

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

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

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

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 April 28, 1976 at Gilbert, Minnesota. The hearing was conducted by Chairman Thomas Simmons pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance was County Commissioner Edwin Hoff, ex-officio member of the Board. The City of Gilbert appeared by and through Roland Wivoda and the City of Eveleth appeared by and through Bruce Rasmussen, the City of Virginia appeared by and through Vernon Saxhaug, and the Townships of Fayal and Missabe Mt. by and through Harold Frederick. Testimony was heard and records and exhibits were 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 February 24, 1976, a resolution by Gilbert 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:

AS TO MISSABE MOUNTAIN TOWNSHIP:

1. The East One-Half of Sections 10, 15, and 22, all lying in T58N, R17W,
2. The West One-Half of Section 27, T58N, R17W,

- 3. The East One-Quarter of Section 33, T58N, R17W
- 4. All of those parcels of land lying outside of the Gilbert limits in the following Sections; 25, 36, 35, 34, all in T58N, R17W;

AS TO FAYAL TOWNSHIP

- 1. All of Section 1, T57N, R17W
- 2. All of Section 2, T57N, R17W
- 3. All of Section 3, T57N, R17W, except that part of said Section 3 lying upon and forming the Southern shoreline of Ely Lake.
- 2. Due timely and adequate legal notice of the hearing was published, served and filed.

3. Geographic Features

- a. The area subject to annexation is unincorporated and abuts the City of Gilbert.
- b. The total area of the territory subject to annexation is 2,837 acres (Missabe Mt.) 1,224 acres (Fayal).
- c. The degree of contiguity of the boundaries between the annexing municipality and the proposed annexed property is as follows: a substantial percentage with Missabe Mountain. Fayal is unknown.

The natural terrain of the area including major watersheds, soil conditions, rivers, alkes 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.

4. Population Data

a. The City of Gilbert

- 1) Past population growth: 2,200 in 1970
- 2) Present population: Estimated at 3,000
- 3) Projected population: Continued growth

b. The area subject to annexation Fayal Missabe Mt.

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| <ul style="list-style-type: none"> 1) Past population growth: Steady increase around lake 2) Present population: About 1,000 3) Projected population: Continued increase | | <ul style="list-style-type: none"> Very slow 50 - 150 Increase when development occurs. |
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5. 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. Certain private developers, in cooperation with Gilbert, plan residential development in certain portions of the area to be annexed. The area will be included as part of Gilbert's comprehensive plan which is being developed.

- b. What land use controls are presently being employed.
 - 1) In the City of Gilbert
 - a) Zoning - Yes
 - b) Subdivision regulations - Unknown
 - c) Housing and building codes - Unknown, except insofar as state law applies
 - d) Other
 - 2) In the area to be annexed:
 - a) Zoning - Yes, by the county.
 - b) Subdivision regulations - Unknown
 - c) Housing and building codes - Unknown
 - d) Other
 - c. Does the city require future growth space? Yes. If so, will the area subject to annexation provide the City of Gilbert with necessary growth space? Yes, particularly for residential development to respond to a growing population.
 - d. The present pattern of physical development is:
 - 1) In the City of Gilbert:
 - a) Residential - Yes
 - b) Industrial - Yes
 - c) Commercial - Yes
 - d) Institutional - Yes
 - 2) In the area subject to annexation:
 - a) Residential - Yes
 - b) Industrial - Unknown, other than mining uses
 - c) Commercial - Very 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.
6. Governmental Services
- a. Presently, the Townships of Missabe Mt. and Fayal provides the area subject to annexation with the following services:

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| 1) Water - Unknown | 4) Police Protection - Unknown
except that part of Fayal
receives protection from
Gilbert; Missabe Mt. unknown |
| 2) Sewer - unknown | |
| 3) Fire Protection - Missabe
Mt. receives protection
from Gilbert; Fayal unknown | 5) Street Improvements - Unknown |
| | 6) Street Maintenance - Unknown |
| | 7) Recreational - Unknown |
| | 8) Other |

b. Presently, the City of Gilbert provides its citizens with the following services:

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|----------------------------|------------------------------|
| 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 - Garbage, Library |

c. Presently, the City of Gilbert provides the area subject to annexation with the following services:

- | | |
|--|----------------------------------|
| 1) Water - Yes, In parts
Of Fayal and Missabe Mt. | 5) Street Improvements - Unknown |
| 2) Sewer - Unknown | 6) Street Maintenance - Unknown |
| 3) Fire Protection - Yes, on
a contractual basis. | 7) Recreational - Unknown |
| 4) Police Protection - Yes,
to part of Fayal | 8) Other |

d. Plans to extend municipal services to the area subject to annexation include the following: Police and fire will service the area immediately. Other services can be extended as development requires them, and developers will assume much of the necessary cost.

e. There are existing or potential pollution problems which are: pollution of Lost Lake.

The following additional services will help resolve this situation: the City, which would be the source of pollution, will be responsible for maintaining the lake.

7. Fiscal Data

- a. In the City of Gilbert the mill rate is 61.61.
- b. In the area subject to annexation, the assessed valuation is \$182,578 (Missabe Mt.) - \$762,042 (Fayal), the mill rates are: Missabe Mt. 2.35 and Fayal 9.32.

- c. Will the annexation have any effect upon area school districts?
No.
8. Is annexation to the City of Gilbert the best alternative
- a. Could governmental services be better provided for by incorporation of the area subject to annexation? No, there is no urban core.
 - b. Could governmental services be better provided for by condolidation or annexation of the area with an adjacent municipality other than Gilbert? Alternatives were specifically considered. The result, described in "9", is to deny any annexation of Fayal and reduce the area in Missabe Mountain.
 - c. Could Fayal or Missabe Mt. Townships provide the services required? No, no evidence was submitted showing this.
 - 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.
9. Alteration of Boundaries
- a. The area subject to annexation should be decreased because certain properties in Missabe Mt. and all the properties within Fayal Township would be served better by the cities of Eveleth and Virginia. The decreased area is:

In Missabe Mountain Township, Township 58 North, Range 17 West, those parts of Sections 25, 27, 34, 35 not already within Gilbert all of Section 36, the Eastern 1/4 of Section 33, and the Southeast quarter of Section 22.
10. 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 Gilbert 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 Gilbert 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 an annexation election to be described herein. Voters residing in the City of Gilbert and in Missabe Mountain Township 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 Gilbert, Minnesota, the same as if it had been originally made a part thereof:

In Missabe Mountain Township, Township 58 North, Range 17 West, those parts of Sections 25, 27, 34, 35 not already within Gilbert all of Section 36, the Eastern 1/4 of Section 33, and the South-east quarter of Section 22.

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 Gilbert and the Township of Missabe Mt. Any resident of these jurisdictions who is eligible to vote at a township or municipal election may vote in the referendum.

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

Dated this 28 day of July, 1976 # 29684

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

William A. Neiman
William A. Neiman
Executive Secretary

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.

29684
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 2 - 1976
Jan Anderson Howe
Secretary of State