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STATE OF MINNESOTA
MUNICIPAL BOARD
Suite 165 Metro Square
7th & Robert Streets
St. Paul, Minnesota 55101

December 13, 1982

Secretary of State
c/o Donna Scott
State Office Building
Saint Paul, Minnesota

RE: Municipal Board Docket Number A-3873 Delano

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

The population of City of Delano

is increased by No Change

The population of Town of Franklin

is decreased by No Change

A new municipality named _____

has been created with a population of _____

The _____

has been dissolved.

Official date of the Order December 13, 1982

Patricia D. Lundy
Assistant Executive Director

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

R. Thomas Gillaspy, Ph.D.
State Demographer
101 Capitol Square Building

#34274
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 16 1982
Joan Anderson Growe
Secretary of State
O. D.

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Robert W. Johnson	Vice Chairman
Kenneth F. Sette	Member
LeRoy Engstrom	Ex-Officio Member
Arlyn Nelson	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR THE ANNEXATION OF CERTAIN LAND TO THE CITY OF DELANO PURSUANT TO MINNESOTA STATUTES 414

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 17th, 1982, at Delano, Minnesota. The hearing was conducted by Robert J. Ferderer, Chairman, and Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Robert W. Johnson, Vice Chairman, and Kenneth F. Sette, Member of the Board, and County Commissioners LeRoy Engstrom and Arlyn Nelson, Ex-Officio Members of the Board. The City of Delano and the Delano Community Development Corporation appeared by and through Philip Perkins and Richard Grinley, and the Town of Franklin appeared by and through William Radzwill. 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

I. On November 16th, 1981, a copy of the petition for annexation by all of the property owners was filed with the Minnesota Municipal Board. The petition contained all of the information required by Statute including a description of the territory subject to annexation which is as follows:

> The South Half of the Northwest Quarter of Section 13, Township 118, Range 25, except that part lying West of Wright County Highway 17, in Wright County, Minnesota.

II. An objection to the proposed annexation was received by the Minnesota Municipal Board from Franklin Township on January 25th, 1982. The Municipal Board upon receipt of this objection conducted further proceedings in accordance with Minnesota Statutes 414.031 as required by M.S. 414.033, Subdivision 5.

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

IV. On September 13, 1982 the Municipal Board issued an Order For Allowance

of Annexation by Ordinance pursuant to stipulation of the city and the township, and the property owners, and after review by the Board, for the following described property:

> That part of the S½ of the NW¼ of Section 13, Township 118, Range 25, Wright County, Minnesota described as follows:
>
> Commencing at the northeast corner of said S½ of the NW¼; thence on an assumed bearing of North 89° 22' 45" West along the north line of said S½ of the NW¼, a distance of 131.57 feet to the actual point of beginning of the land to be described; thence South 39° 27' 21" West, a distance of 89.43 feet; thence South 34° 46' 21" West, a distance of 543.29 feet; thence South 35° 38' 06" West, a distance of 40.28 feet; thence North 64° 34' 28" West, a distance of 126.91 feet, thence northwesterly along a tangential curve concave to the northeast having a radius of 265.32 feet and a central angle of 22° 58' 09", a distance of 106.36 feet; thence North 41° 36' 19" West tangent to said curve, a distance of 20.00 feet; thence South 48° 23' 41" West, a distance of 291.89 feet; thence southwesterly along a tangential curve concave to the northwest having a radius of 526.76 feet and a central angle of 7° 06' 56", a distance of 65.42 feet; thence North 31° 13' 29" West not tangent to said curve, a distance of 169.14 feet; thence northerly along a tangential curve concave to the east having a radius of 313.99 feet and a central angle of 32° 25' 07", a distance of 177.66 feet; thence North 1° 11' 38" East tangent to said curve, a distance of 43.94 feet; thence North 13° 48' 23" West, a distance of 115.91 feet; thence North 1° 11' 38" East, a distance of 190.00 feet to the north line of said S½ of the NW¼; thence South 89° 22' 45" East along said north line, a distance of 1028.21 feet to the point of beginning. Containing 10.023 acres.

V. On September 17th, 1982, the Municipal Board approved the annexation by Ordinance of the 10.023 acres described in Findings of Fact IV.

VI. The remaining Findings of Fact refer to the whole area originally petitioned for annexation.

VII. The area subject to annexation is unincorporated, approximately 62 acres in size and abuts the City of Delano by approximately 32.3% of its border. The City of Delano has a total of 931 acres of which 611 acres are platted.

VIII. The area proposed for annexation is east of the south fork of the Crow River. A small portion of the westerly part of the area proposed for annexation is within the one-hundred year flood plain.

Thirty acres of the 62 acres proposed for annexation is prime agricultural land and that is the northern portion of the area proposed for annexation. There are no other historical, archaeological or mineral factors associated with the area proposed for annexation. The area's eastern border has woods on it.

IX. The present population of the City of Delano is 2,649, and it is projected that within five years its population will be 2,900.

X. The present population of the Town of Franklin is 2,979 and it is projected that within five years it will have a population of 3,317.

XI. The area proposed for annexation has no present population on it.

XII. The Town of Franklin is approximately 26,377 acres in size.

XIII. Of approximately 50 to 100 acres presently zoned for industrial use within the City of Delano, 33.7 acres are presently in use. There was no testimony as to the amount of usable land within the City of Delano presently zoned industrial and

located outside of the flood plain.

There is zoned within the City of Delano land for single family residential use, multiple family residential use, public use, semi-public use, industrial use, and commercial use. There was no testimony concerning the acreages within the City of Delano.

XIV. In the last five years the City of Delano had 116 new structures located within it, of which three were industrial type structures.

XV. The Town of Franklin has had 276 new structures constructed in the past five years with none of them being industrial type.

XVI. Of the 26,377 acres of township land, approximately 90% of that land is utilized for agricultural purposes.

XVII. U.S. Highway 12 services the City of Delano and is north of the area proposed for annexation.

Seventh Street in the City of Delano is a nine ton road and presently extends south from Highway 12 to the Delano city limits adjacent to the area proposed for annexation. The area proposed for annexation is bounded on its westerly side by County Road 17. Of those three streets or roads, only County 17 has specific weight restrictions.

The City of Delano is served by other city streets and county roads.

XVIII. Environmentally, testimony focused on the fact that the annexation area has just a very small portion of it in the flood plain.

XIX. The County Comprehensive Plan labels the annexation area for residential development.

XX. The City of Delano has a zoning ordinance, subdivision regulations and official map, a program of capital improvement, a fire code, Minnesota building code, plumbing code, shoreline ordinance, flood plain ordinance, human services, energy conservation and urban renewal.

XXI. Wright County has a zoning ordinance, a subdivision regulation, an official map, capital improvements program, fire code, Minnesota building code, plumbing code, shoreline ordinance, flood plain ordinance, wild and scenic rivers ordinance, sanitary ordinance, human services program, and energy conservation program.

XXII. Franklin Township's Comprehensive Plan for the area proposed for annexation is contained within the Wright County Comprehensive Plan.

Wright County enforces its zoning in the area proposed for annexation.

The current zoning of the area proposed for annexation is agricultural.

The present existing land use of the area proposed for annexation is agricultural. The area proposed for annexation has been used for agricultural purposes for at least ten or fifteen years.

XXIII. The City presently provides its people with water service, sanitary sewer, fire protection, storm sewer, electricity, and street improvements and maintenance. The County Sheriff provides police protection to the City of Delano.

XXIV. The City of Delano has completed a Step One study in a waste water treatment facility construction grants program procedure. The City is presently waiting for funding for the next step which consists of the drawing up of Plans and Specifications. Present funding guidelines for any waste water treatment plant call for 75% federal participation, 15% state participation, and 10% local participation. The projected cost of the new treatment facility is 1.7 million dollars.

Any extension of sewer service to the area would require a Minnesota Pollution Control Agency permit.

XXV. Presently, the Delano Waste Water Treatment Plant is at its capacity for nitrates and phosphates, as well as its hydraulic capacity. The Minnesota Pollution Control Agency has stated that a limited extension would be possible. No acceptable amount of sewage flow from the annexation area was identified as within Minnesota Pollution Control Agency guidelines to allow sewer extensions into the area.

XXVI. No capital improvements study and no Engineer's feasibility study has been done concerning the serviceability for the area proposed for annexation.

XXVII. The City's present valuation is $5,977,317.00. The insurance fire rating for the City of Delano is six. The total revenue for the City of Delano was $713,077.00. Total bonded indebtedness for the City of Delano is $1,375,000.00.

XXVIII. The valuation of the Township is $8,800,000.00. The total revenue for the Town of Franklin was $155,421.00.

XXIX. The valuation of the original area proposed for annexation is $9,623.00. The revenue from the original area proposed for annexation was $838.00.

XXX. The County mill rate is 25.011, the City mill rate is 29.290, and the School District mill rate is 53.415.

XXXI. There was no testimony indicating any adverse impact to the school district if the original area proposed for annexation was annexed.

CONCLUSIONS OF LAW

I. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceedings.

II. The remaining area of the original area proposed for annexation is not now nor is it about to become urban or suburban in character. Municipal government is not presently required to protect public health, safety and welfare there. An Order should be issued by the Minnesota Municipal Board denying the annexation of the remaining petitioned land.

O R D E R

I. IT IS HEREBY ORDERED: That the petition for the annexation of property described in Findings of Fact I less that area annexed by ordinance as described in Findings of Fact IV is hereby denied without prejudice.

II. IT IS FURTHER ORDERED: That the effective date of this Order is December 13, 1982.

Dated this 13th day of December, 1982.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101

Terrence A. Merritt

Terrence A. Merritt
Executive Director

MEMORANDUM

In denying the proposed petition for annexation, the Minnesota Municipal Board was required to review the facts submitted to it in light of the statutory factors it must consider. Testimony presented before the Board on the record is the sole source of facts for the Board's decision. Based upon the record before it, the Board determined that the statutory criterion had not been met.

The Board afforded counsel for the City and petitioners an opportunity for either a further hearing or a rehearing on the matter in light of developments subsequent to the March 17th, 1982, hearing. Counsel declined to avail itself of such an opportunity.

In reviewing the record, the moving parties failed to address issues raised by the Statute and by the objection to the proposed annexation. The Board makes no statement as to whether it would rule differently were further evidence to be presented to it. It merely notes that the counsel for the City and petitioners chose not to provide the Board with further testimony.

The Board urges the City and Township to continue to work together and to address the long-range goals of their respective governmental units. Further, the Board suggests the City avail itself of County Assistance in addressing its future growth and development needs in light of the manmade and natural physical limitations of the City of Delano.

The Board notes that the City, Township and property owners have worked together since the March 17th, 1982, hearing to accomplish the annexation referred to in Findings of Fact V. The Board hopes this is the beginning of long-range planning and cooperation among the parties.

VTM 12-13-82