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STATE OF MINNESOTA
MUNICIPAL BOARD

Suite 165 Metro Square
7th & Robert Streets
St. Paul, Minnesota 55101

Mr. Mark Winkler
Deputy Secretary of State
c/o Donna Scott
State Office Building
Saint Paul, Minnesota

RE: Municipal Board Docket Number D-123 Brooklyn Park/A-3027 Osseo

Dear Mr. Winkler:

The subject order of the Minnesota Municipal Board makes the following changes in the population of the named units of government:

The population of Osseo, City of

is increased by No change to

The population of Brooklyn Park, City of

is decreased by No change to

A new municipality named

has been created with a population of

The

has been dissolved.

Official date of the Order August 28, 1979. Effective date is August 28, 1979.

C.C. Commissioner
Department of Revenue
c/o Wallace O. Dahl, Director
Tax Research Division
205 Centennial Building

Patricia D. Lundy
Patricia D. Lundy
Assistant Executive Director

Hazel Reinhardt
State Demographer
101 Capitol Square Building

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 30 1979

Jan Anderson Howe
Secretary of State

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O.D.

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Gerald J. Isaacs Chairman
Robert W. Johnson Vice Chairman
Thomas J. Simmons Member

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 30 1979

James Andrew Howe
Secretary of State

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IN THE MATTER OF THE PETITION FOR THE)
DETACHMENT OF CERTAIN LAND FROM THE CITY)
OF BROOKLYN PARK, HENNEPIN COUNTY, MINNE-)
SOTA, AND ANNEXATION TO THE CITY OF OSSEO,)
HENNEPIN COUNTY, MINNESOTA)

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 25, 1977, at Osseo, Minnesota. The hearing was conducted by Minnesota Municipal Board members Robert W. Johnson and Gerald J. Isaacs. The hearing was adjourned to April 14, 1977, and on that date Minnesota Municipal Board members Thomas J. Simmons and Gerald J. Isaacs were present. The hearing was again continued to April 15, 1977, and on that date Minnesota Municipal Board member Robert W. Johnson conducted the hearing.

The hearing was conducted pursuant to Minnesota Statutes 414.01, Subd. 12, and the petition was one for concurrent detachment and annexation of incorporated land pursuant to M.S.A. 414.061.

The petitioners appeared by and through Edward E. Coleman, acting as attorney pro se, and by J. Michael Egan and John E. Coleman for petitioners Edward J. Egan and Robert L. Egan. The City of Osseo appeared by and through Lawrence Sullivan. The City of Brooklyn Park appeared by and through Curtis A. Pearson of LeFevere, Pearson, O'Brien and Drawz. The City of Maple Grove appeared through Robert Erickson, its chief administrative officer, and Jerry Boetcher, its city engineer. The Minnesota Metropolitan Council appeared by and through John T. Hoeft. 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 October 6, 1976, the Municipal Board received a petition from all the property owners requesting detachment under M.S. 414.06. The

petition included the following description of the area:

The West 1/2 of the Southwest 1/4
of Section 7, Township 119, Range
21, Hennepin County, Minnesota.

On November 12, 1976, the Municipal Board received a resolution from the City of Brooklyn Park in opposition to the proposed detachment, arguing that M.S. 414.06 was an inappropriate section for the area in question.

On December 10, 1976, the board treated the petition as a petition for concurrent detachment and annexation in that it fulfilled the statutory requirements of this section (despite the erroneous citation). Therefore, the board initiated the proceeding under M.S. 414.061 and set a hearing date for January 27, 1977. The notice referred to concurrent detachment and annexation.

On January 12, 1977, the board received a letter from a representative of the petitioners indicating that the petitioners would move to amend the petition at the January 27, 1977 hearing to specifically refer to M.S. 414.061.

The hearing was convened on January 27, 1977, but continued to March 25, 1977. Brooklyn Park argued that the proceeding should be dismissed for lack of jurisdiction.

On February 7, 1977, the board received an amended petition from the petitioners referring to M.S. 414.061.

On April 5, 1977, the board, by conference call, denied the motion for dismissal due to lack of jurisdiction. On April 14, 1977, and April 15, 1977, the board concluded the hearings.

On May 27, 1977, the board instructed the petitioners to prepare a draft Findings of Fact, Conclusions of Law and Order.

On June 3, 1977, the board ordered a transcript and delayed all further deliberations until that time.

On December 16, 1977, the Municipal Board unanimously denied the motion for dismissal due to lack of jurisdiction and gave preliminary approval to the proposed current detachment and annexation.

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

3. Geographic Features

a. The area subject to this proceeding is a part of the City

of Brooklyn Park, an incorporated city, and its south boundary abuts the City of Osseo and its west boundary abuts the City of Maple Grove.

b. The total area of the City of Brooklyn Park is approximately 17,000 acres; the total area of the City of Osseo is approximately 475 acres; and the total area of the territory subject to this proceeding is 80 acres.

c. The south boundary of the territory subject to this proceeding is one-quarter mile in length from east to west and borders the north line of the City of Osseo; the west line of the premises in question is one-half mile in length from north to south and borders the east line of the City of Maple Grove with U.S. Highway 52 running along the common boundary; the east line of the premises in question is one-half mile in length and borders the City of Brooklyn Park; and the north line of the subject premises is one-quarter mile in length from east to west and borders Brooklyn Park with a town road also running east and west along the north line.

d. The premises in question consists of 80 acres and extends one-quarter mile east and west and one-half mile north and south. Its soil is sandy. The land is basically quite level except for the southwest corner which is somewhat low. Drainage is otherwise generally to the southeast except for the far northerly portion. Since the land is sandy it develops little or no drainage at this time. There is a culvert under Highway 52 through which surface water from Maple Grove and Osseo runs easterly into the southwest corner of the land and then easterly and southerly under County Road 30, which runs along the common boundary between the subject premises and Osseo, and then southeasterly through Brooklyn Park until it arrives at the Mississippi River.

4. Population Data

a. Population growth in the City of Brooklyn Park has been rapid in the past ten years in the area south of 85th Avenue so that the City has attained a present population of approximately 35,000. The projected population by the year 2000 is 105,000 people.

b. Population growth in the City of Osseo has been slow during the last ten years. Present population is approximately 3,000, and zero population growth is projected unless the City is provided with room for expansion.

c. The area subject to annexation is unoccupied and uninhabited at the present time. The property could be developed with approximately 190 individual home sites to provide housing for approximately 600 people.

5. Development Issues

a. Brooklyn Park has a comprehensive plan for the City and has a staged growth plan for development; however, it has no timetable that would provide city services in the reasonable near future for the premises in question. Osseo has no definite plan for development of the area in question but has adopted a resolution to annex the 80-acre tract in question and has the resources necessary to properly plan and control development of the tract. The Metropolitan Council has no plans for the development of the area other than what may be presented to it by the City of Brooklyn Park.

b. The City of Brooklyn Park has zoning, subdivision regulations and housing and building codes. Osseo has adequate zoning, subdivision regulations and housing and building codes to properly plan and control development of the 80 acres.

c. The City of Osseo has only a few vacant lots and has urgent need for space for future development and expansion. The area subject to these proceedings would provide the City of Osseo with population, size and assessed valuation to enable it to have necessary growth space. Osseo is presently a free-standing city with no room for expansion to enable it to do the things that it could do, such as provide additional park and recreational area if the area in question were annexed to Osseo.

d. The City of Osseo is all residential except for an area along the main street, which is also Highway 52, which is commercial, and an area at the south end of the City and south of the railroad tracks that is industrial. Another exception is the school area in the northwest corner of the City.

In the City of Brooklyn Park, the area south of 85th Avenue is highly developed and has considerable industrial and commercial development; the area north of 85th Avenue is sparsely populated; and the area subject to these proceedings is unoccupied and undeveloped, though said area would be especially suitable for park and residential development.

e. Detachment of the area in question would take a minute portion of the area of Brooklyn Park and would not have any material effect on the present capability of Brooklyn Park to carry out its governmental responsibilities.

It would not have any practical effect on the future development of Brooklyn Park. Detachment from Brooklyn Park and annexation to Osseo would not have any effect on Maple Grove, the only other municipality adjacent to the property.

f. Planned highway development for the area in question will find U.S. Highway 52 (a proposed four-lane divided highway design) being located approximately one-quarter mile east of the subject property and traveling in a generally north-south direction, thereby creating a natural boundary between the property under consideration and the balance of Brooklyn Park. Located across the north line of the property and traveling in an east-west direction is the planned "cross town" highway (also a major highway construction). The area lying south of the proposed "cross town" highway and west of the proposed U.S. Highway 52 will be otherwise isolated from Brooklyn Park, thereby destroying the community of interest, the ability of the City to efficiently provide the various services urbanizing properties require.

6. Governmental Services

a. Presently the City of Brooklyn Park provides the area subject to annexation with technical fire and police protection. Water, sewer, street improvements, street maintenance and recreational services are not provided.

b. Presently the City of Osseo provides its citizens with the following services: water, sewer, fire protection, police protection, street improvements, street maintenance and recreational facilities, and has shown the capability of furnishing all these services to the area in question.

The Metropolitan Waste Control Commission has made allocation of sewer capacity to Brooklyn Park, Osseo and Maple Grove.

c. Adaptations to Osseo's sewer system could be made which would provide sufficient capacity to sewer the subject property for single-family growth development.

d. With those adaptations, the additional amount of sewage generated from the area could be disposed of within the sewer capacity allotted to Osseo and without encroaching upon the capacity allotted to Maple Grove.

e. Presently Osseo does not provide the area subject to annexation with any services.

f. Plans to extend municipal services to the area subject to annexation include the following: water, sewer, fire protection, police protection, street improvements, street maintenance and recreational facilities.

g. There are no existing or potential pollution problems involved in the proposed detachment and annexation proceeding.

h. The City of Osseo is too small to function efficiently within the metropolitan framework. The future of Osseo and its ability to function efficiently and provide its people with all of the amenities and opportunities they have a right to expect depend upon the ability of the City to grow.

7. Fiscal Data

a. In the City of Osseo the assessed valuation is \$10,992,041, the mill rate is 14.005 and the present bonded indebtedness is \$389,000.

b. In the City of Brooklyn Park, the assessed valuation is \$127,206,533, the mill rate is 15.649 and the present bonded indebtedness is \$19,527,000.

c. The area in question carries an assessed valuation of \$121,602, and the real estate taxes for the past ten years have exceeded the income from the property by more than \$2,800.

d. The tract in question is located in Osseo School District No. 279 and would remain in that district. Development of the area in question would increase the school population from that area sooner than otherwise but would not have a serious effect on the capability of the school district to handle the increased enrollment from that particular area.

8. Brooklyn Park is not capable of providing city services to the subject premises nor is it contemplating being able to do so within

the reasonably foreseeable future. Within the confines of Brooklyn Park's staged growth plan, the subject tract has been designated for uneconomical agricultural use until sometime in the 1990's. Osseo could and can effectively provide governmental services, including sewer, water, fire protection, police protection, street improvements, street maintenance and recreational facilities.

Maple Grove, which is adjacent and west of the premises in question, has shown no desire or ability to annex the premises or to furnish services if the premises were a part of that city.

9. That on April 27, 1978, the Minnesota Municipal Board issued its Notice of Dismissal, denying jurisdiction in the above-entitled matter and dismissing the petition in the above-entitled matter.

10. That the Municipal Board's Notice of Dismissal dated April 27, 1978 was appealed to the Fourth Judicial District.

11. That on August 9, 1979, District Court Judge Eugene J. Farrell, issued his Order, overturning the Municipal Board's Notice of Dismissal dated April 27, 1978, finding that the Minnesota Municipal Board had jurisdiction to adjudicate the merits of the above-entitled matter, and remanding the above-entitled matter to the Municipal Board for issuance of its Findings of Fact, Conclusions of Law, and Order consistent with the Order of the Court.

12. That on December 16, 1977, prior to the Minnesota Municipal Board's issuance of its Notice of Dismissal of April 27, 1978, which was based upon the 1978 Legislative change of language in M.S. 414.061, the Municipal Board had given preliminary approval to the concurrent detachment and annexation of the property presently under consideration.

13. That the Minnesota Municipal Board has reviewed Judge Farrell's Order and the facts before it and issues its Order in compliance therewith.

CONCLUSIONS OF LAW

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

2. M.S.A. 414.01 provides as follows:

"Creation of a commission. Subdivision 1. A Commission to be known as the Minnesota Municipal Commission is hereby created to conduct proceedings and issue orders for the incorporation of property into statutory cities; the detachment of property from municipalities; and the annexation of property to municipalities; the consolidation of municipalities; and the consolidation of towns with municipalities.

The legislature finds that: (1) sound urban development is essential to the continued economic growth of this state; (2) municipal government is necessary to provide the governmental services essential to sound urban development and for the protection of health, safety, and welfare in areas being used intensively for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing such development; (3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation; (4) annexation to or consolidation with existing municipalities or unincorporated areas unable to supply municipal services should be facilitated; and (5) the consolidation of municipalities should be encouraged. It is the purpose of this chapter to empower the Minnesota Municipal Commission to promote and regulate development of municipalities so that the public interest in efficient local governmental will be properly recognized and served."

3. The area subject to this proceeding is now or is about to become urban or suburban in character.

4. Continuation of municipal government is required to protect the public health, safety, and welfare in the area subject to this proceeding.

5. The best interests of the City of Osseo and the area subject to this proceeding will be furnished by detachment from Brooklyn Park and annexation to Osseo, and said detachment from Brooklyn Park will not adversely affect the capability of Brooklyn Park to carry on its governmental functions.

6. There is a reasonable relationship between the increase in revenue for the City of Osseo and the value of benefits conferred upon the area subject to this proceeding for detachment and annexation.

7. That the Minnesota Municipal Board's prior Notice of Dismissal, dated April 27, 1978, has been overturned by a Fourth Judicial District Court, with the remand that the Minnesota Municipal Board issue its Findings of Fact, Conclusions of Law and Order consistent therewith.

8. An order should be issued by the Minnesota Municipal Board detaching the area described herein from Brooklyn Park and annexing said property to Osseo.

O R D E R

IT IS HEREBY ORDERED: That the property described herein, situated in the County of Hennepin, State of Minnesota, be and the same is hereby detached from the City of Brooklyn Park and annexed to the City of Osseo:

The West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 7,
Township 119, Range 21, Hennepin County, Minnesota.

IT IS FURTHERED ORDERD: That the effective date of this Order is August 28, 1979.

Dated this 28th day of August, 1979.

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director