

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Gerald J. Isaacs	Member
Edwin Hoff	Ex-Officio Member
Dr. Alvin Hall	Ex-Officio Member

IN THE MATTER OF THE RESOLUTION FOR)
ANNEXATION OF CERTAIN LAND TO THE)
CITY OF EVELETH)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on March 13, 1974 at Eveleth, Minnesota. The hearing was conducted by Howard L. Kaibel pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Alvin Hall and Edwin Hoff, ex-officio members of the Board. The hearing was continued until April 16th and 17th. Many hearings and meetings have been held from time to time. The City of Eveleth has appeared by and through Bruce Rasmussen, the City of Virginia has appeared by and through Vernon Saxhaug, the City of Gilbert has appeared by and through Roland Wivoda, the Townships of Fayal and Missabe Mt. have appeared by and through Harold Frederick. Substantial testimony has been heard and records and exhibits have been received.

After due and careful consideration of all evidence, together with all records, files and proceedings the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. On October 5, 1973, a resolution by the City of Eveleth was received by the Minnesota Municipal Board requesting the Board to order annexation of the area hereinafter described. This resolution contained all the information required by statute including a description of the territory subject to annexation which is as follows:

In Missabe Mountain, all of Section 29, 20 and 32, Township 58 North, Range 17 West, not presently within the corporate limits of the City of Eveleth and

In Fayal Township, all of Section 5 and the North Quarter of Section 8, Township 57 North, Range 17.

2. Subsequently, on February 25, 1974, the Board, at Eveleth's request, approved an amendment to the original petition. Further, on February 25, 1975, the Board, pursuant to the authority vested in it by Minnesota Statutes 414.031, expanded the area under consideration to all of Missabe Mt. and Fayal townships. On March 11, 1976, as amended on March 24, 1976 the Board ordered certain areas within Fayal and Missabe Mt. Townships annexed to the City of Eveleth. On April 16, 1976, upon the motion of several parties, the Board voted to reconsider the annexation order. On June 10, 1976, the Board set aside the March 11, 1976 order.

3. Due, timely and adequate legal notice of the hearing was published, served and filed.

4. Geographic Features

- a. The area subject to annexation is unincorporated and abuts the City of Eveleth.
- b. The total area of the City of Eveleth is 6 miles. The total area of the territory subject to annexation is 35 square miles in Fayal Township and approximately 30 square miles in Missabe Mountain.
- c. The degree of contiguity of the boundaries between the annexing municipality and the proposed annexed property is as follows: approximately 8% with Fayal and a small percentage with Missabe Mountain.

The natural terrain of the area, including major watersheds, soil conditions, rivers, lakes and major bluffs is as follows: includes mining uses, lakes, land suitable for development in Fayal and mining uses and land suitable for development in Missabe Mt. Township.

5. Population Data

- a. The City of Eveleth
 - 1) Past population growth: 5,720 in 1960
 - 2) Present population: 4,720 in 1970
 - 3) Projected population: 3,790 by 1980

- b. The area subject to annexation in Fayal
 - 1) Past population growth: 927 in 1960
 - 2) Present population: 2,025 in 1970
 - 3) Projected population: 4,000 in 1985
 - c. The area subject to annexation in Missabe Mt. - Very slow, limited growth
6. Development Issues
- a. What if any, are the comprehensive plans for the development of the property proposed for annexation and/or the annexing municipality, including development projected by the state planning agency. Portions of the area in both townships proposed for annexation are part of Eveleth's comprehensive plan.
 - b. What land use controls are presently being employed.
 - 1) In the City of Eveleth
 - a) Zoning - Yes
 - b) Subdivision regulations - Unknown
 - c) Housing and building codes - Yes
 - d) Other - Capital Improvement Program
 - 2) In the area to be annexed
 - a) Zoning - St. Louis County
 - b) Subdivision regulations - Unknown
 - c) Housing and building codes - Unknown
 - d) Other
 - c. The present pattern of physical development:
 - 1) In the City of Eveleth
 - a) Residential - Yes
 - b) Industrial - Yes
 - c) Commercial - Yes
 - d) Institutional - Yes

- 2) In the area subject to annexation: Fayal
 - a) Residential - Primarily residential
 - b) Industrial - Limited other than mining uses
 - c) Commercial - Limited commercial
 - d) Institutional - Unknown

- 3) In the area subject to annexation: Missabe Mt.
 - a) Residential - Small population
 - b) Industrial - Limited other than mining uses
 - c) Commercial - Limited
 - d) Institutional - Unknown

e. What will be the effect, if any, of the annexation on adjacent communities? Minimal, since growth space has been and is being provided for neighboring communities.

7. Governmental Services

a. Presently, the Township of Fayal provides the area subject to annexation with the following services:

- | | |
|--|--|
| 1) Water - No | 5) Street Improvements - Unknown |
| 2) Sewer - No | 6) Street Maintenance - Yes, in cooperation with Eveleth |
| 3) Fire Protection - No, contracts with the city | 7) Recreational - Yes |
| 4) Police Protection - 2 part-time constables | 8) Other |

b. Presently, the Township of Missabe Mt. provides the area subject to annexation with the following services:

- | | |
|---|----------------------------------|
| 1) Water - Unknown | 5) Street Improvements - Unknown |
| 2) Sewer - Unknown | 6) Street Maintenance - Yes |
| 3) Fire Protection - No, contracts with Gilbert and Eveleth | 7) Recreational - Unknown |
| 4) Police Protection - Constables | 8) Other - Unknown |

c. Presently, the City of Eveleth provides its citizens with the following services:

- | | |
|----------------------------|--|
| 1) Water - Yes | 5) Street Improvements - Yes |
| 2) Sewer - Yes | 6) Street Maintenance - Yes |
| 3) Fire Protection - Yes | 7) Recreational - Yes |
| 4) Police Protection - Yes | 8) Other - Electrical, Garbage Collection, and Gas |

- d. Presently, the City of Eveleth provides parts of the area subject to annexation with the following services: Fayal
- | | |
|--------------------------------|---|
| 1) Water - Yes | 5) Street Improvements - Unknown |
| 2) Sewer - Yes | 6) Street Maintenance - Yes, in cooperation with Fayal Township |
| 3) Fire Protection - Yes | |
| 4) Police Protection - Unknown | 7) Recreational - Yes |
| | 8) Other - Post Office, Schools Gas, Electric |
- e. Presently, the City of Eveleth provides parts of the area subject to annexation the following services: Missabe Mt.
- | | |
|--|----------------------------------|
| 1) Water - Yes | 5) Street Improvements - Unknown |
| 2) Sewer - Yes | 6) Street Maintenance - Unknown |
| 3) Fire Protection - On contract basis | 7) Recreational - Unknown |
| 4) Police Protection - Yes, on request | 8) Other - Ambulance, on request |
- f. Plans to extend municipal services to part of the area subject to annexation include the following: Within the next year, Eveleth can extend such services as police, garbage, and electrical. Other services such as water can be extended within a reasonable time. Rapidly growing Fayal has a need for services.
- g. There are existing or potential pollution problems which are: lake pollution in Fayal Township because of an inadequate sewage system in part due to poor soil conditions. The following additional services will help resolve this situation: city sewer system.

8. Fiscal Data

- a. In the City of Eveleth, the assessed valuation is \$4,699,541 (1973), the mill rate trend is stable. The present bonded indebtedness is \$75,000 (hospital bonds) in Fayal.
- b. In the area subject to annexation, the assessed valuation is \$3,450,338 (1973) in Fayal and \$641,518 (1974) in Missabe Mt.; the mill rate trend is stable in both townships (2.35 in

1974 in Missabe Mt.) and the present bonded indebtedness is -0- in Fayal.

- c. Will the annexation have any effect upon area school districts? No, the area in Fayal proposed for annexation is presently within Eveleth School District 697. Missabe Mt. is unknown.
 - d. In Fayal, the township homeowners classification for fire insurance purposes would change from 10 to 6, bringing a decrease in fire insurance premiums of \$61.21 per year on an average \$20,000 residence.
 - e. The entire area would benefit from increased state aids by present formulae.
9. Is annexation to the City of Eveleth the best alternative? Yes
- a. Could governmental services be better provided for by incorporation of the area subject to annexation? No, the area lacks many necessary components for an urban center.
 - b. Could governmental services be better provided for by consolidation or annexation of the area with an adjacent municipality other than Eveleth? Alternatives were specifically considered. The result, described in "9", is to decrease the area in Missabe Mt.
 - c. Could Fayal or Missabe Mt. Township provide the services required? No, neither government has demonstrated a capacity to do so.
 - d. Can Fayal or Missabe Mt. Townships continue to function without the area subject to annexation, and, if not, could it be incorporated separately or combined with some other governmental unit? That portion of Missabe Mountain Township not annexed is included in two other annexation orders disposing of the entire township.

10. Alteration of Boundaries

The area in Missabe Mountain should be decreased because certain properties would be served better by the cities

Virginia and Gilbert. The decreased area is:

In Missabe Mountain Township, Township 58 North, Range 17 West, all of Section 30 and all of Section 29 except that portion in the North 1/2, lying east of Highway 53, all of Section 32, not presently within the City of Eveleth, and the western three-fourths of section 33.

11. A majority of property owners in the area to be annexed have not petitioned the Minnesota Municipal Board requesting annexation.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. The area subject to annexation is now or is about to become urban or suburban in character.

3. Municipal government is required to protect the public health, safety and welfare in the area subject to annexation.

4. The best interest of the City of Eveleth and the area subject to annexation will be furthered by annexation.

5. There is a reasonable relationship between the increase in revenue for the City of Eveleth and the value of benefits conferred upon the area subject to annexation.

6. This annexation proceeding has not been initiated by a petition of a majority of property owners and, therefore, this Minnesota Municipal Board order is subject to annexation election to be described herein. Voters residing in the City of Eveleth and in Missabe Mountain and Fayal Townships reside in the area which is primarily and substantially interested in and affected by the pending annexation.

7. An order should be issued by the Minnesota Municipal Board annexing the area described herein.

O R D E R

IT IS HEREBY ORDERED: That the property hereinafter described is situated in the County of St. Louis, State of Minnesota, be and the same is hereby annexed to the City of Eveleth, Minnesota the same as if it had been originally made a part thereof:

In Fayal Township, Township 57 North, Range 17 West, the entire township.

In Missabe Mountain Township, Township 58 North, Range 17 West all of Section 30 and all of Section 29 except that portion in the North 1/2, lying east of Highway 53, all of Section 32, not presently within the City of Eveleth, and the western three-fourths of Section 33.

three-fourths of section 33.

IT IS FURTHER ORDERED: On September 14, 1976 a public election, to be conducted as provided by law, shall be held in that area which is substantially interested in or affected by this order. This area is: the City of Eveleth, the Township of Fayal, and the Township of Missabe Mountain. Any resident of these jurisdictions who is eligible to vote at a township or municipal election may vote in this referendum.

IT IS FURTHER ORDERED: That the effective date of this order is July 28, 1976.

Dated this 28 day of July 1976

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
Saint Paul, Minnesota 55101

William A. Neiman

William A. Neiman
Executive Secretary

#29682
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 2 - 1976
John Anderson Howe
Secretary of State

A-2500 Eveleth
A-2621 Virginia
A-2910 Gilbert

M E M O R A N D U M

The Minnesota Municipal Board, after more than two years of carefully analyzing the facts and issues, has ordered the annexation of Fayal Township to the City of Eveleth and various portions of Missabe Mt. Township to the Cities of Eveleth, Virginia, and Gilbert. This decision will provide for orderly, urban growth in this part of the Range. Although the various orders detail the rationale for the individual decisions, several issues can best be examined within the framework of this memorandum. These include the referendum, Differding Point, and the cooperative efforts between the various units of government.

Prior to 1973, annexation referenda included only those areas to be annexed. During that year, the Legislature broadened the referendum standard to include those areas that the Board determined to be "...primarily and substantially interested in or affected by..." the annexation. Since the adoption of this criterion, the Municipal Board has only been required to apply this standard on one occasion; however, that annexation involved a tiny, unpopulated parcel and offers virtually no precedential value in this proceeding. Therefore, the Board's interpretation of the statutory mandate is based upon a careful analysis of legislative intent.

The Board has decided that separate referenda should be held for each annexation. Further, those persons entitled to vote shall reside in:

- 1) The areas to be annexed.
- 2) The annexing municipalities.
- 3) Additionally, Missabe Mt. Township voters shall be permitted to vote in the three referenda.

In making the decision just outlined, the Board considered the following:

- 1) The referenda should be distinct. To permit both townships and all three cities to vote in all three referenda would unfairly dilute the voting impact of those most deeply affected by the outcome.
- 2) An exception had to be made in the case of Missabe Mt. Township voters whose interest in each proceeding is very clear. Since Missabe Mt. Township is to be divided, unlike any of the other governmental units involved, the impact of each annexation directly and substantially affects the entire township.
- 3) Under prior, more restrictive law, the area to be annexed had the right to vote in annexation referenda. Broader language was certainly not meant to exclude them. Under any circumstances, if any area is "primarily and substantially interested in or affected by the Board order," it is the area to be annexed.
- 4) The new language permits the Board to take into account the impact of an annexation beyond the area immediately annexed. Given the enormous responsibilities each municipality will assume upon annexation, the cities clearly fit within the meaning of the amended language.

Differding Point, in Fayal Township, is a peninsula which extends into Ely Lake. It is closer geographically to the City of Gilbert than to Eveleth, and, further, it is almost cut off from the remainder of Fayal by the lake. Still, the Board had decided to annex all of Fayal Township, including Differding Point, to Eveleth.

Several reasons led to the Board's decision. Differding Point and Fayal Township residents and the Fayal Town Board demonstrated that all of Fayal Township, including Differding Point, shares a strong community of interests, including social, political, economic, and educational. Fayal Township is a cohesive entity. Further, Differding Point residents view Eveleth as their urban center; that is, the city upon which they rely to provide the recreational, social, religious, and other opportunities available in an urban area. Also, Eveleth indicated that it

will be able to service this area. Finally, Gilbert noted that they would be amenable to assisting Eveleth service Differding Point if problems later developed.

Gilbert's cooperative approach exemplified the final point; Range cities are working closely together to resolve mutual problems. The Range is experiencing substantial and intensive growth. Development is occurring rapidly, and urban services and structure are needed. Throughout much of this lengthy proceeding, the cities and townships have cooperated. Indeed, final resolution of many issues was a product of this cooperation.

Future cooperation also is important and likely. The three cities and townships are discussing joint powers arrangements, and Arrowhead Regional Development Commission, in cooperation with the cities, is reviewing the possibility of municipal consolidation.

29682
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 2 - 1976
Joseph Anderson Howe
Secretary of State