

Apple Valley

A-1673

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
Patrick J. Scully	Ex-Officio Member
Charles E. Mertensotto	Ex-Officio Member

IN THE MATTER OF THE RESOLUTION OF THE)
VILLAGE OF APPLE VALLEY FOR ANNEXATION)
OF UNINCORPORATED PROPERTY IN THE TOWNS)
OF ROSEMOUNT, EMPIRE AND LAKEVILLE, TO)
THE VILLAGE OF APPLE VALLEY)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

The Minnesota Municipal Commission is herein designated as "the
Commission." The instant proceeding is one of five proceedings
consolidated by the Commission for hearing. The Commission's docket
number for these proceedings, together with a short description of
the proceedings, is as follows:

A-798	Farmington Annexation of 195 acres
I-13	Lakeville Consolidation *
I-34m	Rosemount Consolidation
A-1672	Farmington Annexation of 8,144 acres
A-1673	Apple Valley Annexation

The units of government involved in the proceedings are as
follows:

Town of Lakeville

Village of Lakeville refers to the Village as it existed
prior to the Commission's order of October 20, 1966.
References to the Village of Lakeville as created by the
Commission's order of October 20, 1966, will contain such
qualifying language.

Village of Apple Valley (Apple Valley)

Town of Empire (Empire)

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Town of Castle Rock (Castle Rock)

Village of Inver Grove Heights (Inver Grove Heights)

Village of Rosemount

Town of Rosemount

Village of Farmington (Farmington)

All of the territory within these governments is located in Dakota County, Minnesota.

PROCEDURAL HISTORY

A petition of a majority of the property owners of a certain 195 acre area in the Town of Lakeville requesting annexation to Farmington was filed with the Farmington Village Council on April 13, 1965. Objections to the petition were filed with the Commission by the Town Board of the Town of Lakeville, and by the Village Council of the Village of Lakeville, thereby automatically transferring jurisdiction over the petition to the Commission. The proceeding (MMC A-798) came on for hearing before the Commission on June 28, September 16 and November 4, 1965, in the Farmington Village Hall.

A petition of certain freeholders of the Town of Lakeville, requesting consolidation of the Town of Lakeville, and the Village of Lakeville into a single new municipality was filed with the Commission on July 2, 1965. A resolution of the Village Council of Lakeville requesting consolidation of the Town of Lakeville and the Village of Lakeville into a single new municipality was filed with the Commission on July 2, 1965. The proceeding (MMC I-13m), which included the 195 acre tract in MMC A-798, came on for hearing before the Commission on October 21, and November 4, 1965, and September 22, 1966 in the Lakeville Village Hall.

On July 23, 1966, before the Commission issued its order on MMC A-798, Farmington appealed to the District Court, Dakota County alleging that the Commission failed to issue an order relative to the annexation proceeding within the statutory time limit of one year from June 28, 1965, the date set for the first hearing thereon.

The Commission, on October 20, 1966, issued its Findings of Fact Conclusions of Law, and Order in the Lakeville consolidation proceeding. The Commission's order consolidated the Town of Lakeville and the Village of Lakeville into a single new municipality. Separate appeals from this order were filed in the District Court of Dakota County by Farmington, by a majority of property owners of the 195 acres of land included in the Farmington annexation MMC A-798 and by other property owners in the Town of Lakeville.

The District Court considered Farmington's appeal from the statutory denial of MMC A-798 together with the three appeals from the Commission's order in MMC I-13m and on February 14, 1968, issued orders affirming the statutory denial and affirming the Commission's order. All of the appellants in District Court appealed separately to the Minnesota Supreme Court.

The Minnesota Supreme Court consolidated the various appeals from the District Courts' orders and on July 11, 1969, reversed and remanded the entire matter to the District Court. The District Court was directed to vacate the Commission's order, and to remand the Lakeville consolidation proceeding to the Commission for further findings in accordance with the Supreme Court's opinion. The District Court was further directed to vacate its order affirming the statutory

denial of Farmington annexation MMC A-798, and to remand it to the Commission for reconsideration and findings.

On August 7, 1969, the Minnesota Supreme Court denied respondent's Village of Lakeville and Town of Lakeville motion for rehearing of the appeal. The Supreme Court further expressed the opinion that the existing municipal government of the Village of Lakeville as created by the Commission's order of October 20, 1966 should continue pending redetermination by the Commission.

The District Court remanded both proceedings (MMC I-13m, and MMC A-798) to the Commission on September 5, 1969. The District Court further ordered, on September 11, 1969, that the existing municipal government of the Village of Lakeville, as created by the Commission's order of October 20, 1966, should continue pending redetermination and further order of the Commission.

The remanded proceedings then came on for hearing before the Commission on October 28, 1969, and December 3, 1969 at the Farmington Village Hall.

Resolutions of the Village Council of the Village of Rosemount and the Board of Supervisors of the Town of Rosemount and a petition of certain freeholder residents of the Town of Rosemount requesting consolidation of the Village and Town of Rosemount into a single new Village of Rosemount were filed with the Commission on June 3, 1969. This proceeding (MMC I-34m) came on for hearing on August 28, 1969, September 16, 1969, October 28, 1969 and December 3, 1969.

A petition of a majority of the property owners of a certain

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8,144 acre area in the Town of Lakeville requesting annexation to Farmington was filed with the Commission September 10, 1969, together with a resolution of the Village Council of the Village of Farmington approving the proposed annexation. This proceeding (MMC A-1672) came on for hearing on October 28, 1969 and December 3, 1969.

A resolution of the Council of the Village of Apple Valley for annexation of a certain unincorporated area in the Town of Lakeville was filed with the Commission on September 16, 1969. This proceeding (MMC A-1673) came on for hearing on October 28, 1969 and December 3, 1969.

On December 3, 1969, at continued hearings on all five of the proceedings herein (MMC A-798, MMC I-13m, MMC I-34m, MMC A-1672, MMC A-1673), the Chairman of the Commission ordered said five hearings consolidated in the interest of economy and expediency, and ruled that the consolidated hearing would be conducted under Minnesota Statutes 1969, Chapter 414. The records of all previous hearings on the matters herein were incorporated by reference. Hearing dates on the consolidated hearing were January 7, 1970, January 8, 1970, January 22, 1970, January 23, 1970, February 18, 1970, April 14, 1970 and April 15, 1970.

APPEARANCES

John J. McBrien, Attorney for Farmington, the petitioners in proceeding MMC A-798 and the petitioners in proceeding MMC A-1672.

Edward McMenomy, Attorney for Apple Valley.

Gerald W. Kalina. Attorney for the Village of Lakeville and

Castle Rock.

David L. Grannis, Jr., Attorney for the Town of Rosemount, and the petitioners in proceeding MMC I-34m.

Vance B. Grannis, Jr., and Patrick A. Farrell, Attorneys for the Village of Lakeville as created by the Commission's order of October 20, 1966.

Harold LeVander, Jr., Attorney for Inver Grove Heights.

Vance B. Grannis, Jr., and David L. Grannis, Jr., Attorneys for the Town of Lakeville and petitioners in proceeding MMC I-13m.

Peter Schmitz, Attorney for Empire.

The Board of Commissioners of the County of Dakota appointed Commissioner Patrick Scully as an Ex-Officio Member of the Commission for all five of the proceedings herein, Commissioner Thomas Freiling as an Ex-Officio Member for proceedings MMC A-798 and MMC I-13m, and Commissioner Charles Mertensotto as an Ex-Officio Member for proceedings MMC I-34m, MMC A-1672, and MMC A-1673. By resolution of the Board of Commissioners of the County of Dakota dated October 28, 1969, Commissioner Mertensotto replaced Commissioner Freiling for proceedings MMC A-798 and MMC I-13m. The Commission convened by lawful quorum at all of the hearings herein.

Evidence was taken and testimony 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 and exhibits, being fully advised in the premises, upon all of the files, records, and proceedings herein, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. A Resolution of the council of Apple Valley for the annexation of the following described property was filed with the Commission on September 16, 1969. Said Resolution was in all respects proper in form, content, and execution. Said property is unincorporated and abuts upon Apple Valley:

- a. All of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 in Township 115, Range 19 and Sections 7, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33 of Township 115, Range 18, except the Village of Coates, also known as Rosemount Township and Village, with the Village of Rosemount being in Section 29, Township 115, Range 20.
- b. Sections 1, 2, 3, 4, 9, 10, 11 and 12, and the East one-half of Sections 5 and 8 in Township 114, Range 20, being part of Lakeville Township.
- c. All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, except the Village of Coates, in Township 114, Range 19, being part of Empire Township.

2. Due, timely and adequate legal notice of the hearing ordered by the Commission were properly published, served and filed pursuant to law.

3. Apple Valley has grown from a population of 585 persons in 1960 to a population in excess of 8,000 persons in 1970, and will continue to grow in population at an accelerated rate. That part of the area proposed for annexation located in the Town of Lakeville (hereinafter referred to as Valley Park) has grown from a rural area to a population in excess of 1,500 in 1970 and will continue to grow at an accelerated rate.

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4. Apple Valley contains approximately 17½ sections of land. Valley Park contains approximately 9 sections of land.

5. Both Apple Valley and Valley Park contain land used and usable for residential, industrial, commercial and institutional purposes.

6. Valley Park is included in the area recommended by the Metropolitan Council for annexation to Apple Valley.

7. Apple Valley has presently in force, zoning ordinances and subdivision regulations which will adequately control future development in Valley Park.

8. Apple Valley and Valley Park lie in the same major watershed.

9. Apple Valley and Valley Park are presently served by the same sanitary sewer system. Both are within the jurisdiction of the Metropolitan Sewer Board in matters relating to sanitary sewer. Apple Valley and Valley Park are also served by an interconnected road road system and are situated in the same school district and post office area. Apple Valley and Valley Park also share the use of commercial and recreational facilities. The aforementioned demonstrates a strong community of interest between Apple Valley and Valley Park.

10. Governmental services needed and to be needed in Apple Valley and Valley Park can best be provided through the annexation of Valley Park to Apple Valley.

11. Planning and future development of Apple Valley and Valley Park for residential, commercial and industrial growth can best be provided by the annexation of Valley Park to Apple Valley.

12. The annexation of Valley Park to Apple Valley will not unduly adversely affect the ability of adjacent Villages and Townships to provide their residents with adequate governmental services.

13. That part of the area proposed for annexation located in Empire is used primarily for agricultural purposes.

14. That part of the area proposed for annexation located in the Town of Rosemount can best be provided needed governmental services through consolidation of the Village and Town of Rosemount into a new Village of Rosemount.

15. The Town of Lakeville has not functioned since the Village of Lakeville created by the Commission's order of October 20, 1966 came into existence. The District Court, Dakota County, on September 11, 1969, ordered: "That the Municipal Government of the Village of Lakeville as the same presently exists under the Order of Consolidation of the Minnesota Municipal Commission of the State of Minnesota shall continue pending redetermination and further Order of the Commission."

CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission duly acquired and now has

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jurisdiction of this annexation proceeding.

2. Valley Park is so conditioned and located as to be properly subjected to municipal government as a part of Apple Valley.

3. That part of the area proposed for annexation located in the Town of Empire is not now urban or suburban in nature, nor is it about to become so, and the area proposed for annexation should be decreased accordingly.

4. That part of the area proposed for annexation located in the Town of Rosemount would be better served by a new Village of Rosemount created by the consolidation of the present Village and Town of Rosemount, and the area proposed for annexation should be decreased accordingly.

5. Valley Park is now, or is about to become urban or suburban in character.

6. Annexation of Valley Park to Apple Valley is required to protect the public health, safety and welfare in reference to plat control and land development and construction which may be reasonably expected to occur.

7. Annexation of Valley Park to Apple Valley is in the best

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interest of both areas and the remaining area of the Village of Lakeville as created by the Commission's Order of October 20, 1966 can continue to carry on the functions of government without undue hardship.

8. Valley Park should be annexed to the Village of Apple Valley, and a referendum on this question should be held pursuant to Minnesota Statutes 1969, Section 414.031, Subdivision 5. A supplemental hearing should be held by the Commission to establish the population of Apple Valley as herein expanded.

ORDER

IT IS HEREBY ORDERED: That the area proposed for annexation be decreased by removal of the following described property:

All of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 in Township 115, Range 19 and Sections 7, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33 of Township 115, Range 18, except the Village of Coates, also known as Rosemount Township and Village, with the Village of Rosemount being in Section 29, Township 115, Range 20.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, except the Village of Coates, in Township 114, Range 19, being part of Empire Township.

IT IS FURTHER ORDERED: That the following described area, herein referred to as Valley Park, be annexed to the Village of Apple Valley, subject to the annexation election herein ordered.

Sections 1, 2, 3, 4, 9, 10, 11, and 12 and the East $\frac{1}{2}$ Sections 5 and 8 in Township 114, Range 20, being part of Lakeville Township, Dakota County, Minnesota

IT IS FURTHER ORDERED: That an election on this annexation be held in accordance with Minnesota Statutes 1969, Section 414.031, Subdivision 5, and the following:

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- a. Date: January 12, 1971
- b. Place: Rosemount Independent School District No. 196
Parkview School in Valley Park
- c. Polls shall be open from 8:00 A.M. to 9:00 P.M.
- d. Judges of Election shall be:
Mrs. Ethel Munroe
Mr. Walter Makos
Mr. John Brisky
Mr. Herbert Lambert, Chief Election Judge
Mrs. Karen Rosel
Mrs. Lorraine Petersen
- e. Said election shall be conducted by said Judges so far as practicable, in accordance with the laws regulating the election of town officers and only voters residing within the lands hereinbefore described as "Valley Park" shall be entitled to vote.
- f. The Chief Election Judge shall cause a copy of the order herein and a Notice of Election to be posted not less than 20 days before the election in three public places in the area to be annexed, and submit proof thereof to the Secretary of the Commission.
- g. The Chief Election Judge shall cause a Notice of Election to be published for two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation, in the area to be annexed, and submit proof thereof to the Secretary of the Commission.
- h. The Chief Election Judge shall prepare the ballot, which shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice.
- i. The ballots and election supplies shall be provided by Apple Valley.
- j. The Election Judges shall prepare and submit to the Secretary of the Commission a verified election certificate showing the time and place of the election and the results of their canvass of the ballots.

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IT IS FURTHER ORDERED: That the Commission hold a supplemental hearing for the purpose of establishing the population of Apple Valley as herein expanded for all purposes until the next Federal Census when it appears that the 1970 census figures are certified.

IT IS FURTHER ORDERED: That the annexation herein be effective upon the filing of this Order as provided by Minnesota Statutes 1969, Section 414.031, Subdivision 6, provided that a majority of the vote cast were "For Annexation."

Dated this 16th day of November, 1970

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

Bruce Rasmussen

Bruce Rasmussen
Executive Secretary

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV 16 1970

Joseph L. Thompson
Secretary of State

*For Memorandum
See # 21880*

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