

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#443 MUNICIPAL BOARD

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 6/23 Temporary Rule —

Resubmitted and Received _____

DUE DATE 7/13

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List _____
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable ✓
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable N.A.

Minnesota Municipal Board

Rules as Adopted

MMC 21 Orderly Annexation:

A. Acceptance by the board: An orderly annexation joint agreement ~~may~~ shall be accepted and filed by the board if its terms are consistent with applicable state law and in the best interests of the parties and affected persons.

B. Initiating an annexation within the orderly annexation area: If any provision of the orderly annexation joint resolution resolves to annex an area designated for orderly annexation upon the effective date of the joint resolution, the board shall, after accepting the joint resolution, treat this provision as a separate resolution initiating annexation.

C. Evidentiary requirements for annexation within the designated area: The party proposing an annexation with the designated area shall demonstrate ~~that~~ whether or not the proposed annexation is consistent with the joint agreement.

D. Reporting requirements: One year after the joint agreement has been accepted by the board, and every year thereafter, for as long as the joint resolution is in effect, the parties shall inform the board of any changed conditions, which would mandate action by the terms of the agreement within the area designated for orderly annexation. ~~If there have been no changed conditions, the parties shall so inform the board.~~

E. Amending the joint agreement: The joint agreement can only be amended by joint resolution submitted to the board by all of

the parties to the joint agreement. The board ~~may~~ shall accept the amendment, subject to proper notice and hearing as set forth in Minnesota Statutes 414.09, if it is consistent with applicable state law and the remainder of the joint agreement and in the best interests of the parties and affected persons.

~~F. Effect of noncompliance: If a party to the joint agreement continually does not comply with its provisions, the board or an aggrieved party by resolution may initiate a hearing, conducted pursuant to Minnesota Statutes 414.09. If the evidence demonstrates that there has been continuing noncompliance, and, further, that, as a result of this noncompliance, the basis of the agreement has been substantially undermined, the board may rescind the agreement and any pending annexations being considered within the designated area.~~

APPROVED AS TO FORM AND LEGALITY

July 19 1978

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jan E. Studny

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 19 1978

Joan Anderson Growe
Secretary of State

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT MUNICIPAL BOARD

TO : Lee Sheehy
Attorney General Assistant

DATE: June 22, 1978

FROM : Pat Lundy pdl
Assistant Executive Director

PHONE: 296-2428

SUBJECT: Municipal Board Rules

Enclosed for your approval are the following documents:

1. Rules as Adopted (4 copies)
2. Rules as Proposed (3 copies)
3. Certificate of Board's Authorizing Resolution (3 copies)
4. Order for Hearing (3 copies)
5. Notice of Hearing (3 copies)
6. Secretary of State's List (original only)
7. Affidavit of Receipt of Secretary of State's List (3 copies)
8. Affidavit of Mailing (3 copies)
9. (Statement of Need (3 copies)
   (Statement of Evidence (3 copies)
10. Report of Hearing Examiner (3 copies)
11. MMB Findings of Fact (3 copies)
12. Certificate of Board's Resolution Adopting Rules (3 copies)
13. Order Adopting Rules (original and 3 copies)
14. Report of the Chief Hearing Examiner (3 copies)
15. Statement of Compliance With Rule-Making Procedures (3 copies)
16. Notice of Intent to Solicit Outside Opinion (3 copies)

Reminder you asked me to note you had already approved "wording in order adopting rules"

PDL:lj

cc: Dick Lockridge, A.G. Assistant
Pete Erickson, Hearing Examiner

Enclosures

STATE OF MINNESOTA

MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA MUNICIPAL BOARD GOVERNING ORDERLY ANNEXATION	ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Municipal Board on the 3rd day of May, 1978, at 10:00 a.m. in the Municipal Board office, 165 Metro Square Building, St. Paul, Minnesota, after proper notice required by M.S. 414.01, Subd. 10 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that rules identified as Rules Governing Orderly Annexation are adopted this 20th day of June, 1978, and hereby incorporate the Hearing Examiner's Finding of Fact and Conclusions dated May 24, 1978, with the following exceptions: The last sentence of (d) is deleted to eliminate extra reporting by parties when no changes have occurred. In (a) and (e) the word "may" is changed to read "shall" and the words "and in the best interests of the parties and affected persons" is added pursuant to recommendation of the Attorney General.

Dated this 20th day of June, 1978.

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

William A. Neiman
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA MUNICIPAL BOARD

IN THE MATTER OF PROPOSED RULES RELATING TO THE MINNESOTA MUNICIPAL BOARD

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Minnesota Municipal Board (the "Board") on the 3rd day of May, 1978, at 10:00 a.m. in Room 165 of the Metro Square Building after proper notice was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose. On March 20, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 1731.

The Board finds the following:

1. The present rules contain no reference to orderly annexation joint agreements, and statutory references do not provide the necessary detail.

2. In 1978 the Legislature revised the orderly annexation law considerably expanding the Board's authority relative to these agreements and related matters.

3. Pursuant to clear, implicit authority within M.S. 414.0325, it is necessary to define the circumstances under which the Board will accept or reject a joint agreement or amendment.

4. Oftentimes joint agreements call for an immediate annexation, and standardized procedures are necessary to accomplish this.

5. It is important that evidence be introduced relative to the joint agreement in order to assist the Board in determining whether the proposed annexation is consistent with the joint agreement.

6. Given the Board's increased responsibilities relative to orderly annexation, the Board requires updated

information from the parties regarding important changes within the area, even if no proceeding is current.

7. From time to time, parties mutually agree to change a resolution, and standardized procedures must be set forth to accommodate this decision.

Dated: June 20, 1978.

MINNESOTA MUNICIPAL BOARD

By William A. Neiman
William A. Neiman
Executive Director

CERTIFICATE OF BOARD

ADOPTION OF RULES RESOLUTION

I, William A. Neiman, do hereby certify that I am Executive Director of the Minnesota Municipal Board, a board authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Municipal Board duly and properly called and held on the 20th day of June, 1978; that a quorum was present at said meeting; (that all of those present voted for the resolution); that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the rules relating to the Minnesota Municipal Board be and they hereby are approved and adopted, as amended, pursuant to authority vested in us by M.S. 414.01, Subd. 11 and that William A. Neiman, Executive Director, be and hereby is authorized to sign an order adopting those rules."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of June, 1978.

William A. Neiman
Executive Director

Attest by one other Officer

STATE OF MINNESOTA

MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE MINNESOTA MUNICIPAL) STATEMENT OF EVIDENCE
BOARD GOVERNING ORDERLY ANNEXATION)

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, and in support thereof the Minnesota Municipal Board will introduce the following evidence:

William Neiman, the Executive Secretary of the Minnesota Municipal Board, will introduce a summary of issues raised by persons interested in executing orderly annexation joint agreements.

Minnesota Statutes 414 will be cited.

Dated this 22nd day of March, 1978.

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

William A. Neiman
Executive Secretary

STATE OF MINNESOTA

MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE MINNESOTA MUNICIPAL) STATEMENT OF NEED
BOARD GOVERNING ORDERLY ANNEXATION)

The above-captioned rules are amendments to existing rules of the Minnesota Municipal Board. The last time the Municipal Board rules were amended was October 30, 1974.

The need to adopt these rules arises because the existing rules do not regulate such orderly annexation concerns as: acceptance by the Board, initiation, evidentiary requirements, reporting requirements, amending the joint resolution, and effect of non-compliance. The agency's authority to promulgate the proposed rules is contained in M.S. 414.01, Subd. 10.

Dated this 22nd day of March, 1978.

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

William A. Neiman
Executive Secretary

STATE OF MINNESOTA

DEAPRTMENT OF MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION

OF RULES OF THE MUNICIPAL BOARD — AFFIDAVIT OF MAILING

GOVERNING ORDERLY ANNEXATION

Vicki Robinson, being first duly sworn, deposes and says:

That on the 10th day of March, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by properly enveloped, with postage prepaid, to all persons and associations at the addresses listed Subscribed and sworn to before me this 10th day of March, 1978. (attached listing)

Kathryn C. Fina

Vicki Robinson

Vicki Robinson

KATHRYN C. FINA
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires Mar. 7, 1983

STATE OF MINNESOTA

DEPARTMENT OF MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MUNICIPAL BOARD GOVERNING ORDERLY ANNEXATION.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

William A. Veiman being duly sworn on oath deposes and says:

1) That he is an employee of the Minnesota Municipal Board of the State of Minnesota.

2) That on the 10th day of March, 1978 he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 10th day of March, 1978, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not. William A. Veiman

Subscribed and sworn to before me this

10 day of March, 1978

Notary Public, Kathryn C. Fina

Dakota County, Minnesota

My Commission expires 3-7-83

KATHRYN C. FINA
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires Mar. 7, 1983

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of Municipal Board Division Governing Orderly Annexation

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I hereby certify that the attached 484 labels - 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 2:00 o'clock P .M, this 10th day of March, 1978, have requested pursuant to M.S. 1976, 15.0421, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

By Cheri L. Mattson

STATE OF MINNESOTA

MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA MUNICIPAL BOARD GOVERNING ORDERLY ANNEXATION

NOTICE OF HEARING

RECEIVED
MAR 24 1978
OFFICE OF HEARING EXAMINERS

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Municipal Board Office, 165 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota, on May 3, 1978, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally, and written materials may be submitted by mail to Peter C. Erickson, Office of Hearings Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five working days after the close of the hearing.

The proposed rules, if adopted, would regulate orderly annexation and concerns; acceptance by the Board, initiation; evidentiary requirements, reporting requirements, amending joint resolution, and effect of non-compliance. One free copy may be obtained by writing to the Minnesota Municipal Board, 165 Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statutes 414.01, Subd. 10. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiner's Office at least 25 days prior to the

to the hearing and will be available there for public inspection.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 a year or five (5) hours per month for lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Anyone who wishes to be notified when the Hearing Examiner's report is issued or the finally adopted Rules are sent to the Attorney General by the Board may contact the Hearing Examiner or Board to be so notified.

Dated this 2nd day of March, 1978

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

William A. Neiman
Executive Secretary

STATE OF MINNESOTA

MUNICIPAL BOARD

RECEIVED
MAR 24 1978
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA MUNICIPAL BOARD GOVERNING ORDERLY ANNEXATION

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Municipal Board Office, 165 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota, on May 3, 1978, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Dated this 20th day of February, 1978.

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

William A. Neiman
Executive Secretary

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, William A. Neiman, hereby certify that I am Executive Director of the Minnesota Municipal Board, a board duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Municipal Board duly and properly called and held on the 27th day of January, 1978; (that a quorum was present at said meeting;) that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the Executive Director of the Minnesota Municipal Board, be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Minnesota Municipal Board which regulate orderly annexation and perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this January 27, 1978.

William A. Neiman
Executive Director

Asst. Dir.
Attest by one other officer.

ALL NEW BOLDFACE

RECEIVED
FEB 22 1978
OFFICE OF HEARING EXAMINERS

Minnesota Municipal Board

Rules as Proposed

Readers should note that the following rule is totally new.

MMC 20 Orderly Annexation:

(a) A. Acceptance by the board: An orderly annexation joint agreement may be accepted and filed by the board if its terms are consistent with applicable state law.

(b) B. Initiating an annexation within the orderly annexation area: If any provision of the orderly annexation joint resolution resolves to annex an area designated for orderly annexation, the board shall, after accepting the joint resolution, treat this provision as a separate resolution initiating annexation.

(c) C. Evidentiary requirements for annexation within the designated area: The party proposing an annexation within the designated area shall demonstrate that the proposed annexation is consistent with the joint agreement.

(d) D. Reporting requirements: One year after the joint agreement has been accepted by the board, and every year thereafter, for as long as the joint resolution is in effect, the parties shall inform the board of any changed conditions within the area designated for orderly annexation. If there have been no changed conditions, the parties shall so inform the board.

(e) E. Amending the joint agreement: The joint agreement can only be amended by joint resolution submitted to the board by the parties to the joint agreement. The board may accept

the amendment if it is consistent with applicable state law and the remainder of the joint agreement.

(f) F. Effect of noncompliance: If a party to the joint agreement continually does not comply with its provisions, the board or an aggrieved party by resolution may initiate a hearing, conducted pursuant to Minnesota Statutes 414.09. If the evidence demonstrates that there has been continuing noncompliance, and, further, that, as a result of this noncompliance, the basis of the agreement has been substantially undermined, the board may rescind the agreement and any pending annexations being considered within the designated area.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MUNICIPAL BOARD

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES OF THE)
MINNESOTA MUNICIPAL BOARD)
GOVERNING ORDERLY ANNEXATION.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on May 3, 1978, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiner, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Municipal Board on May 24, 1978; and

WHEREAS, the Municipal Board has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Municipal Board has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Municipal Board has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Municipal Board has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 13th day
of June, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO RULES OF THE)
MINNESOTA MUNICIPAL BOARD)

STATEMENT OF COMPLIANCE
WITH MANUAL OF RULE
MAKING PROCEDURES

I, Special Assistant Attorney General Richard A. Lockridge, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Dated: June 13, 1978.

Richard A. Lockridge

RICHARD A. LOCKRIDGE
Special Assistant
Attorney General

OFFICIAL NOTICE

MINNESOTA MUNICIPAL BOARD

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Regulating Orderly Annexation Agreements

Notice is hereby given that the Minnesota Municipal Board has begun consideration of proposed rules regulating orderly annexation joint agreements.

In order to adequately determine the effect and utility of such rules, the Municipal Board hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are invited to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

William A. Neiman
Executive Secretary
Minnesota Municipal Board
165 Metro Square Building
Saint Paul, Minnesota 55101

Statements of information and comment will be received during regular business hours over the phone

at (612) 296-2428, and in person at the above address.

All statements of information and comment must be received by September 15, 1977. Any written material received by the Board shall become part of the hearing record.

The proposed rules, if adopted, would relate to the regulation of orderly annexation joint agreements.

William A. Neiman
Executive Secretary
Minnesota Municipal Board

RECD. BY MMB MAY 25 1978

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MUNICIPAL BOARD

In the Matter of the Proposed Adoption of Rules of the Minnesota Municipal Board Governing Orderly Annexation.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 10:00 a.m. on Wednesday, May 3, 1978 in Room 165, Metro Square Building, St. Paul, Minnesota.

William Neiman, Esq., appeared as counsel on behalf of the Municipal Board. Gordon Moosbrugger, Esq., appeared as counsel on behalf of the Minnesota Association of Township Officers. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Board shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Board shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On February 22, 1978, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On March 20, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 1731.

3. On March 10, 1978, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On March 24, 1978, the Board filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Board personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through May 23, 1978 for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 414.01, subd. 10.

7. The existing rules of the Municipal Board do not govern such annexation concerns as: acceptance by the Board; initiation; evidentiary requirements; reporting requirements; amending the joint resolution; and effect of non-compliance. The proposed rules deal with those concerns.

8. Proposed MMC 20 A. states the conditions whereby the Board will accept orderly annexation joint agreements.

9. Proposed MMC 20 B. sets forth the procedure for initiation of an annexation within the orderly annexation area.

a. At hearing, the Minnesota Association of Township Officers (MATO) proposed to amend MMC 20 B. as follows:

> ". . . designated for orderly annexation upon the effective date of the joint resolution, the board shall. . . "

The Board concurred with the amendment.

10. Proposed MMC 20 C. sets out evidentiary requirements for the party proposing an annexation.

a. At hearing, the Board proposed to amend MMC 20 C. as follows:

> (c) C. Evidentiary requirements for annexation within the designated area: The party proposing an annexation within the designated area shall ~~demonstrate that the proposed annexation is consistent with the joint agreement~~ introduce evidence regarding the relationship between the proposed annexation and the various provisions of the joint agreement.

The Board contends that the revised language more clearly defines the statutory burden placed on one proposing an annexation.

b. MATO objected to the amendment and argued that the rule should be left as originally proposed. The Association contends that the revised language only "injects an element of doubt into the validity of orderly annexation agreements."

c. The Board responded to the MATO objection by proposing that MMC 20 C. be amended as follows:

> ". . . shall demonstrate ~~that~~ whether or not the proposed annexation . . ."

11. Proposed MMC 20 D. sets forth the reporting requirements for the parties to a joint agreement.

a. At hearing, MATO proposed to amend MMC 20 D. as follows:

> ". . . of any changed conditions which would mandate action by the terms of the agreement within . . ."

The Board concurred with this amendment.

12. Proposed MMC 20 E. sets out the requirements for amending the joint agreement.

a. At hearing, the Board proposed to amend MMC 20 E. as follows:

> (e) E. Amending the joint agreement: The joint agreement can only be amended by joint resolution submitted to the board by the parties to the joint agreement. The board may accept the amendment, subject to proper notice and hearing as set forth in

Minnesota Statute 414.90, if it is consistent with applicable state law and the remainder of the joint agreement.

b. MATO proposed to further amend E. by adding the words all of before "the parties." The Board concurred in this amendment.

13. At hearing, the Board withdrew proposed MMC 20 F.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. Due timely and adequate legal notice of the hearing was properly served and filed by the Municipal Board. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action. . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action; (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Examiner recommends that the proposed rules be amended as set out in Findings 9a., 10c., 11a., and 12 a. and b.

4. The Examiner concludes that the Board has statutory authority to adopt the proposed rules.

5. The Examiner concludes that the Board has demonstrated the need for and reasonableness of the proposed rules with an affirmative presentation of facts.

6. The Examiner concludes that none of the amendments recommended in Conclusion 3 constitute a substantial change in the rules as proposed.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the Municipal Board adopt the proposed rules as recommended to be amended in this Report.

Dated this 24th day of May, 1978.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO RULES OF THE)
MINNESOTA MUNICIPAL BOARD)

STATEMENT OF COMPLIANCE
WITH MANUAL OF RULE
MAKING PROCEDURES

I, Special Assistant Attorney General Richard A. Lockridge, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Dated: June 13, 1978.

Richard A. Lockridge

RICHARD A. LOCKRIDGE
Special Assistant
Attorney General