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A-273

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
FEB 24 1963  
*James L. Anderson*  
Secretary of State

BEFORE THE MINNESOTA MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson  
F. Robert Edman

Vice-Chairman  
Secretary

16139

IN THE MATTER OF THE PETITION OF THE CITY OF BLOOMINGTON TO  
ANNEX THE TOWNSHIP OF BURNSVILLE, DAKOTA COUNTY, MINNESOTA.

The petition of the City of Bloomington for the proposed annexation of the township of Burnsville described in said petition and located within Dakota County was filed with the Minnesota Municipal Commission on the 31st day of August, 1961. The petition came for a hearing before the Minnesota Municipal Commission on October 9, 10, 11, and 12, 1961, August 1 and August 30th, September 19th, October 24th, November 14th, December 18th, 1962, in the Burnsville High School, in the Dakota County Court House, Hastings, Minnesota after publication and posting of the proper notices pursuant to the authority and responsibility under M.S.A. Section 414.01 et seq. as amended by Laws 1961, Chapter 645.

APPEARANCES WERE MADE BY:

David Grannis, Jr. and Vance Grannis, Jr. of Grannis and Grannis, Schult Building, South St. Paul, Minnesota, Attorneys for Burnsville and Inver Grove Townships;

Richard E. Kyle and Frank Graham of Briggs, Morton, Kyle and Macartney, West First National Bank Building, St. Paul, Minnesota, Attorneys for Independent School District 191;

J. G. Pidgeon, City Attorney for the City of Bloomington;

A. Leonard Bentson, Lakeville, Minnesota, Attorney for Lakeville Township;

Martin H. Otto, Route #1, Box 203, Savage, Minnesota, Attorney for Orchard Gardens Area (Burnsville-Bloomington hearing);

Luther Stalland, 1400 Rand Tower, Minneapolis 2, Minnesota, Attorney for Egan Township;

Mr. Edward B. McMenemy, 1st National Bank Building, Hastings, Minnesota, Attorney for Lebanon Township;

Mr. Gerald Kalina, Lakeville, Minnesota, Attorney for Village of Lakeville;

The Minnesota Municipal Commission also has before it the separate petition to incorporate the Township of Burnsville into the Village of Burnsville filed by certain freeholders of the community supported by the Burnsville town board.

A third incorporation petition from freeholders of the Orchard Gardens area of Lakeville and Burnsville townships (Docket I-5) was also filed with the Commission and came before the Commission on December 11, 1961, at the County Court House in Hastings, Minnesota. This petition later was denied on April 2, 1962.

On October 10, 1962, the Commission notified certain property owners in Lakeville, Lebanon, and Eagan Township by proper legal notice served on each of the property owners that the Commission was considering adding their property to the Burnsville incorporation request. A hearing was held October 24, 1962, and continued to November 14, 1962. Evidence was taken and testimony was heard from all those appearing and indicating a desire to be heard. Certain exhibits were received in evidence. The Commission having carefully considered all of the evidence included in all of the testimony, exhibits and being fully advised in the premises and upon all of the files and records now makes the following FINDINGS OF FACT and CONCLUSION OF LAW AND ORDER:

#### FINDINGS OF FACT

##### I

The population of the City of Bloomington was 50,417 according to the 1960 federal census and 54,000 in October, 1961.

##### II

The area of Bloomington is approximately 25,040 acres.

##### III

The approximate assessed valuation of Bloomington is \$30,800,000 including the valuation of the Blackdog plant.

IV

Population and construction in Bloomington has increased five fold in the past decade.

V

Sufficient space is available to accommodate expansion in Bloomington for the foreseeable future.

VI

That the City of Bloomington is located within Hennepin County.

VII

That Bloomington not only has adequate area within which to expand, but also enjoys a well balanced tax base and the addition of the proposed area is not necessary to Bloomington and its expanding population for its continued economic strength.

VIII

Bonded indebtedness for the City of Bloomington on October 10, 1961, was approximately \$20,700,000 which approximately \$18,500,000 consisted of revenue bonds or direct assessment bonds for sewage and water.

IX

On October 9, 1961, it was stipulated by and between the parties to the petition of Bloomington to annex all of the township of Burnsville and the parties to the petition for the incorporation of all of Burnsville that the testimony and exhibits of the annexation hearings and incorporation hearings could be taken simultaneously and that the records would therein be the record for consideration with the same force and affect in each proceeding. Pursuant to the stipulation it was so ordered.

X

That the granting of this petition would place an undue burden on the City of Bloomington to attempt to plan and control the Burnsville area while it is experiencing the problems of growth and expansion within its present boundaries.

XI

The area of Burnsville Township is 16,640 acres.

XII

The population of Burnsville in August, 1961, as supported by the census attached to the petition was 3,908.

XIII

The Burnsville 1961 assessed valuations were: Platted land \$1,031,892 and unplatted lands \$10,081,520. Included in the unplatted assessed valuation is the Northern States Power Blackdog Plant . . . \$7,700,000.

XIV

A reasonable population projection for Burnsville Township is 28,000 people by 1980.

XV

There has been during the past 18-month period an accelerated effort on the part of Burnsville Township area to plan for governmental services.

XVI

That if the people in the Burnsville area are given the proper form of government, they have the necessary assessed valuation and now show that they have the ability to plan for and take care of the governmental services needed by the residents living in the area.

XVII

That the Township of Burnsville is located within Dakota County.

XVIII

Burnsville Township had no bonded indebtedness on October 10, 1961.

XIX

Burnsville fire protection is provided under contract by the Savage Fire Department.

XX

Burnsville police protection is provided by the Dakota County Sheriff's office and two elected constables.

XXI

Burnsville has neither a central water system or a central sewage disposal system.

XXII

Burnsville Township is zoned into residential, industrial, and commercial areas.

XXIII

The township form of government is inadequate to protect the public health, safety and welfare of the people living within the Burnsville area.

XXIV

That Hennepin County is governed to a large measure by special legislation applying to counties within which is located a city of the first class.

XXV

That having a city with boundaries including territory within Hennepin and Dakota County would cause a great many administrative problems for the city and its officials.

XXVI

That the Minnesota River and a huge valley separate Bloomington City and the area they sought to annex.

XXVII

That the river and the valley separating the areas of Bloomington and Burnsville serve as a great physical handicap to efficient administration of a single municipal government in providing government services to the residents located within the proposed area.

XXVIII

That there is no community of interest between the areas.

#### CONCLUSIONS OF LAW

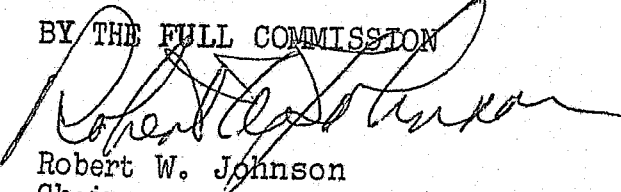
1. The property described in the annexation petition is now or is about to become urban or suburban in character.
2. To provide adequate protection for public health, safety and welfare of the Burnsville area in reference to plat control or land development which may be expected to occur within a reasonable length of time annexation is not necessary.
3. Annexation is not necessary to protect the public health, safety, and welfare of the residents of the City of Bloomington.
4. The Burnsville area has the resources to provide necessary services to the residents of the area.
5. The Burnsville area has a sufficient amount of unincorporated property experiencing a rapid population growth, as well as an adequate tax base so that governmental services can be provided by incorporation as effectively and efficiently as by annexation.

O R D E R

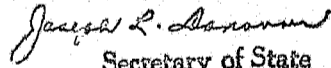
Upon the petition for the City of Bloomington for the annexation of the township of Burnsville, Dakota County, State of Minnesota, which came on hearing before the Minnesota Municipal Commission on October 9th, 10th, 11th, and 12th, 1961, and August 1st and 30th, September 19th, October 24th, November 14th, and December 18th, 1962.

At which time evidence was taken, testimony heard, and exhibits received after which time briefs were submitted by all parties. Upon all the findings and records herein the Commission being fully advised in the premises. IT IS ORDERED: That such petition for annexation of Burnsville Township described within be and the same, hereby be denied in all things effective February 3rd, 1963.

BY THE FULL COMMISSION

  
Robert W. Johnson  
Chairman

# 16139  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
FEB -4 1963

  
Secretary of State

MEMORANDUM OPINION

Upon the petition of the City of Bloomington for the annexation of the Township of Burnsville, Dakota County, State of Minnesota, we reject the petition by the City of Bloomington to annex Burnsville Township. The testimony described in the petition is before the Commission as the result of the combined hearing on a separate petition for incorporation of the township by freeholders of the township and the petition by the City of Bloomington.

The Chairman of the County Board of Dakota County and the County Auditor have participated in all hearings and meetings of the Commission regarding this annexation petition. Normally the ex-officio officers participate only in incorporation hearings. However, because of the decision to consolidate the records of all hearings in the Burnsville area, the ex-officio members have been included by the Commission in all Dakota County deliberations.

It was obvious to the Commission at the time of the first hearings on Burnsville that the incorporation petition had been initially filed strictly as a defensive measure. This fact was testified to by the township officials. When Burnsville was first notified of the Commission's jurisdiction under Section 5 of the Act, we were informed by the County Planning Commission that the area was not ready for incorporation.

The Blackdog and Bloomington annexation actions, however, moved the community out of its lethargy. In an extraordinary series of community meetings starting in the fall of 1961, and continuing to this day, the community was alerted to the fact that rapid growth was upon them and if they were to retain their entity, that they must look beyond their boundaries and that they must organize and plan for the orderly development of their community.



It is obvious to the Commission that change of governmental structure will not in itself result in better services and planning unless it is accompanied by citizen participation such as we have seen in Burnsville.

In addition, the past 18 months have shown a very gratifying activity on the part of the officials of Burnsville Township. They have hired an engineer and a planner. They have strengthened their planning commission, they have held extraordinary meetings, they have rallied together and studied and planned, and have succeeded in showing the Commission that they do have the willingness and ability to plan for their growth. They have further shown the Commission that they can provide all the governmental services the residents in their area have a right to expect under the township form of government.

The efforts of the people in the area and their willingness to work together and plan for their future needs have created a definite situation which now justifies the Commission in denying the Bloomington petition for annexation. The Commission realized that the people in the area needed planning and services when the hearings first were completed, but we were not satisfied that the people in the area were aware of this responsibility or whether they were willing to or able to assume it. They now have proven their worth and it has been through this effort that the Commission is now finally willing to pass the responsibility fully to them by denying the petition for annexation by the City of Bloomington.

All parties at the Burnsville incorporation and annexation agreed that the area involved can be considered urban or suburban in character. They all agreed that continued growth is inevitable as evidenced by the population growth of 1950 from 583 to over 5,716 in 1962 as documented by Metropolitan Planning Commission report of August 1, 1962. This growth is expected to continue with the completion of the new Interstate

Freeway 35W, the proposed new Cedar Avenue Expressway, abundant amount of desirable land plus a historically strong southward thrust of population.

At no time during the hearings did Bloomington ever contend that they needed the additional Burnsville property to take care of their future residential expansion. Bloomington, for instance, did not appear at the Eden Prairie hearings to request any land for expansion.

Whereas the Commission has committed itself to a strong policy of allowing annexation to existing municipalities instead of incorporation where such a choice is available, there are of necessity certain exceptions. This is one of the exceptions.

The philosophy of the Commission in regard to annexation has previously been stated and repeated in previous orders and memorandum opinions. A municipality with experience, ability, tax base, and the need for additional land can generally serve the residents in the area with governmental services more effectively and more economically.

In this case, however, as has been pointed out in the findings of fact we have here two situations which collectively create an exception to the annexation rule

1. The area proposed to be annexed is located in a county other than the one in which the annexing city is in. These two counties operate under separate systems, each of which requires city participation. There are two different types of welfare systems, separate law enforcement, court systems, different assessing procedures, together with separate election procedures -- public health nurses, extension service, jail facilities and other differences. These complexities in and of themselves would create difficulties in administration and in effective carrying out of governmental duties, to say nothing of the cost of duplication of record systems.

2. The second major exception is the physical location of the area proposed to be annexed. It is separated from the proposed annexing city by a river and a huge valley. For any resident of Burnsville to drive to the closest portion of Bloomington he must drive 3- $\frac{1}{2}$  to 4 miles. This would cause additional expense to furnishing of the services.

There is no community of interest between the two communities and no prospect of any being developed. School, church, and postal lines all separate the two areas. Testimony supporting annexation called for branch fire equipment, road equipment, and other emergency equipment to be located in the area. All of these matters and others would continue to keep the areas from establishing any community of interest.

There was no showing where such major services such as water and sewer could be furnished any more economically or effectively by annexation.

These factors, together with the showing that the annexing city has an adequate taxbase of its own, that it has adequate room for expansion, that the health, welfare and safety of the residents of Bloomington would not be jeopardized by the denial of the petition are sufficient to create the exception to the general rule favoring annexation.

The Municipal Commission repeats, however, that it still considers itself precluded by law from approval of incorporations except where there is a sufficient amount of unincorporated property experiencing a rapid population growth, as well as an adequate tax base, so that the resulting newly created municipality can furnish governmental services as effectively and efficiently as that which can be obtained by annexation.

Burnsville has shown that it meets all the requirements of the above Commission policy statement and that the denial of Bloomington's annexation petition would not be detrimental to the common good of this portion of the metropolitan area.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
M. H. ED  
FEB -4 1963

*James L. Larson*  
Secretary of State

16139  
Dated this 22nd day of January, 1963  
BY THE FULL COMMISSION

*F. Robert Edman*  
F. Robert Edman, Secretary