

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
Robert Gambrino	Ex-Officio Member
Keith Maurer	Ex-Officio Member

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IN THE MATTER OF THE PETITION OF THE )	<u>FINDINGS OF FACT, CONCLUSIONS</u> <u>OF LAW AND ORDER</u>
CITY OF ST. CLOUD, MINNESOTA, FOR THE )	
ANNEXATION OF CERTAIN LANDS )	
PURSUANT TO MINNESOTA STATUTES 414 )	

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The petition of the City of St. Cloud, Minnesota, for the annexation of certain lands described in its petition, situate in Stearns County, Minnesota, came duly on for hearing pursuant to the notice hereinafter referred to, before the Minnesota Municipal Commission at the Civic Building in the City of St. Cloud, in Stearns County, Minnesota, on January 25, 1968, which hearing was pursuant to stipulation of the parties and order of the Commission continued from time to time. A lawful quorum was present at all sessions of the hearing.

The petitioner, the City of St. Cloud, appeared by and through Donard J. Kunesh and Howard I. Donohue, attorneys for said petitioner; the Town of St. Cloud appeared by and through John B. Pattison, Jr., and Paul T. Birkeland, its attorneys; Crossroads Center Corporation appeared by and through David Stanley, its attorney; Richard Westra of Bee Line Garage, Vern B. Pearson of Plaza Buick, Inc., and P. L. Thielman appeared personally.

It was made to appear that the petition of the City of St. Cloud, Minnesota for the annexation of the lands described in its petition was filed with the Minnesota Municipal Commission on the 19<sup>th</sup> day of December, 1967, that thereafter the secretary of said commission caused a notice to be issued fixing the time and place of hearing thereon and also caused a copy of said petition and notice of hearing thereon to be sent and given to the persons specified in the statute and caused the notice of said

#21220

hearing to be posted and published in accordance with and as prescribed by statute.

The petitioner then and there offered evidence in support of its petition and the respondents in opposition thereto, all of which was received by the commission.

The time fixed by statute for the commission to make and file its order was upon stipulation and order of the commission at public hearings on said petition, extended from time to time, with the last extension being to and including December 15, 1969.

After due and careful consideration of the evidence so offered and received, together with all the records, files and proceedings had and taken herein and being duly advised in the premises the Minnesota Municipal Commission now makes and files the following as and for its Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I.

That due, timely, and adequate notice of the petition, the hearing thereon was given and served, posted and published as required by statute and that due, timely and adequate notice was given of each continuance of said hearing.

II.

That the lands described in the City's petition described in the Order herein, are unincorporated lands adjoining and abutting the City of St. Cloud.

III.

That the lands herein described are urban or suburban in character.

IV.

That the population of the City of St. Cloud at the time of the taking of the last census in 1965 was 37,746, and that the lands described in the City's petition, including those lands herein described, do not have any inhabitants.

V.

That the area of the City of St. Cloud is approximately 10.5 square miles, about 6700 acres, that the area of the lands described in the City's petition is 81.8 acres and of the lands herein described 72.55 acres.

VI.

That the assessed value of all of the real estate in the City of St. Cloud for the year 1967 was \$13,497,378.00, that the assessed value of the real estate in the area described in the petition herein for the year 1967 was \$420,581.00, and the assessed valuation of the lands described herein in the year 1967 was \$416,937.00.

VII.

That the past and future probable expansion with respect to population increase and construction of the City of St. Cloud is such that it cannot be accomplished within the existing corporate limits of said city, and that it is necessary in order to provide for such future and probable expansion that the said city annex unincorporated adjoining areas, and that the area described herein is suitable for such purpose in carrying out such future and probable expansion.

VIII.

That the taxes upon the property in the area described herein can reasonably be expected to increase, but that the expected increase will be proportional to the expected benefits inuring to said area as the result of said annexation.

IX.

That there is a present existing and reasonably anticipated need for governmental services in the area described herein, such as water system, sewage disposal, zoning, planning, police and fire protection.

X.

That the City of St. Cloud is capable of and it is practical for it

to provide the foregoing governmental services presently or when they become necessary in the area described herein.

XI.

That the lands described herein lie within the Township of St. Cloud, but that the Township of St. Cloud is not presently capable of or disposed to furnish the municipal or governmental services which the area requires, and that the annexation of said area will not affect the government of the Township of St. Cloud which will be fully capable of continuing after the annexation.

XII.

That the petition of the City of St. Cloud for annexation of the lands herein referred to was not made for the primary motive or purpose of increasing its revenues.

CONCLUSIONS OF LAW

That the Minnesota Municipal Commission for this its Conclusions of Law herein determines:

1. That the Minnesota Municipal Commission duly acquired and now has jurisdiction of the above-entitled proceeding.
2. That the lands described herein which adjoin and abut the City of St. Cloud are so conditioned and so located as to be properly subjected to the municipal government of the City of St. Cloud, Minnesota.
3. That the interests of the City of St. Cloud, and the area of the lands described herein, would be best served by the annexation of said lands to the City of St. Cloud, Minnesota.
4. That municipal government and services are required in the area of the lands described herein for the preservation and protection of public health, welfare and safety of said area and of the City of St. Cloud.
5. That the Town of St. Cloud is not presently capable of or disposed to furnish the municipal services which the area requires, that the City of St. Cloud is capable of and it is practicable for it to provide such services

presently or when they become necessary, and that the annexation of said area will not affect the government of the Town of St. Cloud, which will be fully capable of continuing after annexation.

6. An order should be issued by the Municipal Commission ordering the annexation of the lands herein described to the City of St. Cloud.

7. Let an order for such annexation be entered and filed accordingly.

#### ORDER

IT IS HEREBY ORDERED: That certain real estate lying in and being a part of the County of Stearns, State of Minnesota, and described as follows, to-wit:

That part of Section 16, Township 124, Range 28 West of the 5<sup>th</sup> Principal Meridian, Stearns County, Minnesota, described as follows:

The West Half ( $W\frac{1}{2}$ ) of the Northwest Quarter ( $NW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ) excepting the Northerly 495 feet of the Westerly 330 feet thereof; and

The Northerly 301 feet of the East Half ( $E\frac{1}{2}$ ) of the Northwest Quarter ( $NW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ), and that part of the East Half ( $E\frac{1}{2}$ ) of the Northwest Quarter ( $NW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ) lying South of a line 301 feet South of the North line of Section 16 and lying West of a line 330 feet West of the East line of said Northwest Quarter ( $NW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ), excepting the South 165 feet thereof; and

The East Half ( $E\frac{1}{2}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ) of the Northwest Quarter ( $NW\frac{1}{4}$ ), excepting the Northerly 495 feet thereof; and

The North Half ( $N\frac{1}{2}$ ) of the Southeast Quarter ( $SE\frac{1}{4}$ ) of the Northwest Quarter ( $NW\frac{1}{4}$ ) lying North of the Northerly Right-of-Way line of State T.H.#23 and #52, and

The North Half ( $N\frac{1}{2}$ ) of the Southwest Quarter ( $SW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ) lying North of the Northerly Right-of-Way line of State T.H. #23 and #52, excepting the Northerly Half ( $N\frac{1}{2}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ) of the Southwest Quarter ( $SW\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ), and

Those portions of Lots 7, 8, and 9, of Block 1, Garden Acres, and that portion of 37<sup>th</sup> Avenue North adjacent thereto and Westerly thereof, according to the plat on

file in the office of the Register of Deeds for Stearns County described as follows: The West Half ( $W\frac{1}{2}$ ) of Lots 7 and 8 except the South 33 feet of the East 106 feet of said West Half ( $W\frac{1}{2}$ ) of Lot 8; the West 190.3 feet of Lot 9; and that part of the West 190.3 feet of Lot 10, lying North of the Northerly Right-of-Way lines of State T.H.#23 and #52.

be, and the same hereby is annexed to the City of St. Cloud, Minnesota.

IT IS FURTHER ORDERED: That the annexation herein ordered be effective upon the filing of the Order herein as required by statute.

IT IS FURTHER ORDERED: That the ad valorem real estate taxes levied in 1969 by the Township of St. Cloud on the property herein ordered annexed which are due and payable as of the date of this Order shall be the property of the City of St. Cloud, but such taxes levied for the retirement of the bonded indebtedness of the township shall be paid to the township until such time as the same is paid. All other property and obligations of the township shall remain the property and obligations of said township. However, all real estate taxes on the property herein ordered annexed which are delinquent prior to the date of this order shall be payable to the township.

Dated this 15<sup>th</sup> day of December, 1969

MINNESOTA MUNICIPAL COMMISSION  
610 Capitol Square Building  
St. Paul, Minnesota 55101

*Bruce Rasmussen*

Bruce Rasmussen  
Secretary

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STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
DEC 16 1969

*Joseph L. Donovan*  
Secretary of State

MEMORANDUM

To understand fully the instant proceeding it will be helpful to summarize the major aspects of the procedural history of the Town of St. Cloud (Town) - City of St. Cloud (City) - Village of Waite Park controversy.

Commencing on December 10, 1963, the Commission, under the purview of M.S. 414.05, held a series of hearings to "determine whether all or a part of the township area will best be served by incorporation, annexation, or to remain as a township." Hearings on this question were held from time to time, with the last hearing being held on September 9, 1969. This proceeding is known as the Section 5 proceeding.

The instant proceeding, known as the Crossroads annexation proceeding, came on for hearing on January 25, 1968, and was continued from time to time with the last hearing being held on September 9, 1969.

On November 22, 1968, the Commission received a petition of certain landowners to the Village of Waite Park for annexation of a tract which included land within the Crossroads annexation. Waite Park was notified of this fact by the Commission and advised that, pursuant to M.S. 1967, Section 414.02, Subd. 2, it could take no action unless otherwise provided by commission order, until final disposition was made of the Crossroads annexation. This proceeding is known as the Waite Park annexation.

In addition to the formal hearings, the Commission held under its auspices, and participated in under the auspices of others, informal meetings designed to arrive at a mutually acceptable solution to what was commonly understood to be a significant problem; that is, the problem of coping with the urbanization of part of the Town area. The Town felt that orderly annexation of the residential developments presently within its boundaries was required to provide much needed

urban services. It wanted assurance that these services would be provided within a reasonable time. The City seemed willing to take on these responsibilities, provided that it obtained the tax advantage of the Crossroads area.

These discussions resulted in proposed legislation and the proceedings were continued, by mutual consent, to allow the legislation proposal to be pursued. The proposed legislation was enacted as Laws of Minnesota 1969, Chapter 1146, Section 11, and will be codified as Minnesota Statutes, Section 414.032, known as the orderly annexation procedure.

The orderly annexation procedure provides that a city and a town may by joint resolution designate an area as in need of orderly annexation. Upon such designation the Commission may, after formal hearing under the adversarial system, order all or a part of the designated area annexed upon finding that it "is now or is about to become urban or suburban in nature and that the annexing municipality is capable of providing the services required by the area within a reasonable time." Municipal taxes in the annexed area are allowed to be increased over a three to five year period in recognition that such time will be required for the annexed area to be benefited from the full range of urban services. The effect of an orderly annexation is that the municipality knows that it will ultimately include the designated area and can plan accordingly, and that the residents of the designated area will be assured of receiving services within a reasonable time after annexation and of being taxed for services in proportion to the delivery thereof.

A joint resolution under the orderly annexation procedure has been passed by the City and Town of St. Cloud, and the Commission has taken jurisdiction over the designated area. A hearing will be conducted on this matter on January 16, 1969.

The Crossroads property herein annexed will benefit immediately



from the full range of City services, and would therefore seem inappropriate for orderly annexation. Sewer and water are already provided by the City under contract. The contract will, of course, terminate upon the annexation. Sewer and water are not presently provided by the City to any of the parcels within the area designated under the joint resolution, and it will take some time for these services to be made available.

While granting of the Crossroads annexation creates some apparent boundary irregularities, these will be rationalized under the orderly annexation proceeding. The irregularities within the area designated under the joint resolution are tracts where the owner and the City have annexation agreements which will be effective when the tracts become eligible for annexation.

By our Order of December 11, 1969, we have instructed the Village of Waite Park to proceed under the Waite Park annexation petition. This petition was signed by a majority of the property owners and there is no overriding reason not to effectuate their desires. The authority of the Commission to proceed on pending matters independently of the time of filing allows this action.

All of the motions made by the various parties have been considered by the Commission in its deliberations, and have been ruled on consistent with this order.

We believe that these three Commission actions, i.e., our approval of the Crossroads annexation, our order allowing Waite Park to proceed under the petition of November 22nd, and accepting jurisdiction over the designated area of the joint resolution of December 1, 1969, when taken together, constitute a substantial solution to the problems of urbanization in the Town. We are therefore by separate order terminating the Section 5 proceeding.

#21220  
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*James L. Johnson*  
Secretary of State