

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Case Type: Contract

Court File No. _____

Town of Waterford, a duly organized
Minnesota Township

Plaintiff,

SUMMONS

vs.

City of Northfield, a Municipal Corporation

Defendant.

THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDANTS:

YOU, AND EACH OF YOU, ARE HEREBY SUMMONED and required to serve upon the Plaintiffs attorney an answer to the Complaint, which is hereby served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Dated: April 24, 2018

COURI & RUPPE, P.L.L.P.

By Michael C. Couri
Michael C. Couri
705 Central Avenue East
P.O. Box 369
St. Michael, MN 55376
763-497-1930
ATTORNEY FOR PLAINTIFF

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Case Type: Contract

Court File No. _____

Town of Waterford, a duly organized
Minnesota Township

Plaintiff,

PLAINTIFF'S COMPLAINT

vs.

City of Northfield, a Municipal Corporation

Defendant.

Plaintiff, the Town of Waterford ("Waterford"), for its complaint against
Defendant City of Northfield ("Northfield"), states and alleges as follows:

PARTIES

1. Plaintiff is a Minnesota Township, duly organized and located in Dakota County, Minnesota.
2. Defendant is a municipal corporation located in Dakota County, Minnesota.

JURISDICTION AND VENUE

3. This Court has jurisdiction over all parties to this action. Both Plaintiff and Defendant are located in Dakota County, Minnesota. Venue is proper in Dakota County, State of Minnesota because all of the actions or occurrences on which this lawsuit is based took place in Dakota County, State of Minnesota.

FACTUAL ALLEGATIONS

4. Plaintiff, the Town of Waterford, restates and re-alleges paragraphs 1 through 3 herein.

5. In 1979 the Sheldahl Company approached both Northfield and Waterford regarding a planned expansion project. Due to this project, Sheldahl Company requested annexation of twenty acres of land that they owned in Waterford Township to the City of Northfield, the (“Sheldahl Property”). After nearly a year of negotiations, Northfield and Waterford reached a settlement of the annexation dispute which was memorialized in a written document titled “Joint Resolution to be Presented to the Minnesota Municipal Board as to the Orderly Annexation by the City of Northfield and Township of Waterford” (the “Joint Resolution”). Waterford executed the Joint Resolution on April 14, 1980 and Northfield executed the Joint Resolution on April 21, 1980. A true and correct copy of the Joint Resolution is attached hereto and incorporated herein as Exhibit A.

6. Under the terms of the Joint Resolution, Waterford agreed to the orderly annexation of the 20-acre Sheldahl Property – the property Northfield sought to have annexed into the City. In exchange, Northfield agreed to share with Waterford set proportions of the tax revenues received from the Sheldahl Property as outlined in Section III (c) of the Joint Resolution. Section III (c) states:

- III. In the annexation within the orderly annexation area the parties agree to the following division of financial obligations:
 - (c) It is the intent of both the parties to provide payment of \$675 to Waterford Township or a variable amount set forth in the following paragraph:

The City of Northfield will reimburse the Township of Waterford on an amount based on a mill rate of 1.902 for twenty acres which yields an amount of \$675 per year which is agreed upon by both parties. This amount is based on the amount of taxes paid in 1980 on an adjacent piece of property. If the Waterford Township mill rate increases, then the amount that the Township will receive will be in direct proportion to the increase in the mill rate. Example: If the mill rate increases to four (4) mills then the formula for the amount paid would be 1.902 mill rate is to \$675 as four (4) mills is to x for the amount to be paid. In the event that the Minnesota Legislature fails to enact legislation which would allow Northfield to make these payments, the parties hereto agree that they will seek other methods to make these payments.

7. On or about May 20, 1980, the Joint Resolution was filed with the Minnesota Municipal Board (later succeeded by the Office of Administrative Hearings).

8. On or about May 20, 1980, Northfield filed Resolution #80-112 with the Minnesota Municipal Board seeking the annexation of approximately twenty acres of land from Waterford (the Sheldahl Property) pursuant to the terms of the Joint Resolution. A true and correct copy of Resolution # 80-112 is attached hereto and incorporated herein as Exhibit B.

9. On or about July 11, 1980 the matter titled "In the Matter of the Joint Resolution Between the City of Northfield and the Town of Waterford for the Orderly Annexation of Certain Land to the City of Northfield" came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes Chapter 414, as amended. The hearing was conducted by Terrence A. Merritt, Executive Director of the Minnesota Municipal Board, pursuant to Minn. Stat. §414.01, subd. 12.

10. On or about August 27, 1980 the Minnesota Municipal Board issued its "Findings of Fact, Conclusions of Law, and Order" annexing the Sheldahl Property. A true and correct copy of the "Findings of Fact, Conclusions of Law, and Order" is attached hereto and incorporated herein as Exhibit C. Thereafter, also on or about January 20, 1981, the Minnesota Municipal Board issued its "Amended Findings of Fact, Conclusions of Law, and Order" again annexing the Sheldahl Property. A true and correct copy of the "Amended Findings of Fact, Conclusions of Law, and Order" is attached hereto and incorporated herein as Exhibit D.

11. Section III (c) of the Joint Resolution called for Waterford and Northfield to jointly seek special legislation that would authorize the revenue sharing arrangement of the Joint Resolution to be perpetual in nature. On April 3, 1981, the Laws of Minnesota 1981 Chapter 18, was signed into law by the Governor of Minnesota ("Special Legislation"). A true and correct copy of this Special Legislation is attached hereto and incorporated herein as Exhibit E. The special legislation states:

An act relating to local government: permitting the city of Northfield to make payments to the town of Waterford as a condition of annexation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. NORTHFIELD ANNEXATION.

If the city of Northfield agrees with the town of Waterford that a part of the town may be annexed to the city in an orderly annexation proceeding pursuant to Minnesota Statutes, Chapter 414, the city may agree as a condition of the annexation that it will pay an annual sum of money to the town. The sum may vary according to the agreed conditions.

Section 2. EFFECTIVE DATE.

This act is effective the day after the filing of local approval certificates pursuant to Minnesota Statutes, Section 645.021, Subdivision 3, by both the governing body of the city of Northfield and the town board of the town of Waterford.

Approved April 3, 1981 [Emphasis in Original]

12. On July 14, 1981, Waterford passed a Resolution approving the Special Legislation. Thereafter the Town Clerk filed a "Certificate of Approval of Special Law by Governing Body (Pursuant to Minnesota Statutes, 645.02 and 645.021)" with the Secretary of State. A true and correct copy of the resolution and the Certificate of Approval (attached hereto and incorporated herein as Exhibit F) were filed with the Secretary of State on August 11, 1981.

13. On July 6, 1981, Northfield passed Resolution #81-186 approving the Special Legislation. Thereafter the City Clerk-Treasurer filed a "Certificate of Approval of Special Law by Governing Body (Pursuant to Minnesota Statutes, 645.02 and 645.021)" with the Secretary of State. A true and correct copy of the resolution and the Certificate of Approval (attached hereto and incorporated herein as Exhibit G) were filed with the Secretary of State on August 11, 1981.

14. The annexed property was subject to taxation by Northfield with corresponding reimbursement to Waterford for the first time for taxes payable in 1981. Plaintiff is informed and believes and thereon alleges that between 1981 and 2010, Northfield paid Waterford tax reimbursement pursuant to Section III (c) of the Joint Resolution.

15. On October 5, 2010 Northfield adopted Resolution 2010-079 titled “A Resolution by the Mayor and City Council of the City of Northfield, Minnesota Notifying Waterford Township of Expiration of 1980 Joint Resolution and Tax Reimbursement Payments.” A true and correct copy of the Resolution 2010-079 is attached hereto and incorporated herein as Exhibit H.

16. Resolution 2010-079 states that it is Northfield’s opinion that the Joint Resolution is no longer in force and effect and that no additional tax reimbursement payments to Waterford can be made related to the annexation of the Sheldahl Property “because there is no statutory authority for the continuation of such tax reimbursement payments.”

17. Plaintiff is informed and believes and thereon alleges that Northfield has failed to make the required tax reimbursement payments to Waterford since 2011 in violation of Section III (c) of the Joint Resolution. Northfield should have paid Waterford between 2011 and 2017 approximately \$35,588.07, the exact amount according to proof at trial.

18. Officials of Waterford and Northfield have met several times in an attempt to resolve this issue, but a resolution acceptable to all parties has not been able to be reached.

COUNT I

BREACH OF CONTRACT

19. Plaintiff realleges the facts set forth in paragraphs 1-18 of this Complaint.

20. Plaintiff is informed and believes and thereon alleges that Northfield was required to pay Waterford a total of approximately \$35,588.07 in revenue sharing payments from taxes collected from the Sheldahl Property for the years 2011 through 2017, pursuant to Section III (c) of the Joint Resolution, with payments of the following amounts due in each of the years listed below:

2011	\$4,094.44
2012	\$4,984.20
2013	\$4,937.51
2014	\$4,884.30
2015	\$4,310.91
2016	\$6,087.18
2017	\$6,289.53

The exact amount subject to proof at trial.

21. Plaintiff is informed and believes and thereon alleges that Northfield owes Waterford \$35,588.07 in tax reimbursement payments due under Section III (c) of the Joint Resolution, through December 31, 2017.

COUNT II

DECLARATORY JUDGMENT

22. Plaintiff realleges the facts set forth in paragraphs 1-21 of this Complaint.

23. Resolution 2010-079 states that it is Northfield's opinion that the Joint Resolution is no longer in force and effect and that no additional tax reimbursement payments to Waterford can be made related to the annexation of the Sheldahl Property "because there is no statutory authority for the continuation of such tax reimbursement payments."

24. The Resolution contains a provision in paragraph III (e) that prohibits further annexation of the property from the Township to the City without agreement of the Northfield City Council and the Waterford Town Board. Northfield's Resolution 2010-079 stating that the Joint Resolution is no longer in force and effect seeks to nullify the annexation prohibition contained in the Joint Resolution.

25. Waterford believes that the Joint Resolution is still in force, is binding on the parties, that both past and future the tax reimbursement payments are owed from Northfield to Waterford pursuant to Section III (c) of the Joint Resolution, and that annexations may not occur without the agreement of the Town Board pursuant to Section III (e) of the Joint Resolution.

26. An actual existing and bona fide controversy exists between the plaintiff Waterford Township and defendant City of Northfield as to their relations in respect to the Joint Resolution and the rights of the parties under this Joint Resolution can be determined only by a declaratory judgment.

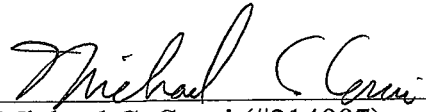
WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. A judgment against Defendant for reasonable damages in an amount in excess of \$35,588.07;
2. Plaintiff's attorney's fees, costs and disbursements incurred in this action as permitted by law;
3. An order declaring the rights and other legal relations of the Plaintiff and the Defendant by reason of the Joint Resolution;

4. An order declaring the Joint Resolution to be valid and binding on both Plaintiff and Defendant.
5. Such further relief as may be just and equitable.

Dated: April 24, 2018

COURI & RUPPE, P.L.L.P.

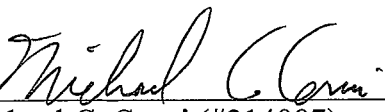

Michael C. Couri (#214887)
Robert T. Ruppe (#0301644)
ATTORNEY FOR PLAINTIFF
705 Central Ave. E.
P.O. Box 369
St. Michael, MN 55376
(763) 497-1930
(763) 497-2599 (Fax)

ACKNOWLEDGMENT

Plaintiff hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to an opposing party pursuant to Minnesota Statutes, Section 549.211.

Dated: April 24, 2018

COURI & RUPPE, P.L.L.P.

By 
Michael C. Couri (#214887)
ATTORNEY FOR PLAINTIFF
P.O. Box 369
St. Michael, MN 55376
(763) 497-1930
(763) 497-2599 (Fax)

EXHIBIT

A

REC'D. BY
MMB

APR 28 1980

A JOINT RESOLUTION TO BE PRESENTED TO THE MINNESOTA
MUNICIPAL BOARD AS TO ORDERLY ANNEXATION BY THE
CITY OF NORTHFIELD AND TOWNSHIP OF WATERFORD

WHEREAS, the City of Northfield recognizes the potential for urban development into the Township of Waterford; and

WHEREAS, the City of Northfield and Township of Waterford desire to accommodate growth in the most orderly fashion; and

WHEREAS, the joint orderly annexation agreement between the parties hereto will be beneficial to both parties from the standpoint of orderly planning and orderly transition of form of government within the area proposed to be annexed as well as providing the guidelines under which this annexation is to take place.

NOW, THEREFORE, be it resolved by the City of Northfield and the Township of Waterford that the parcel to be annexed by the City shall occur under the following stipulations:

- I. That the parcel to be annexed by this annexation agreement shall be legally described as the West 20 acres of all that part East of the Railroad right-of-way of the South 1/2 of the Southwest 1/4 of Section 30, Township 112, Range 19, Dakota County, Minnesota.
- II. The City shall follow City policies concerning the extension of municipal utilities.
- III. In the annexation within the orderly annexation area the parties agree to the following division of financial obligations:
 - (a) Property Taxes: Property taxes payable in the year of annexation shall be apportioned on a monthly

basis between the City and the Township i.e., if the parcel for annexation was annexed with four (4) months remaining in the year, the property taxes collected would be apportioned and paid to the Township for two-thirds (2/3) of the year and to the City for one-third (1/3) of the year.

(b) Utility Assessments: The parcel annexed, shall not be assessed for utilities (such as sewer and water) until said utilities shall have been determined to benefit the property.

(c) It is the intent of both the parties to provide payment of \$675 to Waterford Township or a variable amount set forth in the following paragraph:

The City of Northfield will reimburse the Township of Waterford on an amount based on a mill rate of 1.902 for twenty acres which yields an amount of \$675 per year which is agreed upon by both parties. This amount is based on the amount of taxes paid in 1980 on an adjacent piece of property. If the Waterford Township mill rate increases, then the amount that the Township will receive will be in direct proportion to the increase in the mill rate. Example: If the mill rate increases to four (4) mills then the formula for the amount paid would be 1.902 mill rate

is to \$675 as four (4) mills is to X for the amount to be paid. In the event that the Minnesota Legislature fails to enact legislation which would allow Northfield to make these payments, the parties hereto agree that they will seek other methods to make these payments.

(d) The land described herein will be zoned industrial as defined in the City of Northfield's zoning ordinance.

(e) The City of Northfield and Waterford Township recognize that in order for Waterford Township to survive as a township and a viable unit of government, Waterford Township must be very selective in its annexation policies. Waterford Township is in fact the smallest township adjoining the City of Northfield. The township is less than 15 sections in size. Therefore, the City of Northfield and Waterford Township agree there will be no future annexation in Waterford Township without the agreement of the City of Northfield Council and the Waterford Town Board.

The parties agree that the owners of the property being annexed hereunder will provide screening or a buffer between the property in Waterford Township and the property being annexed hereunder, which screening or buffer will be located on the property

being annexed hereunder and that the City will include this requirement of screening or a buffer as part of any permit procedures required of the owners of the property to develop the same.

Approved by the City of Northfield this 21st day of April, 1980.

CITY OF NORTHFIELD

By: Arnold W. Nelson
Its: Mayor

And: Wendine Hall
Its: Clerk

Approved by the Township of Waterford this 14th day of April, 1980.

WATERFORD TOWN BOARD

By: Louis Boudreau
Its: Chairman

And: Edna Harmon
Its: Clerk

REC'D. BY
MMB

APR 28 1980

RESOLUTION #80-93

WHEREAS, a committee consisting of Waterford Township members, City of Northfield's mayor and city administrator; and a representative from Sheldahl Company has had several meetings and have worked out an Orderly Annexation Agreement; and

WHEREAS, the City attorney and Township attorney have reviewed said agreement.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Northfield approves and authorizes the Mayor and City Clerk to sign the Orderly Annexation Agreement between Waterford Township and the City of Northfield attached hereto.

Passed by the City Council of the City of Northfield this 21st day of April, 1980.

Arnold W. Nelson
Mayor

Mavis Jensen
Council Member

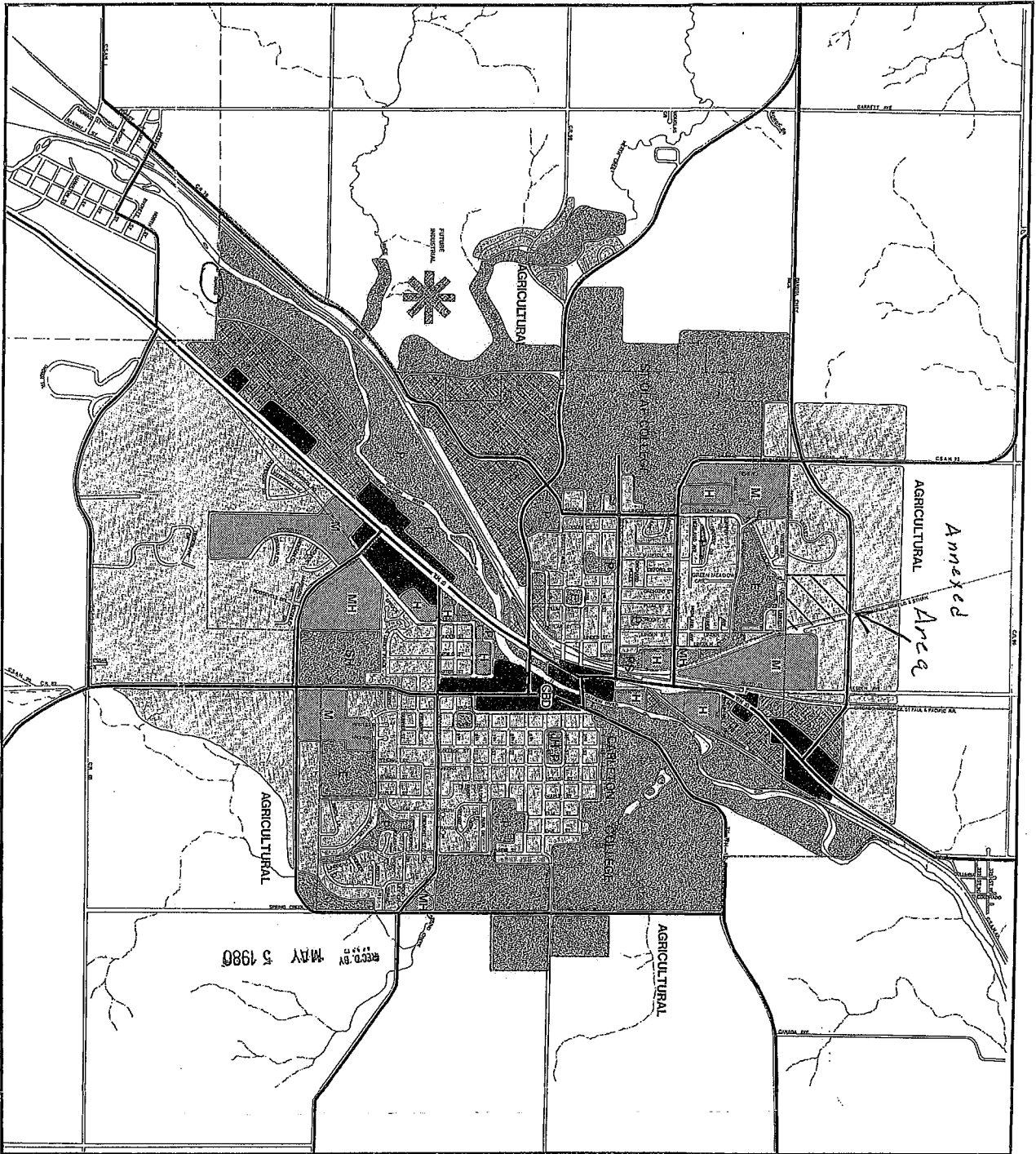
ATTEST:

Everlyne Hall
City Clerk

Samuel A. Jensen
Council Member

I hereby certify that this is a true and correct copy of the original resolution passed by the city council on the 21st day of April, 1980.

Everlyne Hall
City Clerk



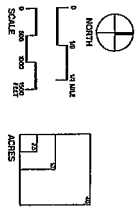
LAND USE PLAN FOR NORTHFIELD MINNESOTA

LAND USE

- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- MED-HIGH DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- PUBLIC & QUASI PUBLIC
- INDUSTRIAL
- COMMERCIAL

COMMUNITY FACILITIES

- ELEMENTARY SCHOOL
- JUNIOR HIGH SCHOOL
- SENIOR HIGH SCHOOL
- PAROCHIAL SCHOOL
- PARK
- ARTERIAL STREET



MINNESOTA CITY PLANNING DEPT. 400, 1986

EXHIBIT

B

An accessible version of this document for use with a screen reader (e.g. JAWS) is available upon request.

RESOLUTION #80-112

WHEREAS, the City of Northfield has received a request for annexation of the following parcel of land:

Twenty (20) acres of all that part east of the railroad right-of-way of the south 1/2 of the southwest 1/4 of Section 30, Township 112, Range 19.

WHEREAS, the City of Northfield and Waterford Township have signed an Orderly Annexation Agreement.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Northfield requests the Minnesota Municipal Board to hold an annexation hearing on the above described parcel of land as soon as possible.

Passed by the City Council of the City of Northfield this 5 day of May, 1980.

Arnold W. Nelson
Mayor

Maria Jensen
Council Member

ATTEST:

Wayne Hall
City Clerk








William J. ...
Council Member

I hereby certify that this is a true and correct copy of the original resolution passed by the city council on May 5, 1980.







Wayne Hall
City Clerk

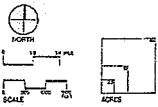
LAND USE PLAN FOR NORTHFIELD MINNESOTA

LAND USE

-  LOW DENSITY RESIDENTIAL
-  MEDIUM DENSITY RESIDENTIAL
-  MED-HIGH DENSITY RESIDENTIAL
-  HIGH DENSITY RESIDENTIAL
-  PUBLIC & QUASI PUBLIC
-  INDUSTRIAL
-  COMMERCIAL

COMMUNITY FACILITIES

-  ELEMENTARY SCHOOL
-  JUNIOR HIGH SCHOOL
-  SENIOR HIGH SCHOOL
-  PAROCHIAL SCHOOL
-  PARK
-  ARTERIAL STREET



NORTHFIELD CITY PLANNING DEPT. 1971, 1977

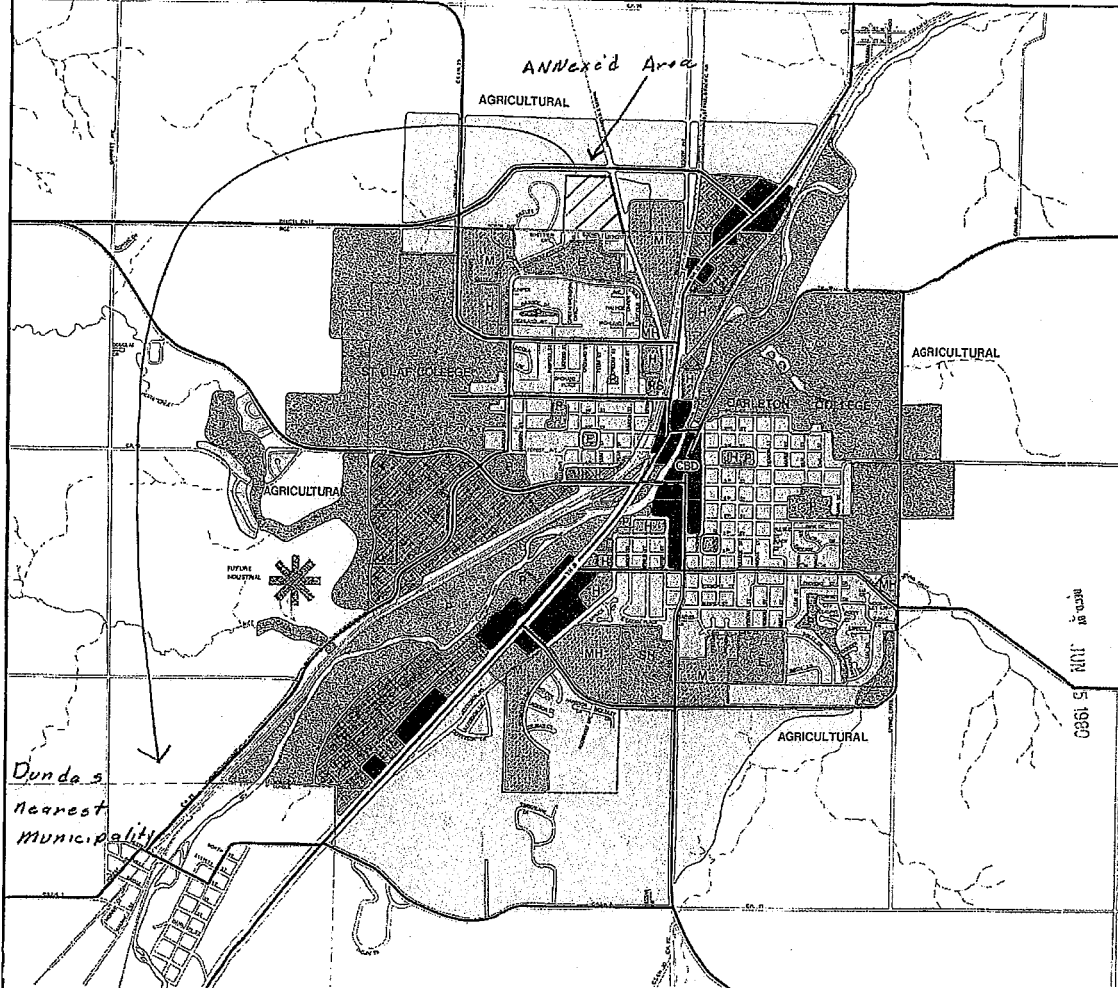


EXHIBIT
C

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Gerald Hollenkamp	Ex-Officio Member
James Kennedy	Ex-Officio Member

IN THE MATTER OF THE JOINT RESOLUTION)
 BETWEEN THE CITY OF NORTHFIELD AND THE)
 TOWN OF WATERFORD FOR THE ORDERLY)
 ANNEXATION OF CERTAIN LAND TO THE)
 CITY OF NORTHFIELD)

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 July 11, 1980, at Northfield, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Gerald Hollenkamp and James Kennedy, ex-officio members of the Board. The City of Northfield appeared by and through Robert G. Lampe, the Township of Waterford appeared by and through John Dudley, Supervisor. 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. That a joint resolution for orderly annexation was adopted by the City of Northfield and the Township of Waterford and duly accepted by the Minnesota Municipal Board.

II. A resolution was filed by one of the signatories to the joint resolution, the City of Northfield, on May 20, 1980 requesting annexation of certain properties within the orderly annexation area. The resolution contained all the information required by statute including a description of the territory subject to annexation which is as follows:

Twenty (20) acres of all that part east of the railroad

IV. Geographic Features

- A. The area subject to annexation is unincorporated and abuts the City of Northfield.
- B. The total area of the City of Northfield is approximately 3,500 acres. The total area of the territory subject to annexation is 20 acres.
- C. The perimeter of the area to be annexed is 11% bordered by the municipality.
- D. The natural terrain of the area including general topography, major watersheds, soil conditions, river, lakes and major bluffs is: Topography is rolling hills sloping to south, soil condition is good clay-sand-claysilt.

V. Population Data

- A. The City of Northfield:
 1. In 1970, there were 10,235 residents.
 2. The present estimated population is 12,783.
 3. By 2000, the projected population is 20,000.
- B. The area subject to annexation:
 1. In 1970, there were 0 residents.
 2. The present population is 0.
 3. By 2000, the projected population is 0.
- C. The Township of Waterford:
 1. In 1970, there were 536 residents.
 2. The present estimated population is 540.
 3. By 2000, the projected population is 580.

VI. Development Issues

- A. The pattern of physical development, including land already in use, in the process of being developed, and remaining for various uses.
 1. Area in Use
 - A. In the City of Northfield:
 1. Residential: 1,540 acres
 2. Institutional: 822 acres
 3. Commercial: 62 acres
 4. Industrial: 82 acres
 5. Agricultural and vacant land: 1,000 acres
 2. In the area subject to annexation:
 1. Residential: 0 acres
 2. Institutional: 0 acres
 3. Commercial: 0 acres
 4. Industrial: 0 acres
 5. Agricultural: 20 acres

2. Area Being Developed

a. In the City of Northfield:

1. Residential: 200 acres
2. Institutional: 0 acres
3. Commercial: 10 acres
4. Industrial: 100 acres
5. Agricultural: 0 acres

b. In the area subject to annexation:

1. Residential: 0 acres
2. Institutional: 0 acres
3. Commercial: 0 acres
4. Industrial: 20 acres
5. Agricultural: 0 acres

c. In the Township of Waterford:

1. Residential: 320 acres
2. Institutional: 0 acres
3. Commercial: 4 acres
4. Industrial: 0 acres
5. Agricultural: 0 acres

3. Area remaining for various uses:

a. In the City of Northfield:

1. Residential: 215 acres
2. Institutional: 0 acres
3. Commercial: 30 acres
4. Industrial: 120 acres
5. Agricultural: 0 acres

B. Transportation:

1. The present transportation network is: Four major Railroads.

a. In the City of Northfield: Two major highways, City transit system, City streets, Four major Railroads.

b. In the area subject to annexation: same as in the City

C. Land use controls and planning, including comprehensive plans, in the city and the area subject to annexation:

1. In the City of Northfield:

- a. Zoning: yes
- b. Subdivision Regulations: yes
- c. Comprehensive Plan: yes
- d. Official Map: no
- e. Capital improvements program: yes
- f. Fire Code: yes
- g. Building Inspector: yes

3. In the County of Dakota:
 - a. Zoning: no
 - b. Subdivision Regulations: no
 - c. Comprehensive Plan: yes
 - d. Official Map: no
 - e. Capital Improvements Program: yes
 - f. Fire Code: no
 - g. Building Inspector: no
 - h. Planning Commission: yes
4. The Metropolitan Council provides the following planning and land use services: Technical information on request.
5. There is no inconsistency between the proposed development and the planning and land use controls for the area.

VII. Governmental Services

- A. The Town of Waterford provides the area subject to annexation with the following services:
 1. Water: no
 2. Sewer: no
 3. Fire protection and rating: yes
 4. Police protection: yes
 5. Street improvements: no
 6. Street maintenance: no
 7. Recreational: no
 8. Administrative services: yes
- B. The City of Northfield provides its residents with the following services:
 1. Water: yes
 2. Sewer: yes
 3. Fire protection and rating: yes; Class 5
 4. Police protection: yes
 5. Street improvements: yes
 6. Street maintenance: yes
 7. Recreational: yes
 8. Administrative services: yes
- C. The City of Northfield provides the area subject to annexation with the following services:
 1. Water: no
 2. Sewer: no
 3. Fire protection and rating: rural fire department
 4. Police protection: on request
 5. Street improvements: no
 6. Street maintenance: no
 7. Recreational: no
 8. Administrative services: no
- D. There are no existing or potential environmental problems.
- E. Plans and programs by the annexing municipality to provide needed governmental services for the area proposed for annexation include:

VIII. Tax Base

A. In the City of Northfield: the tax base includes the following:

1. Residential property in Northfield was valued at \$18,753,608, generating \$510,586 in taxes or 64.4% of the total.
2. Commercial property in Northfield was valued at \$8,228,188, generating \$224,021 in taxes or 28.3% of the total.
3. Industrial property in Northfield was valued at \$1,564,018, generating \$42,582 in taxes or 5.4% of the total.
4. Agricultural property in Northfield was valued at \$221,990, generating \$6,044 in taxes or 0.7% of the total.
5. Vacant land in Northfield was valued at \$340,337, generating \$9,266 in taxes or 1.2% of the total.
6. Non-taxable property
 - a. Institutional use in Northfield included 659.4 acres worth, as developed, \$1,055,088.
 - b. Other non-taxable uses (such as roadways, parks) in Northfield included 500 acres.

B. In the Township of Waterford, the tax base includes the following:

1. Residential property in Waterford was valued at \$1,563 in taxes or 31.7% of the total.
2. Commercial property in Waterford was valued at \$312,809, generating \$595 in taxes or 12.1% of the total.
3. Industrial property in Waterford was valued at \$0, generating \$0 in taxes or 0% of the total.
4. Agricultural land in Waterford was valued at \$1,446,134, generating \$2,751 in taxes or 55.7% of the total.
5. Vacant land in Waterford was valued at \$14,269, generating \$27 in taxes or 0.5% of the total.

C. In the area subject to annexation, the tax base includes the following:

1. Agricultural property was valued at \$3,635, generating \$70 in taxes or 1.4% of the total.

IX. Tax Data

A. In the City of Northfield:

1. Mill rate in 1980 is 27.226.
2. Bonded indebtedness in 1979 was \$425,000.

B. In the Township of Waterford:

- X. The city may bear increased costs as a result of this annexation.
- XI. Annexation to the City of Northfield is the best alternative.
 - A. No effect on area school districts and on adjacent communities if the proposed annexation is approved.
 - B. The town government is not adequate to deliver the needed services to the area proposed for annexation.
 - C. Necessary governmental services could not best be provided by incorporation or annexation to an adjacent municipality.
 - D. Present assessed valuation of the Town of Waterford: \$2,594,770.
Present assessed valuation of proposed annexation area: \$3,635.
New valuation of the Town of Waterford if entire area is annexed: \$2,591,135.
 - E. Waterford Township can continue to function without the area subject to annexation.
- XII. The annexation is consistent with the joint agreement
- XIII. That the area proposed for annexation when annexed will be excluded from the jurisdiction of the Metropolitan Council.

CONCLUSIONS OF LAW

- I. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
- II. The area subject to annexation is now or is about to become urban or suburban in nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.
- III. The existing township form of government is not adequate to protect the public health, safety, and welfare.
- IV. The annexation would be in the best interests of the area proposed for annexation.
- V. The annexation is consistent with terms of the joint agreement.
- VI. Because of increased costs, the City of Northfield may qualify for a special levy.
- VII. Two years will be required to effectively provide full municipal services to the annexed area.
- VIII. An order should be issued by the Minnesota Municipal Board annexing the

II. IT IS FURTHER ORDERED: That the Minnesota Municipal Board hereby retains jurisdiction for the purpose of allowing a special levy pursuant to Minnesota Statutes 414.01, Subd. 15.

III. IT IS FURTHER ORDERED: That the mill levy of the City of Northfield on the property herein ordered annexed shall be increased in substantially equal proportions over a period of two years to equality with the mill levy of the property already within the City.

IV. IT IS FURTHER ORDERED: That the effective date of this order is August 27, 1980.

Dated this 27th day of August, 1980

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


Terrence A. Merritt
Executive Director

MEMORANDUM

In entering its order annexing the property proposed for annexation, the Minnesota Municipal Board found that the evidence submitted at the hearing on July 11, 1980, satisfied the factors and criterion set forth in Minnesota Statutes 414.0325, Subd. 3, (1978).

This proceeding before the MMB, OA-136-1, is the second proceeding within approximately one year to come before the MMB involving the City of Northfield's expansion into the County of Dakota. To date the City of Northfield has not shown that it has a long term plan developed covering its future expansion into Dakota County. The MMB believes that such a plan is not only necessary for the City of Northfield, but also an integral planning tool for Dakota County, and the Metropolitan Council. The MMB hopes that should Northfield seek annexation of other land in Dakota County, it will have developed some form of plan that will address this concern of the Board.

EXHIBIT
D

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Gerald Hollenkamp	Ex-Officio Member
James Kennedy	Ex-Officio Member

IN THE MATTER OF THE JOINT RESOLUTION)	<u>AMENDED</u>
BETWEEN THE CITY OF NORTHFIELD AND THE)	<u>FINDINGS OF FACT,</u>
TOWN OF WATERFORD FOR THE ORDERLY)	<u>CONCLUSIONS OF LAW,</u>
ANNEXATION OF CERTAIN LAND TO THE)	<u>AND ORDER</u>
CITY OF NORTHFIELD)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on July 11, 1980, at Northfield, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Gerald Hollenkamp and James Kennedy, ex-officio members of the Board. The City of Northfield appeared by and through Robert G. Lampe, the Township of Waterford appeared by and through John Dudley, Supervisor. 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. That a joint resolution for orderly annexation was adopted by the City of Northfield and the Township of Waterford and duly accepted by the Minnesota Municipal Board.

II. A resolution was filed by one of the signatories to the joint resolution, the City of Northfield, on May 20, 1980 requesting annexation of certain properties within the orderly annexation area. The resolution contained all the information required by statute including a description of the territory subject to annexation which is as follows:

Twenty (20) acres of all that part east of the railroad

IV. Geographic Features

- A. The area subject to annexation is unincorporated and abuts the City of Northfield.
- B. The total area of the City of Northfield is approximately 3,500 acres. The total area of the territory subject to annexation is 20 acres.
- C. The perimeter of the area to be annexed is 11% bordered by the municipality.
- D. The natural terrain of the area including general topography, major watersheds, soil conditions, river, lakes and major bluffs is: Topography is rolling hills sloping to south, soil condition is good clay-sand-claysilt.

V. Population Data

- A. The City of Northfield:
 1. In 1970, there were 10,235 residents.
 2. The present estimated population is 12,783.
 3. By 2000, the projected population is 20,000.
- B. The area subject to annexation:
 1. In 1970, there were 0 residents.
 2. The present population is 0.
 3. By 2000, the projected population is 0.
- C. The Township of Waterford:
 1. In 1970, there were 536 residents.
 2. The present estimated population is 540.
 3. By 2000, the projected population is 580.

VI. Development Issues

- A. The pattern of physical development, including land already in use, in the process of being developed, and remaining for various uses.
 1. Area in Use
 - A. In the City of Northfield:
 1. Residential: 1,540 acres
 2. Institutional: 822 acres
 3. Commercial: 62 acres
 4. Industrial: 82 acres
 5. Agricultural and vacant land: 1,000 acres
 2. In the area subject to annexation:
 1. Residential: 0 acres
 2. Institutional: 0 acres
 3. Commercial: 0 acres
 4. Industrial: 0 acres

2. Area Being Developed

a. In the City of Northfield:

1. Residential: 200 acres
2. Institutional: 0 acres
3. Commercial: 10 acres
4. Industrial: 100 acres
5. Agricultural: 0 acres

b. In the area subject to annexation:

1. Residential: 0 acres
2. Institutional: 0 acres
3. Commercial: 0 acres
4. Industrial: 20 acres
5. Agricultural: 0 acres

c. In the Township of Waterford:

1. Residential: 320 acres
2. Institutional: 0 acres
3. Commercial: 4 acres
4. Industrial: 0 acres
5. Agricultural: 0 acres

3. Area remaining for various uses:

a. In the City of Northfield:

1. Residential: 215 acres
2. Institutional: 0 acres
3. Commercial: 30 acres
4. Industrial: 120 acres
5. Agricultural: 0 acres

B. Transportation:

1. The present transportation network is: Four major Railroads,

a. In the City of Northfield: Two major highways, City transit system, City streets, Four major Railroads.

b. In the area subject to annexation: same as in the City

C. Land use controls and planning, including comprehensive plans, in the city and the area subject to annexation:

1. In the City of Northfield:

- a. Zoning: yes
- b. Subdivision Regulations: yes
- c. Comprehensive Plan: yes
- d. Official Map: no
- e. Capital improvements program: yes
- f. Fire Code: yes
- Building Inspector: yes

3. In the County of Dakota:
 - a. Zoning: no
 - b. Subdivision Regulations: no
 - c. Comprehensive Plan: yes
 - d. Official Map: no
 - e. Capital Improvements Program: yes
 - f. Fire Code: no
 - g. Building Inspector: no
 - h. Planning Commission: yes
4. The Metropolitan Council provides the following planning and land use services: Technical information on request.
5. There is no inconsistency between the proposed development and the planning and land use controls for the area.

VII. Governmental Services

- A. The Town of Waterford provides the area subject to annexation with the following services:
 1. Water: no
 2. Sewer: no
 3. Fire protection and rating: yes
 4. Police protection: yes
 5. Street improvements: no
 6. Street maintenance: no
 7. Recreational: no
 8. Administrative services: yes
- B. The City of Northfield provides its residents with the following services:
 1. Water: yes
 2. Sewer: yes
 3. Fire protection and rating: yes; Class 5
 4. Police protection: yes
 5. Street improvements: yes
 6. Street maintenance: yes
 7. Recreational: yes
 8. Administrative services: yes
- C. The City of Northfield provides the area subject to annexation with the following services:
 1. Water: no
 2. Sewer: no
 3. Fire protection and rating: rural fire department
 4. Police protection: on request
 5. Street improvements: no
 6. Street maintenance: no
 7. Recreational: no
 8. Administrative services: no
- D. There are no existing or potential environmental problems.
- E. Plans and programs by the annexing municipality to provide needed

VIII. Tax Base

A. In the City of Northfield: the tax base includes the following:

1. Residential property in Northfield was valued at \$18,753,608, generating \$510,586 in taxes or 64.4% of the total.
2. Commercial property in Northfield was valued at \$8,228,188, generating \$224,021 in taxes or 28.3% of the total.
3. Industrial property in Northfield was valued at \$1,564,018, generating \$42,582 in taxes or 5.4% of the total.
4. Agricultural property in Northfield was valued at \$221,990, generating \$6,044 in taxes or 0.7% of the total.
5. Vacant land in Northfield was valued at \$340,337, generating \$9,266 in taxes or 1.2% of the total.
6. Non-taxable property
 - a. Institutional use in Northfield included 659.4 acres worth, as developed, \$1,055,088.
 - b. Other non-taxable uses (such as roadways, parks) in Northfield included 500 acres.

B. In the Township of Waterford, the tax base includes the following:

1. Residential property in Waterford was valued at \$1,563 in taxes or 31.7% of the total.
2. Commercial property in Waterford was valued at \$312,809, generating \$595 in taxes or 12.1% of the total.
3. Industrial property in Waterford was valued at \$0, generating \$0 in taxes or 0% of the total.
4. Agricultural land in Waterford was valued at \$1,446,134, generating \$2,751 in taxes or 55.7% of the total.
5. Vacant land in Waterford was valued at \$14,269, generating \$27 in taxes or 0.5% of the total.

C. In the area subject to annexation, the tax base includes the following:

1. Agricultural property was valued at \$3,635, generating \$70 in taxes or 1.4% of the total.

IX. Tax Data

A. In the City of Northfield:

1. Mill rate in 1980 is 27.226.
2. Bonded indebtedness in 1979 was \$425,000.

B. In the Township of Waterford:

X. The city may bear increased costs as a result of this annexation.

XI. Annexation to the City of Northfield is the best alternative.

A. No effect on area school districts and on adjacent communities if the proposed annexation is approved.

B. The town government is not adequate to deliver the needed services to the area proposed for annexation.

C. Necessary governmental services could not best be provided by incorporation or annexation to an adjacent municipality.

D. Present assessed valuation of the Town of Waterford: \$2,594,770.

Present assessed valuation of proposed annexation area: \$3,635.

New valuation of the Town of Waterford if entire area is annexed: \$2,591,135.

E. Waterford Township can continue to function without the area subject to annexation.

XII. The annexation is consistent with the joint agreement

XIII. That the area proposed for annexation when annexed will be excluded from the jurisdiction of the Metropolitan Council.

CONCLUSIONS OF LAW

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

II. The area subject to annexation is now or is about to become urban or suburban in nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.

III. The existing township form of government is not adequate to protect the public health, safety, and welfare.

IV. The annexation would be in the best interests of the area proposed for annexation.

V. The annexation is consistent with terms of the joint agreement.

VI. Because of increased costs, the City of Northfield may qualify for a special levy.

VII. Two years will be required to effectively provide full municipal services to the annexed area.

VIII. An order should be issued by the Metropolitan Council.

II. IT IS FURTHER ORDERED: That the Minnesota Municipal Board hereby retains jurisdiction for the purpose of allowing a special levy pursuant to Minnesota Statutes 414.01, Subd. 15.

III. IT IS FURTHER ORDERED: That the mill levy of the City of Northfield on the property herein ordered annexed shall be increased in substantially equal proportions over a period of two years to equality with the mill levy of the property already within the City.

IV. IT IS FURTHER ORDERED: That the effective date of this order is August 27, 1980.

Dated this 27th day of August, 1980

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


Terrence A. Merritt
Executive Director

AMENDED ORDER

Dated this 20th day of January, 1981

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minneosta


Terrence A. Merritt
Executive Director

MEMORANDUM

In entering its order annexing the property proposed for annexation, the Minnesota Municipal Board found that the evidence submitted at the hearing on July 11, 1980, satisfied the factors and criterion set forth in Minnesota Statutes 414.0325, Subd. 3, (1978).

This proceeding before the MMB, OA-136-1, is the second proceeding within approximately one year to come before the MMB involving the City of Northfield's expansion into the County of Dakota. To date the City of Northfield has not shown that it has a long term plan developed covering its future expansion into Dakota County. The MMB believes that such a plan is not only necessary for the City of Northfield, but also an integral planning tool for Dakota County, and the Metropolitan Council. The MMB hopes that should Northfield seek annexation of other land in Dakota County, it will have developed some form of plan that will address this concern of the Board.

A cooperative electric association may elect to become subject to rate regulation by the commission pursuant to sections 216B.03 to 216B.23. The election shall be (a) approved by July 1, 1978 by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308.15, subdivision 1, excluding the filing requirements; or (b) approved by a majority of members of stockholders voting by mail ballot initiated by petition of no less than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the cooperative's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the cooperative shall count the ballots. If a majority of the cooperative's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after certified copies of the resolutions approving the election are filed with the commission. Any cooperative electric association subject to regulation of rates by the commission shall be exempt from the provisions of sections 216B.48, 216B.49, 216B.50, and 216B.51.

Approved April 3, 1981

CHAPTER 18 — H.F.No. 38

An act relating to local government; permitting the city of Northfield to make payments to the town of Waterford as a condition of an annexation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **NORTHFIELD ANNEXATION.**

If the city of Northfield agrees with the town of Waterford that a part of the town may be annexed to the city in an orderly annexation proceeding pursuant to Minnesota Statutes, Chapter 414, the city may agree as a condition of the annexation that it will pay an annual sum of money to the town. The sum may vary according to agreed conditions.

Sec. 2. **EFFECTIVE DATE.**

This act is effective the day after the filing of local approval certificates pursuant to Minnesota Statutes, Section 645.021, Subdivision 3, by both the governing body of the city of Northfield and the town board of the town of Waterford.

Approved April 3, 1981

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

EXHIBIT
F

CERTIFICATE OF APPROVAL OF SPECIAL LAW
BY GOVERNING BODY

(Pursuant to Minnesota Statutes, 645.02 and 645.021)

STATE OF MINNESOTA

County of Dakota

TO THE SECRETARY OF STATE OF MINNESOTA:

PLEASE TAKE NOTICE, That the undersigned chief clerical officer of the

Waterford Township
(name of governmental unit)

DOES HEREBY CERTIFY, that in compliance with the provisions of Laws, 1981, Chapter 18 requiring approval by a * majority vote of the governing body of said local governmental unit before it becomes effective, the Waterford Township
(designate governing body)

at a meeting duly held on the 13th day of July, 1981, by resolution _____ did approve said Laws, 1981, Chapter 18
(If other than resolution, specify)

by a 3 majority vote of all of the members thereof

(Ayes 3 ; Noes 0 ; Absent or not voting 0) and the following additional steps, if any, required by statute or charter were taken:

A resolution of approval was made.

A copy of the resolution is hereto annexed and made a part of this certificate by reference.

Signed: Edna Harmer

SEAL

Clerk
(Official designation of officer)

(This form prescribed by the Attorney General and furnished by the Secretary of State as required in Minnesota Statutes 645.021)

*If extraordinary majority is required by the special law, insert fraction or percentage here.

2-91
d. 18
Waterford Township.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 11 1981
Joan Anderson Howe
Secretary of State

WATERFORD TOWNSHIP
NORTHFIELD, MINNESOTA 55057

July 17, 1981

Be it resolved, we the Waterford
Town Board agree that the City of
Northfield should pay Waterford Township
a sum of money as per Orderly Annexation
Agreement dated April 14, 1980.

Waterford Town Board
Edward Terry, Chairman
Edna Harmer, Clerk

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 11 1981
John Anderson, Honors
Secretary of State

Waterford Twp. 2

EXHIBIT
G

CERTIFICATE OF APPROVAL OF SPECIAL LAW
BY GOVERNING BODY

(Pursuant to Minnesota Statutes, 645.02 and 645.021)

STATE OF MINNESOTA

County of Rice

TO THE SECRETARY OF STATE OF MINNESOTA:

PLEASE TAKE NOTICE, That the undersigned chief clerical officer of the

City of Northfield, Minnesota

(name of governmental unit)

DOES HEREBY CERTIFY, that in compliance with the provisions of Laws, 19 81, Chapter 18
645.02 & 645.021 requiring approval by a * majority vote of the governing body of said local governmental
unit before it becomes effective, the City of Northfield, Minnesota
(designate governing body)

at a meeting duly held on the 6th day of July, 19 81, by resolution
_____ did approve said Laws, 19 81, Chapter 645.02 & 645.021
(If other than resolution, specify)

by a full majority vote of all of the members thereof

(Ayes 7; Noes none; Absent or not voting none) and the following additional steps, if any,
required by statute or charter were taken:

A copy of the resolution is hereto annexed and made a part of this certificate by reference.

Signed: Evangeline Hall

Clerk-Treasurer

(Official designation of officer)

SEAL

(This form prescribed by the Attorney General and furnished by
the Secretary of State as required in Minnesota Statutes 645.021)

*If extraordinary majority is required by the special law, insert fraction or percentage here.

2-81
Ch. 18
Northfield, City of B

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 11 1981
James Anderson
Secretary of State

RESOLUTION #81- 186

WHEREAS, pursuant to Minnesota Statutes 645.02 and 645.021, the City of Northfield is required to submit a resolution to approve a certificate of approval of a special law by a governing body; and

WHEREAS, the special law that this approval is speaking to is a law in which it allows the City of Northfield to pay a sum of money to the town of Waterford for the annexation of the Sheldahl plant on the westerly side of Highway #3 and northerly of Fremous Avenue.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Northfield approves the certificate of approval of a special law by a governing body, Minnesota Law 1981, Chapter 18, which stipulates the right of the City of Northfield to pay the town of Waterford a sum of money for annexation.

Passed by the City Council of the City of Northfield this 6 day of July, 1981.

Arnold W. Nelson
Mayer

Paul R. Kumpf
Councilmember

ATTEST:

Evangeline Hall
City Clerk

Margaret P. Buehler
Councilmember

I hereby certify that this is a true and correct copy of the original resolution passed by the city council on July 6, 1981

Evangeline Hall
City Clerk

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 11 1981

James Anderson
Secretary of State

Northfield - 2

EXHIBIT

H

**CITY OF NORTHFIELD, MINNESOTA
CITY COUNCIL RESOLUTION 2010-079**

**A RESOLUTION BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
NORTHFIELD, MINNESOTA NOTIFYING WATERFORD TOWNSHIP OF EXPIRATION
OF 1980 JOINT RESOLUTION AND TAX REIMBURSEMENT PAYMENTS**

WHEREAS, the City of Northfield (the "City") and Waterford Township (the "Township") previously entered into a joint resolution for orderly annexation, dated April 21, 1980 (the "1980 Joint Resolution"); and

WHEREAS, the terms and conditions contained in the 1980 Joint Resolution exclusively provided for the immediate annexation of a single 20-acre parcel, known as the Sheldahl Property, to the City, which annexation was completed in 1980; and

WHEREAS, the City has since 1980 and directly related to the annexation of the Sheldahl Property made annual tax reimbursement payments to the Township, which has been a period of over 30 years and has resulted in total tax reimbursement payments to the Township of \$73, 906; and

WHEREAS, since the 20-acre Sheldahl Property was annexed in 1980 all the terms and conditions contained the 1980 Joint Resolution have since been fulfilled in their entirety, including any and all required and legally authorized tax reimbursement payments to the Township for the above-referenced annexation; and

WHEREAS, the City Attorney was directed to review the 1980 Joint Resolution and research its continuing enforceability and effectiveness in relation to governing law; and

WHEREAS, the results of this research are set forth in the legal opinion of the City Attorney dated January 12, 2010, which is attached hereto as Attachment 1 and revealed that the 1980 Joint Resolution is no longer in force and effect and that no additional tax reimbursement payments to Waterford Township can be made related to the annexation of the Sheldahl Property because there is no statutory authority for the continuation of such tax reimbursement payments; and

WHEREAS, in light of the expiration of the 1980 Joint Resolution, the City Council of the City of Northfield and the Township Board of Supervisors of Waterford Township have engaged this year in cooperative discussions with respect to mutual growth issues and the possible development of a new joint resolution for orderly annexation to replace the 1980 Joint Resolution, but such discussions have not yet resulted in an agreement; and

WHEREAS, the Northfield City Council appreciates the Township's willingness to meet and discuss such matters with the City Council; and

WHEREAS, the Northfield City Council wishes to continue cooperative and collaborative discussions with Waterford Township in the future on issues of mutual interest, which may

include continuing discussions involving development of a new orderly annexation agreement to replace the expired 1980 Joint Resolution, among others.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF NORTHFIELD, MINNESOTA THAT:

1. The legal opinion of the City Attorney dated January 12, 2010 (Attachment 1), which is incorporated herein by reference and found that the Joint Resolution for Orderly Annexation between Waterford Township and the City of Northfield dated April 21, 1980 is expired and no longer in force, effect or binding upon either the City or Township, is adopted.
2. Since the above-referenced 1980 Joint Resolution has expired and is of no further force or effect or binding on the City or Township, there is no legal authority for the City to make any additional tax reimbursement payments to Waterford Township in accordance with the expired 1980 Joint Resolution and as a result no future tax reimbursement payments shall be made to the Township.
3. City staff is hereby directed to provide notice hereof to the Township along with a copy of this resolution and express that the Northfield City Council desires to continue to work with and have open dialog with the Township in the future on matters of mutual interest and benefit, which may include among others such issues cooperative land use planning, development of a new orderly annexation agreement, transportation corridors and ordinance development.

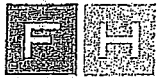
PASSED by the City Council of the City of Northfield on this 5th day of October, 2010.

ATTEST:

Deb A Rittle
City Clerk

William Prosz
Mayor

VOTE: Y ROSSING Y BUCKHEIT Y DENISON A POKORNEY
Y POWNELL Y VOHS Y ZWEIFEL



MEMORANDUM

To: Joel Walinski, City Administrator

From: Christopher M. Hood VIA EMAIL

Date: January 12, 2010

Re: 1980 Joint Resolution for Orderly Annexation -- Waterford Township

The following memorandum is in response to your request for a legal opinion regarding the operative effect, if any, of the 1980 Joint Resolution for Orderly Annexation between the City of Northfield (the "City") and Waterford Township (the "Township"). This memorandum is a brief response to your inquiry discussing the issues raised and the applicable law.

Question Presented

Is the April 21, 1980 Joint Resolution for Orderly Annexation between the City and Township (the "1980 Joint Resolution") still in effect such that the City is bound to the terms contained therein, including its provision for continued annual tax reimbursement and its prohibition of future annexations in the Township without the Town Board's prior approval?

For the reasons discussed below, the answer to the above question is that the 1980 Joint Resolution has expired, is not enforceable and has no binding effect upon the City or the Township.

Basic Terms of the 1980 Joint Resolution

1. Effective date of the 1980 Joint Resolution -- April 21, 1980.
2. Purposes of the 1980 Joint Resolution:
 - a. Immediate annexation of a parcel 20 acres in size on behalf of the Sheldahl Company for purposes of industrial development.
 - b. City and Township "desire to accommodate growth in the most orderly fashion."
 - c. The parties agree that the agreement is "beneficial to both parties from the standpoint of orderly planning and orderly transition of form of government within the area proposed to be annexed as well as providing the guidelines under which this annexation is to take place."

3. Other terms:
 - a. No future annexations in the Township without the prior agreement of the Township Board.
 - b. Tax reimbursement of \$675 per year (amount variable and adjusted each year) as authorized in special legislation for an unspecified number of years.¹

Analysis of 1980 Joint Resolution

The following are some observations, findings and conclusions regarding the 1980 Joint Resolution establishing that the 1980 Joint Resolution does not remain operative and in effect today:

1. The 1980 Joint Resolution is now approximately 30 years old and contains no provision for termination.
2. There are no provisions in the 1980 Joint Resolution for accomplishing future annexations in the Township.
3. The only area identified and designated for orderly annexation in the 1980 Joint Resolution was the 20 acre Sheldahl Company property.
4. The governing statutes discussed in detail below require that orderly annexation areas, which are the subject of immediate and/or future annexations, be expressly described in any joint resolutions for orderly annexation in addition to stating the reasons for designation of the described orderly annexation area. In this case the only designated area described in the 1980 Joint Resolution is the 20 acre Sheldahl property. No other orderly annexation area is described, identified and designated for orderly annexation in the 1980 Joint Resolution. The 1980 Joint Resolution fails to meet the required statutory requirements for a joint resolution for orderly annexation with respect to any other areas of the Township, except the Sheldahl property. The 1980 Joint Resolution fails to meet this most basic statutory standard for a valid orderly annexation agreement. It is therefore unenforceable under the governing statute.
5. All conditions in the 1980 Joint Resolution for annexation of the Sheldahl property have been met long ago since the annexation was ordered in 1980. The 1980 Joint Resolution appears to have been completed in this regard since no other areas are properly designated for future orderly annexation in accordance with Minn. Stat. § 414.0325.
6. The remainder of the Township was not designated in the Joint Resolution for future orderly annexation and therefore does not meet the statutory requirements for identification, designation and description. Further, no reasons are provided as required by statute for designation of orderly annexation areas other than for the Sheldahl property. As a result, there are no other provisions in the 1980 Joint Resolution to accomplish future annexations in the Township, except the statutorily unenforceable statement that any contemplated annexations in the Township must be first agreed upon by the Waterford Town Board.
7. No provision in the 1980 Joint Resolution provides that it will provide the exclusive means of annexation in the Township in the future even if it could be construed to be still

¹ See 1981 Laws of Minnesota, c. 18 (approved April 3, 1981).

in effect, which it cannot. Thus, the provisions of Chapter 414 would apply to future annexations in the Township without limitation notwithstanding the 1980 Joint Resolution.

8. The 1980 Joint Resolution expired following the completion of the one contemplated 20-acre annexation contained therein.
9. The Office of Administrative Hearings (OAH), the state agency with jurisdiction over annexation matters no longer has jurisdiction over the 1980 Joint Resolution since no other areas have been designated for future annexation and the purpose of the document to accomplish the Sheldahl annexation has been completed.
10. The City has been making tax reimbursement payments to the Township since the 1980 annexation of the Sheldahl property.
11. The most recent tax reimbursement amount paid by the City to the Township was \$3,197 (this amount changes somewhat every year) made in December 2009.
12. The City has paid the Township \$73,906 over the past 30 years in tax reimbursement for the 20 acre annexation.
13. The operative statute restricted such tax reimbursement payments to six years following the date of annexation of the Sheldahl property. As a result, there is no legal authority for the City to continue to make such payments today.
14. The City has not completed any annexations in Waterford Township since the Sheldahl annexation in 1980.
15. In 1980, state law did not allow cities to make tax reimbursement payments to a township following an orderly annexation.
16. There is a Northfield City Council Resolution dated January 26, 1981 asking the state legislature to adopt special legislation to allow the City to make annual tax reimbursement payments to the Township as provided in the 1980 Joint Resolution.
17. The State Legislature approved the City's tax reimbursement special legislation on April 3, 1981.
18. The State Legislature approved general legislation enacting Minn. Stat. § 414.036 authorizing cities to make tax reimbursement payments to townships on May 13, 1981.
19. There is a Northfield City Council Resolution, dated July 6, 1981, approving the special legislation to allow the annexation payments as provided in the 1980 Joint Resolution.
20. The tax reimbursement payments as contemplated in the 1980 Joint Resolution specify no end date and the special legislation simply authorizes the City to make payments in accordance with an orderly annexation agreement and the conditions stated therein.
21. The special legislation does not state any term for such payments, it merely authorizes annual payments, but states that the underlying orderly annexation proceeding be in accordance with Minnesota Statutes, Chapter 414, which are the governing annexation statutes.
22. State statute as contained in Minnesota Statutes, Chapter 414 governs municipal boundary adjustments and preempts and supersedes in all respects the City's special legislation on the subject of tax reimbursement.
23. For the reasons discussed below, the City's special legislation had no operative effect as it was superseded by the enactment of Minn. Stat. § 414.036 and therefore the six year limitation on reimbursement payments contained in section 414.036 applied to the 1980 Joint Resolution or this provision of the 1980 Joint Resolution is void and of no effect as

it was entered into prior to the City and Township ever having legal authority to make such payments.

Governing Law – State Statutes

As background for the above findings and conclusions regarding the operative effect of the 1980 Joint Resolution, the following statutes contained in Minnesota Statutes, Chapter 414 (the annexation statutes) are relevant.

- **Joint Resolutions for Orderly Annexation -- Section 414.0325**

Minn. Stat. § 414.0325 (2009), which applies to joint resolutions for orderly annexation, currently provides in part as follows:

“Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. ...

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the chief administrative law judge.

(d) *The resolution shall include a description of the designated area and the reasons for designation.*

(e) *Thereafter, an annexation of any part of the designated area may be initiated by:*

(1) *submitting to the chief administrative law judge a resolution of any signatory to the joint resolution; or*

(2) the chief administrative law judge.

...

(g) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the chief administrative law judge may review and comment, but may not alter the boundaries.

(h) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the chief administrative law judge is necessary, the chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

...

[Emphasis added.]

The above statute clearly states that the following components are required for a joint resolution for orderly annexation to be valid:

1. A city and township must be parties to the joint resolution.
2. The joint resolution must identify and designate the area the parties believe is appropriate for either immediate or future orderly annexation.
3. The joint resolution shall include a specific description of the area designated for either immediate or future annexation and the reasons for such designation.
4. The joint resolution, through submission to the state, confers jurisdiction over its terms and any annexations in the designated area to the Office of Administrative Hearings (the "OAH").
5. If the joint resolution contains the statutory 30 day review and comment language from the statute, OAH's jurisdiction is limited and no contested case hearing process is allowed to accomplish an annexation made in accordance with the joint resolution. However, if the joint resolution does not contain such language, as the 1980 Joint Resolution does not, then a contested case hearing before the OAH is required for accomplishing future annexations assuming *arguendo* the joint resolution was still in force and effect, which it is not.
6. Annexation of any part of the designated area in a joint resolution may be initiated by submitting to the chief administrative law judge a resolution of any signatory to the joint resolution. Thus, the City could submit an annexation within the designated area notwithstanding a provision in the agreement to the contrary that requires prior town board approval assuming *arguendo* the joint resolution was still in force and effect, which it is not.

It should be noted that the 1980 law governing the 1980 Joint Resolution mirrors the above requirements with the exception of not containing the 30 day review and comment jurisdiction language.² It should be further noted that the 1980 law did not contain subdivision 1, paragraphs (b) and (c). Prior law also contained a provision allowing property owner petitioned annexation by ordinance notwithstanding the existence of a joint resolution for orderly annexation,³ which provision was subsequently repealed in 1997 even though the provision was upheld in a 1994 Court of Appeals case.⁴

² Minn. Stat. § 414.0325 (1980), subdivision 1. "One or more townships and one or more municipalities, by joint resolution, may *designate an unincorporated area as in need of orderly annexation* and may confer jurisdiction on the board over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the executive director. *The resolution shall include a description of the designated area.* Thereafter, an annexation of any part of the designated area may be initiated by submitting to the executive director a resolution of any signatory to the joint resolution or by the board of its own motion. Whenever the pollution control agency or other state agency pursuant to sections 115.03, 115.47, 115.49, or any law giving a state agency similar powers, orders a municipality to extend a municipal service to a designated unincorporated area, such an order will confer jurisdiction on the Minnesota municipal board to consider designation of the area for orderly annexation." [Emphasis added.]

³ Minn. Stat. § 414.033, subd. 2a previously provided that: "[I]f land is owned by a municipality or if all of the landowners petition for annexation, and the land is within an existing orderly annexation area as provided by section 414.0325, then the municipality may declare the land annexed."

⁴ *La Crescent Township v. City of La Crescent*, 515 N.W.2d 608 (Minn.Ct.App.1994).

As concluded above, applying either the 1980 or 2008 statutes to the 1980 Joint Resolution, one can logically find that it does not meet the statutory requirements stated in items 2, 3 and 4 above in order for the 1980 Joint Resolution to remain in force and effect today for future annexations in the Township. Thus, the 1980 Joint Resolution has expired, is not enforceable and has no binding effect upon the City or the Township

- **Tax Reimbursement**

Minn. Stat, § 414.036 (2009), which applies to tax reimbursements in joint resolutions for orderly annexation, currently provides as follows:

“Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval under this chapter annexes part of a town to a municipality, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than eight years from the time of annexation. The municipality must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or no more than eight years.”

The legislative history of the above provision is particularly noteworthy in this case because the legislation authorizing city tax reimbursement to a township for an orderly annexation was enacted by the Legislature in 1981, the same year that the City sought special legislation authorizing it to make annual payments to the Township as part of the 1980 Joint Resolution, and the year following the adoption of the 1980 Joint Resolution on April 21, 1980.

The 1981 version of section 414.036 provided as follows:

“When a board order under section 414.0325 annexes part of a town to a municipality, the orderly annexation agreement between the town and municipality *may provide a reimbursement from the municipality to the town for all or part of the taxable property annexed* as part of the board order. *The reimbursement shall be completed in substantially equal payments over not less than two nor more than six years from the time of annexation.*” (Approved May 13, 1981) [Emphasis added.]

Interestingly, the language from the 2009 statute, which provides that “[u]nless otherwise agreed to by the annexing municipality and the affected town” is not contained in the 1981 statute. The governing statute in fact allows payments from a city to a township only in substantially equal payments, which must cease no more than six years from the date of annexation. Clearly, this provision of the statute requires any tax reimbursement to the Township with respect to the 1980 Joint Resolution to cease after six years.

It would appear based on the foregoing that in 1980 when the 1980 Joint Resolution was adopted and executed, there was no provision for tax reimbursement by a city to a township as provided in the 1980 Joint Resolution. There was no legal authority for this provision in the 1980 Joint Resolution. The term was therefore illegal since a city may only undertake such actions as it is legally authorized to perform by statute or charter. This fact must have been what lead the City to seek special legislation in 1981 to allow it to make the annual payments to the Township as agreed upon in the 1980 Joint Resolution.

However, the Legislature also enacted the above-quoted general law provision, section 414.036, authorizing limited tax reimbursement that was applicable to all municipalities and townships in the state, including Northfield and Waterford. The special law sought by the City was approved by the Legislature on April 3, 1981. The general law, section 414.036, was approved by the Legislature on May 13, 1981. Since the special law merely authorized the City to make tax reimbursement payments because the City had no prior statutory authority to do so through the 1980 annexation statutes and because the general law is more specific, is mandatory in application and was intended by the Legislature to apply to all cities and townships in the state, the general law superseded the special legislation in all respects making the special law moot and of no effect, notwithstanding the fact that the City later approved the special legislation on July 6, 1981.⁵

Thus, the 1981 special legislation is of no operative effect and the 1980 Joint Resolution is governed by the 1981 version of section 414.036 if one could construe the law retroactively to apply to an agreement that existed before the law was actually enacted.⁶

Further, the governing law as contained in section 414.036 (1981) provided specifically that "[t]he reimbursement shall be completed in substantially equal payments over not less than two nor more than six years from the time of annexation." Annexation occurred in 1980. As a result, the law expressly limits the payments that can be made by the City to the Township under an orderly annexation agreement to equal payments made over a period not to exceed six years. Payments should have ceased in 1986. There is no legal authority for the City to continue to make tax reimbursement payments to the Township for the Sheldahl property annexation.

⁵ See Minn. Stat. § 645.39, which provides that: "When a law purports to be a revision of all laws upon a particular subject, or sets up a general or exclusive system covering the entire subject matter of a former law and is intended as a substitute for such former law, such law shall be construed to repeal all former laws upon the same subject. When a general law purports to establish a uniform and mandatory system covering a class of subjects, such law shall be construed to repeal preexisting local or special laws on the same class of subjects." See also Minn. Stat. § 645.16, which provides in part that: "[t]he object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions."

⁶ See *La Crescent Township v. City of La Crescent*, 515 N.W.2d 608, 609-10 (Minn.Ct.App.1994) ("Municipalities cannot limit the power of the legislature over annexation because the legislature preempted that field by adopting Chapter 414. *Independent Sch. Dist. No. 700 v. City of Duluth*, 284 Minn. 279, 289, 170 N.W.2d 116, 122 (1969); *In re City of Watertown*, 375 N.W.2d 582, 584 (Minn.App.1985).")

o Recommendation

Based on the foregoing, I recommend that the City stop any further tax reimbursement payments to the Township based on the 1980 Joint Resolution as such payments are not authorized by law. With respect to future annexations in Waterford Township, the City should move forward with consideration of such matters pursuant to governing ordinance and state statute without consideration of the 1980 Joint Resolution as it is not relevant and does not have any operative effect. The City Council may want to consider, at this time or in the future, approaching Waterford Township regarding the development a long-term orderly annexation process to guide future growth, development and municipal services in the Township.

Conclusion

I hope that the foregoing is helpful regarding your review of the issues presented. If you need further assistance, please contact me at your convenience.

CMH/rs