

#22862

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Arthur R. Swan	Vice Chairman
Robert J. Ford	Member
Marvin Oldenburg	Ex-Officio Member
Vernon M. Lang	Ex-Officio Member

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IN THE MATTER OF THE PETITION AND )  
 RESOLUTION FOR THE CONSOLIDATION )  
 OF THE TOWNSHIP OF EAGLE CREEK AND )  
 THE CITY OF SHAKOPEE, C2-mt )

FINDINGS OF FACT,  
 CONCLUSIONS OF LAW,  
 AND ORDER

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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

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. Coller, 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 Lebens, 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. The petition for certain freeholders of Eagle Creek and the Resolution of the Common Council of Shakopee for the consolidation of Eagle Creek with Shakopee to form a new City of Shakopee were filed pursuant to and in compliance with Minnesota Statutes, Chapter 414, and said petition and resolution were in all respects proper in form, contents, execution and filing.

2. Notice of the hearing on the petition and resolution was duly given as required by statute. The Commission duly convened by lawful quorum at the scheduled hearing and at all adjourned or continued hearings. All parties of record were present at and participated in the hearings and they and all parties desiring to be heard were so heard.

3. The area proposed by the petition and the resolution to be consolidated as the new City of Shakopee is the entire area of Shakopee and the entire area of Eagle Creek, the area of Eagle Creek being more particularly 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 area of Eagle Creek north of the following--described line is herein ordered to be consolidated with Shakopee to form a new City of Shakopee.

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  $\frac{1}{2}$  mile to the east and west  $\frac{1}{2}$  line, thence east  $\frac{1}{2}$  mile to the east line of Sec 22, thence north  $\frac{1}{2}$  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  $\frac{1}{2}$  line of Sec 23, T115N, R22W, thence north  $\frac{1}{2}$  mile to the north line of Sec 23, T115N, R22W, 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  $\frac{1}{2}$  line of Sec 24, to the east line of said section and there terminating.

5. The area of Eagle Creek south of the line described in Finding 4 will remain as the Town of 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 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 the new City of Shakopee as herein created, than by Shakopee and Eagle Creek.

11. 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

12. 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

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

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

14. 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. The area of Eagle Creek herein ordered consolidated with the City of Shakopee will provide the new City of Shakopee with area to accommodate the growth and expansion which can be reasonably anticipated.

15. The area occupied by Valley Industrial Park is located within that part of Eagle Creek herein ordered consolidated with Shakopee 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.

15a. 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 area of the metropolitan core.

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 can be expanded to meet the requirements of the new City of Shakopee as herein created.

16. Both Shakopee and the area of Eagle Creek herein ordered consolidated are within the school district #720, with the exception of a small portion in the northeast corner of Eagle Creek lying within the Burnsville School District. There will be no change in service in the school district or in the taxes assessed for school purposes due to the consolidation herein ordered.

17. 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.

18. 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.

19. Scott County State Aid Highway Number 42 is to be upgraded into a major highway. Commercial and industrial development is projected to occur between this highway and the line described in Finding 4. The tax base provided by this projected development will contribute to the ability of remaining Eagle Creek, or an expanded Village of Prior Lake, to provide essential municipal services. This fact was considered by the Commission in determination of the line as described in Finding 4.

20. 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 remaining Eagle Creek, or an expanded Village of Prior Lake, to provide essential municipal services.

21. The residents of remaining Eagle Creek have a strong community of interest with the residents of the Village of Prior Lake.

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

23. Consolidation will not adversely affect the ability of adjacent villages and towns to provide their residents with adequate governmental service. Remaining Eagle Creek is able to function as a town but could best be provided with the needed governmental services by annexation to the Village of Prior Lake. Such annexation would result in a viable unit of government.

24. The new municipality herein created shall be named the City of Shakopee.

25. There is now and will be a future and continuing need for increased government services in that part of Eagle Creek herein ordered consolidated and the city form of government as provided under Shakopee's Charter will be able to provide the needed governmental service within that part of Eagle Creek.

26. Planning and future development of Shakopee and that part of Eagle Creek Township herein ordered consolidated for residential, commercial, industrial growth and for recreation can best be provided by the consolidation herein ordered.

27. The population of the new City of Shakopee is 7,780.

28. The town hall of Eagle Creek is located on a tract of land described as follows:

Commencing at a point 32 rods north of the southwest corner of the southeast quarter, Sec 9, T115, R22; thence east 13 rods; thence north 10 rods; thence in a northwesterly direction about 13.71 rods to a point 46 rods north of said southwest corner of southeast quarter; thence south 14 rods to a place of beginning containing 1 acre more or less,

and this tract is at the junction of County Road #83 and County Aid

Highway #16 and within the area of Eagle Creek herein ordered consolidated with Shakopee.



29. No part of the area of Eagle Creek herein ordered consolidated with Shakopee would be better served by annexation to the Village of Savage.

30. Comprehensive development policies are required to control land surrounding the present City of Shakopee to ensure the orderly and economic expansion of the municipality on its perimeter, consistent with existing residential, commercial, and industrial patterns.

31. The new City of Shakopee will have the fiscal, administrative, and political capacity to effectively represent its residents before higher units of government such as the Metropolitan Council.

*Shakopee*

CONCLUSIONS OF LAW

1. The Commission duly acquired and now has jurisdiction of the within consolidation proceeding.
2. The area of Eagle Creek south of the line described in Finding 4 would be better served by annexation to the Village of Prior Lake and the area proposed for consolidation should be decreased accordingly.
3. Consolidation of Shakopee and the area of Eagle Creek lying north of the line described in Finding 4 will be in the best interest of the area.
4. The area described in Conclusion 3 above is now or about to become urban in character.
5. The town form of government is not adequate to provide the needed governmental services in the area described in Conclusion 3.
6. The consolidated municipality shall be known as the City of Shakopee and shall be governed by the Charter of the City of Shakopee and the population of said City shall be 7,780 for all purposes until the next federal census.

O R D E R

Upon the foregoing Findings of Fact and Conclusions of Law and upon all the testimony taken and all exhibits received and upon all the findings, records and files, the Commission, being fully advised in the premises,

IT IS HEREBY ORDERED: That the area proposed for consolidation be decreased by removal of the property lying southerly of the line described in Finding 4.

IT IS FURTHER ORDERED: That all of that part of Eagle Creek lying northerly of the line described in Finding 4 be, and here is, consolidated with the City of Shakopee to form a new City of Shakopee.

IT IS FURTHER ORDERED: That the remaining portion of Eagle Creek Township shall remain as a township.

IT IS FURTHER ORDERED: That the property and obligations of Eagle Creek existing immediately prior to the issuance of this order, exclusive of the Eagle Creek Town Hall and any bonded debt, be divided between the new City of Shakopee and remaining Eagle Creek; that the share of the new City of Shakopee shall be calculated by determining the ratio of the assessed valuation of that part of the territory of Eagle Creek consolidated herein with the City of Shakopee to the assessed valuation of the territory of Eagle Creek as it existed immediately prior to the issuance of this order and applying said ratio to said assets and debts; that the share of remaining Eagle Creek shall be the amount remaining after the foregoing calculation.

IT IS FURTHER ORDERED: That the new City of Shakopee shall be primarily liable for retiring any bonded debt of Eagle Creek associated exclusively with the area of Eagle Creek herein ordered consolidated with Shakopee, including any debt incurred in relationship to Valley Industrial Park.

IT IS FURTHER ORDERED: That the market value of the Eagle Creek Town Hall be determined by one appraiser appointed by the new City of Shakopee and one appraiser appointed by the remaining Eagle Creek; that if said two appraisers cannot agree, the Minnesota Municipal Commission shall appoint a third appraiser whose appraisal shall be binding on the new City of Shakopee and remaining Eagle Creek; that the new City of Shakopee shall remit to the remaining Eagle Creek an amount of money calculated by determining the ratio of the assessed valuation of that part of the territory of Eagle Creek consolidated herein with the City of Shakopee to the assessed valuation of the territory of Eagle Creek as it existed immediately prior to this order, and applying said ratio to the value of the Eagle Creek Town Hall as heretofore determined; that thereupon the Board of Trustees of remaining Eagle Creek shall transfer title of said Town Hall to the new City of Shakopee; that upon payment to the new City of Shakopee of appropriate maintenance and utility charges remaining Eagle Creek shall be entitled to exclusive use of said Town Hall for a period of two years, or such additional time as agreed by said Town and said City.

IT IS FURTHER ORDERED: That the plan of government for the new City of Shakopee shall be that provided under and pursuant to Shakopee's Charter.

IT IS FURTHER ORDERED: That the first election in the enlarged City of Shakopee shall be held between the hours of 10:00 A.M. and 8:00 P.M. on the 19<sup>th</sup> day of October, 1971 and that said election shall be conducted in conformity with the Charter of Shakopee and the laws for conducting City elections so far as possible, and that the following

polling places shall be as follows:

Fire Hall - West 2nd Avenue & Scott Street  
Public School - 5<sup>th</sup> Avenue between Holmes and Lewis Street  
Public Utilities Building - East 4<sup>th</sup> Avenue at Naumkeag Street  
Eagle Creek Town Hall - Junction of County Road #83 and County  
Aid Highway #16

IT IS FURTHER ORDERED: That the Acting Clerk for said election shall  
be Morris J. Anderson and that the following persons are appointed

Election Judges for the first election of officers as follows:

Ward 1 Gladys M. Theis, Eleanor Hennen, Esther Realander, Gladys Lebens  
Ward 2 Hazel Bisek, Mrs. Monroe Kopisca, Lillian Luis, Mrs. Norman Pink  
Ward 3 Mrs. E. H. Bolz, Mrs. Urban Klein, Phyllis Schesso, Verna Rein  
Eagle Creek Elmer Marschall, Melvin Faust, Clayton Kjeer, Donald Lenzmeier

IT IS FURTHER ORDERED: That until the next state-wide or federal census  
is taken, the population of the new City of Shakopee is 7,780 for all  
purposes.

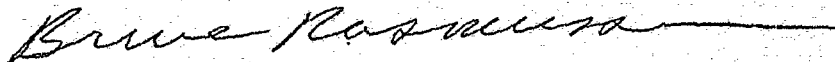
IT IS FURTHER ORDERED: That the consolidation herein ordered shall  
be effective upon the election and qualification of the new City officers.

IT IS FURTHER ORDERED: That the new municipality shall, pursuant to  
law, be liable for payment of all the expenses of consolidation, annexa-  
tion or incorporation incurred during the three previous years by the  
consolidated portion of Eagle Creek and the municipality.

IT IS FURTHER ORDERED: That the Secretary of the Commission shall  
cause the mailing and filing of this Order to the proper parties as  
required by law.

Dated this 30<sup>th</sup> day of August, 1971

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

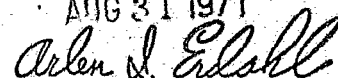


Bruce Rasmussen  
Executive Secretary

#22862

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

AUG 31 1971



Secretary of State

MEMORANDUM

It has come to the attention of the Commission that two of the supervisors of Eagle Creek reside in the area herein ordered consolidated with Shakopee. According to M. S. 414.021, Subd. 4, these supervisors will continue to serve until the consolidation becomes effective, that is, until the election and qualification of new municipal officers. Thereafter there will be two vacancies on the town board which can be filled pursuant to the procedure of M. S. 365.52.

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*Arden J. Eklund*  
Secretary of State