

David

See...

I-33 Eagle Creek

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
William Koniarski	Ex-Officio Member
Marvin Oldenburg	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR)	FINDINGS OF FACT,
THE INCORPORATION OF THE VILLAGE OF)	CONCLUSIONS OF LAW,
EAGLE CREEK, SCOTT COUNTY, I-33)	AND ORDER

The above-entitled proceeding is one of two which were consolidated for hearing by the Minnesota Municipal Commission (herein designated as the Commission.) The procedural history of each of the consolidated proceedings is stated herein.

The Town of Eagle Creek and the City of Shakopee as they existed prior to the effective date of this order are herein referred to as "Eagle Creek" and "Shakopee."

On May 19, 1969, the Commission received a petition of certain freeholders of Eagle Creek for incorporation of Eagle Creek into a village. On June 16, 1969, a map setting forth the boundaries of the territory proposed for incorporation was received by the Commission. This proceeding was designated by the Commission as Docket I-33, and is herein referred to as the incorporation proceeding.

A petition of certain freeholders of Eagle Creek requesting consolidation of Eagle Creek with Shakopee to form a single new municipality was received by the Commission on November 6, 1969. A resolution of Shakopee requesting consolidation of Shakopee with Eagle Creek was received by the Commission on November 6, 1969. This proceeding was designated by the Commission as Docket C2-mt, and is herein referred to as the consolidation proceeding.

The incorporation proceeding came on for hearing on September 30, 1969

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and on February 24, 1970, at which time the chairman ruled that the proceeding would be governed by Minnesota Statutes 1967, Chapter 414, as amended by Laws of Minnesota 1969, Chapter 1146. The consolidation proceeding came on for hearing on February 24, 1970, at which time the chairman ordered that the two hearings be consolidated in the interest of economy and expediency.

On March 13, 1970, upon petition of Jack S. Oakes, the District Court of the County of Scott, First Judicial District, State of Minnesota, the Honorable Arlo E. Haering presiding, issued its Writ of Certiorari ordering the Minnesota Municipal Commission to desist from further proceedings until the determination of said writ. On July 9, 1970, the Court issued its Order dismissing the Writ of Certiorari.

Consolidated hearings were held on December 2, 1970, December 3, 1970, February 17, 1971 and March 15, 1971.

The Board of Commissioners of the County of Scott appointed William Koniarski and Marvin Oldenburg to serve as Ex-Officio Members of the Commission for the incorporation proceeding, and Marvin Oldenburg and Vernon M. Lang to serve as Ex-Officio Members of the Commission for the consolidation proceeding.

Appearances were made by Julius A. Collier, II, 211 West First Avenue, Shakopee, Minnesota, Attorney for Shakopee and petitioners for consolidation; Michael E. McGuire, Montgomery, Minnesota, Attorney for the petitioners for incorporation and Eagle Creek, who withdrew as counsel during the course of these proceedings; Daniel John O'Connell, 1034 Minnesota Building, St. Paul, Minnesota, Attorney for Eagle Creek and petitioners for incorporation; Mark Sullivan, 754 Midland Bank Building, Minneapolis,

Minnesota, Attorney for the Village of Prior Lake; and Mel Leberis, a resident of Shakopee, on his own behalf.

All of the property involved in these proceedings is located in the County of Scott, State of Minnesota.

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 files, records, and proceedings herein, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. A petition of certain freeholders of the Town of Eagle Creek requesting incorporation of said town into a village was received by the Commission on May 19, 1969, and a map setting forth the boundaries of the territory proposed for incorporation was received by the Commission on June 16, 1969.

2. Due, timely and adequate legal notice of the hearing ordered by the Commission was properly published, served and filed.

3. The area proposed for incorporation is the entire Town of Eagle Creek, more fully described as follows:

All of T115N, R22W and all of sections 33 through 36 of T116N, R22W lying south of the Minnesota River.

4. The population of the Town of Eagle Creek is scattered with no center of population.

5. Shakopee abuts Eagle Creek.

6. The area of Eagle Creek is 21,456 acres; the area of Shakopee is 2,097 acres.

7. Most of Shakopee is platted and most of Eagle Creek is unplatted.

8. The population of Shakopee is 6,876 and of Eagle Creek is 2,200.

9. Shakopee and Eagle Creek contain land used and usable for residential, industrial, commercial, institutional, and recreational purposes.

10. The residents of the northern portion of Eagle Creek have a strong community of interest with the residents of Shakopee.

11. Shakopee has had a steady and continual growth in population, industry, commerce, education and construction. Existing business and industry have expanded. Several new industries have been located in and commenced operation in Shakopee. A new senior high school has

recently been built and is now in operation and has recently expanded. There are three public grade schools and one public junior high school. Shakopee also has two parochial schools. A new municipal swimming pool and recreation area have recently been completed and are in full operation. State Highways #169 and #101 intersect within Shakopee. Shakopee is bounded on the north by the Minnesota River, which is now open to commercial use to a point just below Shakopee. Shakopee is served by the Chicago & Northwestern Railway and the Milwaukee Railroad with interchanging facilities at Shakopee. Shakopee requires additional territory to accommodate projected expansion, and such territory lies within Eagle Creek.

12. The area occupied by Valley Industrial Park is located within Eagle Creek in close proximity to the easterly boundary of Shakopee. This area presently contains several industrial plants and future expansion is projected. Fire protection is presently provided by Shakopee. Municipal sanitary sewer and water are needed and can best be provided and maintained by expansion of Shakopee's present utility system.

13. The assessed values for 1969, 1970, and 1971 were:

	<u>1969</u>	<u>1970</u>	<u>1971</u>
Shakopee	3,387,432	3,510,792	4,016,471
Eagle Creek	2,302,342	2,399,328	2,795,518

14. The mill rates for 1969, 1970, and 1971 were:

	<u>1969</u>	<u>1970</u>	<u>1971</u>
Shakopee	21.89	31.71	31.70
Eagle Creek	28.27	15.95	11.19

15. The outstanding bonded indebtedness as of January 1, 1971 is as follows:

Shakopee	\$820,000.00
Eagle Creek	\$664,000.00

16. The Village of Prior Lake abuts the southern boundary line of Eagle Creek for the entire length of the northerly boundary line of said village. Said village contains commercial areas and provides a broad range of municipal services.

17. The Lake of Prior Lake is bordered by both Eagle Creek and the Village of Prior Lake, as well as the Village of Savage and the Town of Spring Lake. The lake and surrounding land should be kept within the minimum number of governmental jurisdictions to allow for unified land use and lake use control.

18. Scott County State Aid Highway Number 42 is to be upgraded into a major highway. Commercial and industrial development is projected to occur adjacent to this highway. The tax base provided by this projected development would contribute to the ability of an expanded Village of Prior Lake to provide essential municipal services.

19. The Commission takes official notice of Laws of Minnesota 1971, Extra Session, Chapter 24, which provides for sharing of a part of the commercial industrial tax base growth in the metropolitan area by the local units of government in the metropolitan area. This law will contribute to the ability of an expanded Village of Prior Lake to provide essential municipal services.

20. The residents of the southern portion of Eagle Creek have a strong community of interest with the residents of the Village of Prior Lake.

21. The municipal services of the Village of Prior Lake could be economically expanded to meet the needs of remaining Eagle Creek.

22. Comprehensive development policies are required to control land surrounding Shakopee and the Village of Prior Lake to insure the orderly and economic expansion of Shakopee and the Village of Prior Lake

on their perimeters, consistent with existing residential, commercial and industrial patterns.

23. Incorporation of Eagle Creek would adversely effect the ability of Shakopee and the Village of Prior Lake to provide the municipal services required by their citizens.

24. The Metropolitan Sewer Board has jurisdiction over the entire area herein under consideration. Under Minnesota Statutes Chapter 449, Metropolitan Sewer Act, a comprehensive sewer plan must be prepared for the area in question and approved by the Metropolitan Sewer Board and the Metropolitan Council before construction of sewer facilities can begin. Preparation of such a plan can best be done by two municipal governments, one including Shakopee and the northerly part of Eagle Creek, and the second containing the Village of Prior Lake and the southerly part of Eagle Creek.

25. The proposed Prior Lake sanitary sewer interceptor will encourage residential and commercial development in that part of Eagle Creek adjacent to said interceptor.

The proposed U. S. Highway 169 bypass of Shakopee will encourage commercial development on the periphery of Shakopee but outside the present city limits.

The proposed new Minnesota River Bridge will encourage residential suburban development in Eagle Creek by improving transportation to the metropolitan core area.

The anticipated commercial, residential and industrial development requires professional staff and administrative experience to provide the necessary municipal services and controls. Such staff and experience are presently being provided by Shakopee and the Village of Prior Lake and can be expanded to meet the requirements of Eagle Creek.

CONCLUSIONS OF LAW

1. The Commission duly acquired jurisdiction over the within proceeding on June 16, 1969, and now has jurisdiction over the within proceeding.

2. That part of Eagle Creek lying northerly of the following-described line would be better served by annexation to or consolidation with Shakopee and that part of Eagle Creek lying southerly of said line would be better served by annexation to or consolidation with the Village of Prior Lake.

Beginning at the point of intersection of the westerly line of T115N, R22W and the East to West $\frac{1}{2}$ line of Sec 19, T115N, R22W, thence running easterly through Sections 19, 20, and 21 to the east line of Sec 21, thence northerly on said east line $\frac{1}{2}$ mile to the north line of Indian Reservation, thence in an easterly direction on said north line of said Reservation $\frac{1}{2}$ mile to the north and south quarter line; thence south $\frac{1}{4}$ mile to the east and west $\frac{1}{4}$ line, thence east $\frac{1}{2}$ mile to the east line of sec 22, thence north $\frac{1}{4}$ mile, more or less, to the south line of N $\frac{1}{2}$ of the N $\frac{1}{2}$ of Sec 23, T115N, R22W, thence east on said south line $\frac{1}{2}$ mile to the north and south $\frac{1}{4}$ line of Sec 23, T115N, R22W, thence N $\frac{1}{4}$ mile to the north line of Sec 23, T115N, R22 W thence easterly $\frac{1}{2}$ mile to the east line of said Sec 23, T115N, R22W thence south on said east line $\frac{1}{2}$ mile, more or less, to the south line of the north $\frac{1}{2}$, Sec 23, thence continuing easterly on the east and west $\frac{1}{4}$ line of Sec 24 to the east line of said section and there terminating.

3. The petition for incorporation should be DENIED.

ORDER

IT IS HEREBY ORDERED; That the petition for the incorporation of the Town of Eagle Creek be DENIED.

Dated this 30th day of August, 1971

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

Bruce Rasmussen

Bruce Rasmussen
Executive Secretary

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 31 1971
Allen J. Edsall
Secretary of State