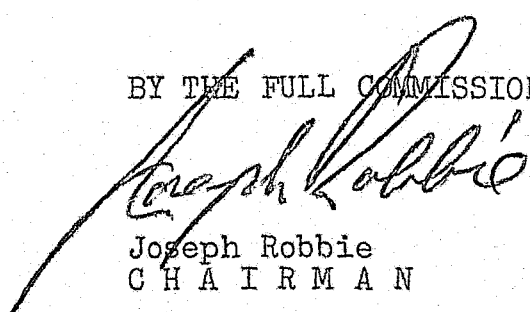
Despite the incorporation order, the Commission stresses to the residents of Eden Prairie the need of intergovernmental cooperation. To solve their future sewer and water problems it is obvious that Eden Prairie must work for solutions on a district basis.

15. State ex rel. Burnquist vs. so-called Village of St. Anthony 1947, 223 Minn. 149.

It is obvious that the community must undertake a detailed comprehensive plan for orderly development in cooperation with their neighbors. Cooperation zoning and planning along their borders with their neighbors is imperative.

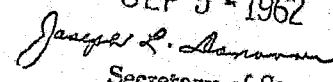
Incorporation does not necessarily seal the boundaries of a municipality freezing all the territorial limits for all time. If problems develop as a result of future highway location, sewer plans or other factors, it is expected that the community will work with its neighbors to adjust boundary inequities that thus occur by simultaneous annexation and detachment proceedings.

BY THE FULL COMMISSION:

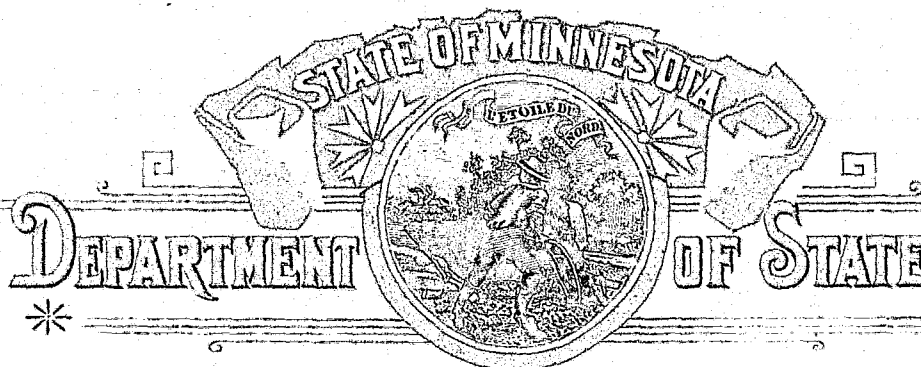
  
Joseph Robbie  
C H A I R M A N

Memorandum

Jointly Prepared

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
SEP 5 - 1962  
  
Secretary of State

United States of America



I, JOSEPH L. DONOVAN, Secretary of State of the State of Minnesota, and keeper of the Great Seal of said State, do hereby certify:

That on October 22, 1962 at 4:00 p.m., there was filed in this office certain papers in connection with the incorporation of the VILLAGE OF EDEN PRAIRIE, Hennepin County, Minnesota, i.e.,

1. Incorporation order of the Municipal Commission stating "IT IS HEREBY ORDERED: That Eden Prairie be incorporated as a village as of November 12, 1962.
2. Copy of Notice of Hearing under Section 5, pursuant to M.S.A. 414.05. (This notice which was properly posted, published, etc. takes the place of the certificate of the original petition mentioned under Section 2, subd. 4 FILED UNDER INCORPORATION DOCUMENT.)
3. Original order affirming petition
4. Original proof of posting of election notice and incorporation order
5. Election Notice

All of said documents are contained in our Official Document File No. 15946.

IN WITNESS WHEREOF, I have

hereunto set my hand and

caused the Great Seal of the

State of Minnesota to be

hereunto affixed this 5th day

of November, nineteen hundred

and sixty-two.

*Joseph L. Donovan*  
SECRETARY OF STATE.

#15946

but that near larger cities towns often are so densely populated as to become more urban than rural in character. The report defined this latter group of towns as being the urban towns upon which the study was centered.

The 1953 Legislative Research Committee which filed the "Report on Problems of Urban Towns" evaluated the problems created by the enactment of special laws to permit urban towns to exercise special village powers because of the inadequacy of the township form of government to provide governmental services in a hitherto rural area rapidly becoming urban in character but still under the basically rural township form of government. The report listed seven methods for meeting the problems of urban towns; Granting special powers to towns; creating special districts for certain services; expansion of services provided by counties; joint exercise of common powers; extending municipal services beyond municipal boundaries; annexation to an existing municipality; and incorporation as a separate municipality.

Prior to the enactment of the Municipal Commission Act in 1959, the only means which had been used to solve this problem were the first two: Granting special powers to towns and creating special districts for certain services. The 1957 Legislature created the Commission on Municipal Annexation and Consolidation.<sup>5</sup> The Legislature charged the Commission to investigate "the need for a separate statutory class of urban towns and, if such a class is deemed necessary, the content of the statutes relating to such a class, including the procedure by which a town becomes an urban town and the relationship between such towns and cities and villages."<sup>6</sup> The Legislature referred to "towns having 1,200 people residing on platted territory or having land within 25 miles of the city hall of the city of the first class" as a possible definition of urban towns.<sup>7</sup>

This, and the special laws which had previously been passed granting special powers to towns, forms the Legislative history of

5. Minnesota Laws 1957, Chapter 833.

6. § 2 (5), supra.

7. § 1, supra.