

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1145

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-1-85
DATE FOR REVIEW 4-10-85
DATE DUE 4-15-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 4-15-85 LDS Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 4-15-85 Revisor approved 4/2/85 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 3.28.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 7.30.84 + memo Re response

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
1.23.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
✓ 1.28.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption
2.18.85 Errata Notice

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agency's Findings of Fact

✓ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

To: Larry.
Date: 4/10/85
Re: Municipal Board Procedures.

Rules as Adopted

page 3, lines 28, 29, 31, 34 — .0800 C.
If agency intends the requirements in this section to be mandatory, "should" must be changed to "must" Agree, but ok. - CDS

p. 3, line 8 — .0700
ok - CDS

p. 4, ? line 2 — .0900
ok - CDS

p. 4, ok line 10 — .1150
ok - CDS

All sections provide for agency discretion without criteria

p. 8, line 36 — .3400, subpt. 9.
Provides for waiver of fees if imposition would be unfairly burdensome. This seems somewhat vague
— ok, if agency changes language to ..."impose an unreasonable hardship."..
- CDS 4/12/85

- CALL ANN RUSSELL 3:15 pm.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT MUNICIPAL BOARD

Office Memorandum

TO: Attorney General's Office
Administration Division
204 Administration Building

RECEIVED
APR 01 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

DATE: 032985

FROM: Patricia D. Lundy
Assistant Director

PHONE: 296-2428

SUBJECT: Minnesota Municipal Board Rules

Pursuant to Attorney General Rules and M.S. 14.26, the Minnesota Municipal Board hereby submits the following documents for your review:

1. Original and three copies of rule as adopted ("stripped copy") from the Revisor of Statutes.

2. Copy of rule as proposed including Notice of Intent to Adopt Rules without a Public Hearing. (State Register dated January 28, 1985, Pages 1683 - 1688, and Errata in State Register dated February 18, 1985, Pages 1914.)

3. One copy of order adopting the rules.

4. Notice of Intent to Solicit Outside Opinion (State Register, July 30, 1984, Volume 9, Number 5, Pages 263 and 264.) No written material was received by the agency. One telephone call was received, see attached memo.

5. Order for Notice of Intent to Adopt a Rule Without a Public Hearing

6. Certificate of Board's Authorizing Resolution

7. Certificate of Mailing

8. Mailing List Certificate

9. Certificate of Board's Resolution Adopting the Rules

10. Statement of Need and Reasonableness (No written comments on the rules or request for a public hearing were received by the agency. One request for a final copy of the rules was received, see attached copy.)

11. Certificate of Compliance with Rulemaking Procedures

Please call if you have any questions concerning these documents. Please also inform me when your office has reviewed and approved these documents.

PDL:sg

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : PATRICIA D. LUNDY
Assistant Director, MN Municipal Board

DATE: 4-15-85

FROM : LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Minnesota Municipal Board Governing Boundary Adjustments and Incorporation of Cities.

The above-referenced rule has been approved as to its legality by the Attorney General on April 15, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

LDS(sz)

Enclosures

cc: Executive Director
Legislative Commission to Review
Administrative Rules

Chief Administrative Law Judge
Office of Administrative Hearings

Municipal Board

Adopted Rules Relating to Municipal Board Procedures

Rules as Adopted

6000.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 6000.0100 to 6000.3500 the terms defined in this part have the meanings given them.

Subp. 2. **Parties.** "Parties" includes petitioners specifically named in the pleadings. The term also includes other persons who file at the hearing an appearance form provided by the board and enter an appearance at the hearing. To be considered parties, persons who fill out the appearance form must establish that they are residents or taxpayers in the incorporation, annexation, consolidation, or detachment area; or that by the outcome of the proceedings they will be bound and affected either favorably or adversely by an interest particular to these persons as distinguished from an interest common to the public or other taxpayers in general.

Subp. 3. **Petition.** "Petition" includes: petition, resolution, ordinance, or notice of intent.

Subp. 4. **Property owner.** "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5.

6000.0110 COMMENCEMENT OF PETITION.

A "petition," as the term is used in parts 6000.0100 to 6000.3500, may be initiated in accordance with Minnesota Statutes, chapter 414 by the required number of persons or by the municipality, town, or by the board as provided in that chapter. Where the petition is filed by residents or property owners, the number of petitioners required by statute to commence a proceeding must be stated in the petition. The petition must also state on its face the number of petitioners who have signed the petition. Where the petition is commenced by a municipality or town, the petition must include the

appropriate action by the governing body, including the citation to the resolution, ordinance, or notice of intent.

The municipality, town, or the persons commencing a petition shall be designated as the "petitioner" or "petitioners."

6000.0200 FORM OF PETITION.

Subpart 1. **Title.** The petition must be titled as follows: In the matter of the Petition of (Certain Persons , or the City or Town of _____) for (incorporation, consolidation, annexation, or detachment pursuant to Minnesota Statutes, section .....).

Subp. 2. **Body.** The title must be followed by a brief description of the subject matter to which the petition relates. No petition shall be dismissed, impaired, or prejudiced because incorrectly entitled, or the parties incorrectly designated. Opportunity shall be given in these cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Sample petition forms will be provided by the board upon request.

6000.0400 REPRESENTATION.

A party may appear in person or may be represented by an attorney. Where a petition is by property owners, one of the petitioners may represent the group. A government official may appear on behalf of a party that is a county, municipality, or town or government agency.

When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group.

6000.0500 PLEADINGS.

The pleadings before the board shall be the petition. Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings. No

responsive pleading is necessary.

6000.0600 PETITION AS EVIDENCE.

The petition shall be prima facie evidence of the facts contained in the petition if not controverted by opposing parties at the hearing. The board may independently verify the accuracy of the facts.

6000.0700 AMENDMENTS.

A petition may be amended at the discretion of the board at any time before the board has rendered a final decision on the petition. Notice is required to all parties entitled to original notice. Amendments may be proposed and granted at public hearings. Where the petition is by property owners, the petition cannot be amended to include an area different than the one described in the petition signed by the property owners unless the amendment or a waiver is signed by all the property owners who signed the original petition.

6000.0800 FILING OF PETITION.

Any petition pursuant to Minnesota Statutes, chapter 414 must be filed with the board together with the following:

A. Filing fee (see part 6000.3400). No petition will be accepted or acted upon unless the filing fee is received.

B. A certification showing that the petition was served upon the proper parties when the statute indicates such necessity and the date filed or a waiver authorized by Minnesota Statutes, section 414.033.

C. A map showing the property proposed for consideration and its relationship to any surrounding municipality. All distance references should be given by length. Beginning points should be land survey monuments and the description must close the boundaries. References to roads or railroads should be to survey lines such as centerline or known right-of-way line. The intent to include or exclude highway, railroad, and street right-of-ways surrounding platted blocks or lots should be clearly stated.

6000.0900 CONTINUANCES.

Continuances will be granted or denied by the board in its discretion for cause shown, or upon the board's own initiative.

6000.1000 STIPULATIONS.

Parties may stipulate to any facts involved in the proceedings. Parties who do not enter into the stipulation and who do not present controverting evidence concerning facts contained in the stipulation are bound by the facts stipulated.

6000.1150 PREHEARING CONFERENCE.

The board may, in its discretion, hold an informal prehearing conference conducted by a designated representative of the board. The purpose of the prehearing conference is to simplify the issues, to stipulate facts for testimony or exhibits, to consider the proposed witnesses, to consider such other matters as may be necessary or advisable, and, if possible, to reach a settlement without the necessity for a hearing. Agreements on issues may be put in the form of stipulations and entered on the record. Any final settlement may be set forth in a settlement agreement and made a part of the record.

6000.1200 PUBLIC HEARINGS.

The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing. Public hearings shall be held by the board in accordance with Minnesota Statutes, section 414.09.

The board may hear the facts or evidence of any person or organization. Any person may note an appearance for the record. No person becomes, or is considered to be, a party to the proceeding solely by reason of presenting facts or evidence or entering an appearance at the hearing.

The petitioner must pay for the publication of notices of hearings required by Minnesota Statutes, section 414.09.

6000.1310 EXAMINATION OF WITNESSES.

Witnesses shall testify before the board. The party

calling the witness shall examine the witness first. Every witness is subject to direct examination by nonadverse parties and cross-examination by adverse parties. The board may question a witness. All parties shall have the opportunity to submit rebuttal evidence. Cross-examination of a witness by a party not an attorney shall be submitted to the presiding officer, and the presiding officer shall ask the question of the witness if it is considered admissible.

6000.1400 EXHIBITS.

Unless the presiding officer of the hearing shall direct otherwise, persons offering exhibits to the board shall submit a single copy. Where possible, parties should offer an exhibit in 8-1/2 by 11-inch size.

6000.1510 ORDER OF PROCEDURE.

Unless the presiding officer of the hearing directs otherwise, the order of procedure at a hearing shall be as follows:

A. the petitioner shall begin the presentation of evidence;

B. adverse parties shall present testimony; and

C. nonadverse parties shall present testimony.

6000.1600 FAILURE TO APPEAR.

If the initiating party fails to appear at a proceeding, the hearing may be dismissed with or without prejudice at the discretion of the board. The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.

6000.1700 ADMISSION OF EVIDENCE.

The board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent persons in the conduct of their affairs. It shall give effect to rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and repetitious evidence. Public records are admissible without foundation except proof

that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.

6000.1900 EVIDENCE IN A PROCEEDING.

Subpart 1. **Notice of certain facts.** All evidence shall be made a part of the record in the proceeding, and no other factual information or evidence shall be considered in the proceeding, except the board may take notice of appropriate facts, public documents, or records of a general, scientific, or technical nature by appropriate notice to all parties. The time within which the parties may object to the accuracy of the facts sought to be proved from the documents or records shall be limited by the board.

Subp. 2. **Record of proceedings.** The board shall record all proceedings. Testimony before the board shall be taken by electrical recording device or by official court reporters. A transcript shall be furnished upon request at the expense of the requester.

6000.2210 SUBPOENAS.

Subpart 1. **Generally.** A request for a subpoena, whether for an individual or for the production of books, papers, or documents, shall be in writing to the executive director of the board. The party requesting the subpoena shall prepare the subpoena for the board's signature. A request for the production of documentary evidence must be verified and must specify as nearly as possible the books, papers, or documents desired.

Subp. 2. **Fees for witnesses.** Witnesses who are subpoenaed are entitled to the same fees that are paid in district courts of Minnesota. The fees are to be paid by the party requesting the subpoena.

Subp. 3. **Service.** Service of subpoenas shall be the same as service of subpoenas for the district courts of Minnesota.

6000.2500 REQUESTS FOR WRITTEN OR ORAL ARGUMENTS.

Requests for written or oral arguments must be made at the hearing or the parties waive their rights to submit written or

oral arguments. If a request is made, the presiding officer shall allow all parties to submit written or oral arguments, or both. The presiding officer shall also prescribe the time for service and filing of written arguments or making of oral arguments.

6000.2600 FILING AND SERVICE OF WRITTEN ARGUMENTS.

All written arguments presented to the board must be filed with the executive director accompanied by certification showing service upon all parties.

6000.3000 REQUEST FOR ADDITIONAL HEARING.

A party may submit a written request for an additional hearing at any time prior to the board's final decision. The request shall clearly set forth the reasons for the additional hearing; and include a brief summary of additional evidence proposed to be submitted. No additional hearing will be granted where it appears that the evidence to be submitted will be incompetent, irrelevant, immaterial, cumulative, or repetitious. The request shall be served upon all parties to the proceeding. A party shall have seven days from the date of service of the request to make a written response. No reply to the response will be permitted. The board may grant or deny the request without hearing or, in its discretion, hold a hearing on the request.

6000.3100 REQUEST FOR AMENDMENT.

Within seven days from the date of the mailing of the board's order, any party may submit a written request for an amendment of the findings of fact, conclusions of law, and order. The request shall specifically set forth the reasons for the amendment, any claimed errors, and any proposed amendments to the findings of fact, conclusions of law, and order. The request shall be served upon all parties to the proceeding. A party has seven days from the date of the service of the request to respond. No reply will be permitted. The board may grant or deny the request without a hearing or, in its discretion, hold a hearing on it. No request shall extend the time of appeal from

the findings of fact, conclusions of law, and order. If a request is for amendment to only change the date in the findings of fact, conclusions of law, and order, the relief may be sought informally by telegram or otherwise upon notice to all parties.

6000.3400 SCHEDULE OF FILING FEES.

Subpart 1. **Incorporation of municipality.** A petition for incorporation of a municipality must be accompanied by a filing fee of $600 when filed with the board.

Subp. 2. **Annexation proceedings for municipality and an entire town.** A petition for annexation of a municipality and an entire town must be accompanied by a filing fee of $200.

Subp. 3. **Annexation of property by board order.** A filing fee of $4 per acre must accompany a petition to annex unincorporated property by board order. The minimum fee is $100 and the maximum fee is $600.

Subp. 4. **Orderly annexations.** A filing fee of $1 per acre must accompany the joint resolution. The minimum fee is $25 and the maximum fee is $200. Requests for annexation of any part of the designated area shall be accompanied by a filing fee of $1 per acre with a minimum fee of $25 and a maximum fee of $200.

Subp. 5. **Annexation by ordinance.** A filing fee of $4 per acre must accompany the initial petition submitted to the board. The minimum fee is $100 and the maximum fee is $600.

Subp. 6. **Consolidation of two or more municipalities.** A fee of $200 must accompany a petition for consolidation of two or more municipalities.

Subp. 7. **Detachment of property from municipality.** A filing fee of $4 per acre must accompany a petition to detach property from a municipality. The minimum fee is $100 and the maximum fee is $600.

Subp. 8. **Concurrent detachment and annexation of incorporated land.** A filing fee of $4 per acre must accompany the concurrent resolutions with a minimum fee of $100 and a maximum fee of $600.

Subp. 9. **Waiver of fees.** Where the strict application of the filing fee requirements would ~~unfairly~~ impose ~~a burden~~ an

unreasonable hardship on the petitioner, the board, in its discretion, may waive the filing fee.

REPEALER. Minnesota Rules, parts 6000.0300, 6000.1100, 6000.1300, 6000.1500, 6000.1800, 6000.2000, 6000.2100, 6000.2200, 6000.2300, 6000.2400, 6000.2700, 6000.2800, 6000.2900, 6000.3200, 6000.3300, and 6000.3500, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 15 1985
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
April 15 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Larry D. Stauns/mjc
SPECIAL ASSISTANT ATTORNEY GENERAL

1:51 PM

Rules as Proposed

6000.0100 ~~PETITION-DEFINED~~ DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 6000.0100 to 6000.3500 the ~~term~~ terms defined in this part have the meanings given them.

Subp. 2. Parties. "Parties" includes petitioners specifically named in the pleadings. The term also includes other persons who file at the hearing an appearance form provided by the board and enter an appearance at the hearing. To be considered parties, persons who fill out the appearance form must establish that they are residents or taxpayers in the incorporation, annexation, consolidation, or detachment area; or that by the outcome of the proceedings they will be bound and affected either favorably or adversely by an interest particular to these persons as distinguished from an interest common to the public or other taxpayers in general.

Subp. 3. Petition. "Petition" ~~shall include~~ includes: petition, resolution, ordinance, ~~and~~ or notice of intent.

Subp. 4. Property owner. "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5.

6000.0110 COMMENCEMENT OF PETITION.

A "petition," as the term is used in parts 6000.0100 to 6000.3500, may be initiated in accordance with Minnesota Statutes, chapter 414 by the required number of persons or by the municipality, town, or by the board as provided in ~~such~~ that chapter. Where the petition is filed by residents or property owners, the ~~signatures of the required~~ number of petitioners ~~must be attached to~~ required by statute to commence a proceeding must be stated in the petition~~, and~~. The petition must ~~clearly show~~ also state on its face the number of petitioners ~~required to sign such~~ who have signed the petition ~~to commence proceedings for incorporation, consolidation, annexation, or detachment, as the case may be, and the method of computing the number of petitioning signatures required~~. Where the petition is commenced by a municipality or town, ~~such~~ the petition must

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

shew include the appropriate action by the governing body, including the citation to the resolution, ordinance, or notice of intent.

The municipality, town, or the persons commencing a petition shall be designated as the "petitioner" or "petitioners."

6000.0200 ~~TITLE~~ FORM OF PETITION.

Subpart 1. Title. The petition ~~shall be designated~~ must be titled as follows:

In the matter of the Petition of (Certain Persons ~~,~~ or the City or Town of _____) for (incorporation, consolidation, annexation, or detachment ~~as the case may be~~ pursuant to Minnesota Statutes, section .....).

Subp. 2. Body. The title must be followed by a brief description of the subject matter to which the petition relates. No petition shall be dismissed, impaired, or prejudiced because incorrectly entitled, or the parties ~~thereto~~ incorrectly designated~~, but~~. Opportunity shall be given in ~~such~~ these cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Sample petition forms will be provided by the board upon request.

6000.0400 REPRESENTATION.

~~The parties~~ A party may appear ~~either~~ in person or may be represented by an attorney. Where a petition is by property owners, one of the petitioners may represent the group. A ~~corporation cannot~~ government official may appear ~~in person~~ on behalf of a party that is a county, municipality, or town or government agency.

When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group.

6000.0500 PLEADINGS.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

The pleadings before the board shall be the petition. Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings. No ~~answer, reply, protest, or petition to intervene~~ responsive pleading is necessary ~~to become a party of record to the proceeding. A petition may be amended upon motion to the board. A party may in writing notify the board of an interest in the petition for the purpose of obtaining a copy of any proposed findings of fact or other documents or any final order required to be served by statute or by the board rules of procedure.~~

6000.0600 PETITION AS EVIDENCE.

~~The petition shall contain a statement of all the facts which must be found by the board before the board can enter an order pursuant to Minnesota Statutes, chapter 414. If these facts are not controverted by opposing parties at the hearing on the petition,~~ The petition shall be prima facie evidence of ~~such~~ the facts ~~except that~~ contained in the petition if not controverted by opposing parties at the hearing. The board may ~~from appropriate public records or documents determine whether or not such are~~ independently verify the accuracy of the facts. ~~The petitioners shall prove such facts by competent evidence. Public records are admissible without foundation except proof that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.~~

6000.0700 AMENDMENTS.

~~Formal petitions~~ A petition may be amended at the discretion of the board at any time before the ~~record has been closed after public hearings required by law upon motion and~~ upon board has rendered a final decision on the petition. Notice is required to all parties ~~to the proceeding (which~~ entitled to original notice. Amendments may be ~~done~~ proposed and granted at public hearings~~) except that~~. Where the petition is by property owners, the petition cannot be amended to include an area different than the one described in the petition signed

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

by ~~such~~ the property owners~~,--subject-to-the-statutory-authority of-the-board-to-alter-the-boundaries-proposed-in-the petition~~ unless the amendment or a waiver is signed by all the property owners who signed the original petition.

6000.0800 ~~SERVICE~~ FILING OF PETITION.

Any petition pursuant to Minnesota Statutes ~~1971~~, chapter 414 must be filed with the board together with the following:

A. Filing fee (see part 6000.3400). No petition will be accepted or acted upon unless the filing fee is received.

B. A certification showing that the petition was served upon the proper parties when the statute indicates such necessity and the date filed~~.--Under-the-section-for-annexation by-ordinance,-the-board-will-accept~~ or a waiver ~~from-the township-stating-it-has-no-objections-to-a-proposed-annexation and-waiving-the-60-days-before-an-ordinance-can-be adopted~~ authorized by Minnesota Statutes, section 414.033.

C. A map showing the property proposed for consideration and its relationship to any surrounding municipality. All distance references should be given by ~~both~~ length ~~and-points-of~~. Beginning points should be ~~definite~~ land survey monuments ~~with-care-to~~ and the description must close the boundaries ~~of-the-description~~. References to roads or railroads should be to survey lines such as centerline or known right-of-way line. The intent to include or exclude highway, railroad, and street right-of-ways surrounding platted blocks or lots should be ~~carefully-considered-and~~ clearly stated.

~~D.--The-petitioner-is-required-to-provide-and-pay-for any-necessary-publication-of-notices-of-hearing-pursuant-to-the appropriate-section-of-the-statute.~~

~~E.--Any-proposed-amendments-to-the-petition-must-be served-upon-all-attorneys-and-parties-of-record.--When-any-party has-appeared-by-an-attorney,-service-upon-such-attorney-shall-be deemed-service-upon-the-party.~~

6000.0900 CONTINUANCES ~~AND-EXTENSIONS-OF-TIME~~.

~~For-cause-shown,~~ Continuances ~~and-extensions-of-time~~ will

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

be granted or denied by the board in its discretion for cause shown, or upon the board's own initiative. ~~Where-a-motion-for continuance-or-extension-of-time-is-made-other-than-at-a-public hearing,-if-such-motion-is-granted,-the-public-hearing-shall nevertheless-convene-for-the-purpose-of-announcing-the-date-to which-such-hearing-is-continued.~~

6000.1000 STIPULATIONS.

Parties may~~,-by-stipulation-in-writing-filed-with-the-board or-presented-at-the-hearing,-agree-upon~~ stipulate to any facts involved in the proceedings. ~~It-is-desired-that-the-facts-be thus-agreed-upon-so-far-as-and-whenever-practicable.--Where facts-are-stipulated,-any-party-entering-an-appearance-of-record subsequent-to-the-stipulation-may-controvert-such-facts-by evidence,-but-it-shall-be-the-obligation-of-such-party-to determine-what-facts-have-been-stipulated,-but-where-any-person or-municipality-becomes-a-party-of-record-subsequent-to-any stipulation-of-facts-does-not-appear-from-the-record-that-such facts-have-been-stipulated-or-does-not-controvert-them-by evidence,-the-board-may-find-such-to-be-the-facts-in-entering its-final-order~~ Parties who do not enter into the stipulation and who do not present controverting evidence concerning facts contained in the stipulation are bound by the facts stipulated.

6000.1150 PREHEARING CONFERENCE.

The board may, in its discretion, hold an informal prehearing conference conducted by a designated representative of the board. The purpose of the prehearing conference is to simplify the issues, to stipulate facts for testimony or exhibits, to consider the proposed witnesses, to consider such other matters as may be necessary or advisable, and, if possible, to reach a settlement without the necessity for a hearing. Agreements on issues may be put in the form of stipulations and entered on the record. Any final settlement may be set forth in a settlement agreement and made a part of the record.

6000.1200 PUBLIC HEARINGS.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing. Public hearings shall be held by the board ~~as-to-any-petition-filed-pursuant-to-Minnesota-Statutes, chapter-414~~ in accordance with ~~the-provisions-as-to-hearings-of such-chapter~~ Minnesota Statutes, section 414.09.

The board may hear the facts or evidence of any person or organization. Any person may note an appearance for the record. No person becomes, or is considered to be, a party to the proceeding solely by reason of presenting facts or evidence or entering an appearance at the hearing.

The petitioner must pay for the publication of notices of hearings required by Minnesota Statutes, section 414.09.

6000.1310 EXAMINATION OF WITNESSES.

Witnesses shall testify before the board. The party calling the witness shall examine the witness first. Every witness is subject to direct examination by nonadverse parties and cross-examination by adverse parties. The board may question a witness. All parties shall have the opportunity to submit rebuttal evidence. Cross-examination of a witness by a party not an attorney shall be submitted to the presiding officer, and the presiding officer shall ask the question of the witness if it is considered admissible.

6000.1400 EXHIBITS.

Unless the ~~chairman or~~ presiding officer of the hearing shall ~~otherwise~~ direct otherwise, persons offering exhibits ~~offered~~ to the board ~~at-any-hearing-or-conference-in-a-contested case~~ shall ~~be-one~~ submit a single copy ~~only, and a reasonable number-of-copies-shall-be-furnished-to-parties-in-attendance.~~ Where possible, parties should offer an exhibit in 8-1/2 by 11-inch size.

6000.1510 ORDER OF PROCEDURE.

Unless the presiding officer of the hearing directs otherwise, the order of procedure at a hearing shall be as follows:

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

A. the petitioner shall begin the presentation of evidence;

B. adverse parties shall present testimony; and

C. nonadverse parties shall present testimony.

6000.1600 FAILURE TO APPEAR.

If ~~a petitioner~~ the initiating party fails to appear at a proceeding, the hearing may be dismissed with or without prejudice at the discretion of the board~~, or the board may, in its discretion, approve the petition requested upon the basis of a verified statement of proof and affidavits, if any, filed in the case, which in all cases shall be considered as having been offered in evidence at the hearing by the petitioner, but the board shall not approve the petition upon such a showing if any person appearing at the hearing who qualifies as a party to the proceeding shall object thereto~~. The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.

6000.1700 ADMISSION OF EVIDENCE.

~~In a contested case,~~ The board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent ~~men~~ persons in the conduct of their affairs. It shall give effect to rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and repetitious evidence. Public records are admissible without foundation except proof that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.

6000.1900 EVIDENCE IN A ~~CONTESTED CASE~~ PROCEEDING.

Subpart 1. **Notice of certain facts.** All evidence ~~in a contested case, including records and documents in the possession of the board of which it desires to avail itself,~~ shall be ~~offered and~~ made a part of the record in the ~~case~~ proceeding, and no other factual information or evidence shall be considered in ~~the determination of~~ the ~~case~~ proceeding, except ~~that~~ the board may take notice of appropriate facts,

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public documents, or records of a general, scientific, or technical nature by appropriate notice to all parties ~~of record limiting~~. The time within which ~~such~~ the parties may object to the accuracy of the facts sought to be proved from ~~such~~ the documents or records shall be limited by the board.

Subp. 2. **Record of proceedings.** The board shall record all proceedings. Testimony before the board shall be taken by electrical recording device or by official court reporters. A transcript shall be furnished upon request at the expense of the requester.

6000.2210 SUBPOENAS.

Subpart 1. **Generally.** A request for a subpoena, whether for an individual or for the production of books, papers, or documents, shall be in writing to the executive director of the board. The party requesting the subpoena shall prepare the subpoena for the board's signature. A request for the production of documentary evidence must be verified and must specify as nearly as possible the books, papers, or documents desired.

Subp. 2. **Fees for witnesses.** Witnesses who are subpoenaed are entitled to the same fees that are paid in district courts of Minnesota. The fees are to be paid by the party requesting the subpoena.

Subp. 3. **Service.** Service of subpoenas shall be the same as service of subpoenas for the district courts of Minnesota.

6000.2500 REQUESTS FOR ~~BRIEFS~~ WRITTEN OR ORAL ARGUMENTS.

~~If briefs~~ Requests for written or oral arguments ~~are desired by any of the parties to the proceeding, they shall notify the chairman or presiding officer before or~~ must be made at the hearing or the parties waive their rights to submit written or oral arguments. If ~~such~~ a request is made, the presiding officer shall allow all parties to ~~file briefs~~ submit written or ~~make~~ oral arguments, or ~~he may permit~~ both. He The presiding officer shall also prescribe the time for service and filing of ~~briefs~~ written arguments or making of oral ~~argument~~

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arguments.

6000.2600 FILING AND SERVICE OF ~~BRIEFS~~ WRITTEN ARGUMENTS.

All ~~briefs for presentation~~ written arguments presented to the board must be filed with the ~~secretary~~ executive director accompanied by ~~written evidence of~~ certification showing service upon ~~opposing counsel, party, or~~ all parties.

6000.3000 ~~PETITIONS~~ REQUEST FOR ~~FURTHER~~ ADDITIONAL HEARING.

~~Before the final submission of any proceeding, any party thereto desiring a further hearing may file a petition therefor with the board, which said petition~~ A party may submit a written request for an additional hearing at any time prior to the board's final decision. The request shall clearly set forth the ~~grounds relied upon for a further~~ reasons for the additional hearing; and ~~if it is proposed to produce additional testimony, the testimony so to be produced shall be briefly summarized~~ include a brief summary of additional evidence proposed to be submitted. No ~~further~~ additional hearing will be granted where it appears that the evidence to be ~~adduced~~ submitted will be ~~merely cumulative~~ incompetent, irrelevant, immaterial, cumulative, or repetitious. ~~Such petition~~ The request shall be served upon all parties to the proceeding. ~~An adverse~~ A party shall have ~~ten~~ seven days from the date of ~~the~~ service of ~~such petition within which~~ the request to ~~answer thereto~~ make a written response. No reply to ~~such answer~~ the response will be permitted. The board may grant or deny ~~such petition~~ the request without hearing or, in its discretion, ~~set~~ hold a hearing on ~~such petition~~ the request.

6000.3100 ~~PETITION~~ REQUEST FOR REHEARING, AMENDMENT, ~~VACATION, RECONSIDERATION, REARGUMENT.~~

Within ~~ten~~ seven days from the date of the mailing ~~by the executive director~~ of the ~~final decision or~~ board's order, any party may ~~petition for a rehearing, or for~~ submit a written request for an amendment ~~or vacation~~ of the findings of fact, ~~decision or~~ conclusions of law, and order, ~~or for~~

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reconsideration-or-reargument. If-such-petition-be-for-a further-hearing,-rehearing,-vacation,-reconsideration,-or reargument,-the-grounds-relied-upon The request shall be specifically set forth and the reasons for the amendment, any claimed errors clearly-stated, and any proposed amendments to the findings of fact, conclusions of law, and order. If-such petition-be-for-an-amendment-of-the-findings-of-fact,-decision, or-order,-such-petition-shall-contain-the-desired-proposed amendments,-and-the-reasons-therefor-shall-be-clearly-stated. Such-petition The request shall be served upon all parties to the proceeding. An-adverse A party shall-have-ten has seven days from the date of the service of such-petition the request to answer-thereto,-and respond. No reply will be permitted. The board may grant or deny such-petition the request without a hearing, or, in its discretion set, hold a hearing thereon on it. Pending-the-decision-of-the-board-on-such-petition,-the board-may-vacate-and-set-aside-said-decision-or-order. No such petition-will request shall extend the time of appeal from said decision-or the findings of fact, conclusions of law, and order. If a request is for amendment to only change the date in the findings of fact, conclusions of law, and order, the relief may be sought informally by telegram or otherwise upon notice to all parties.

6000.3400 SCHEDULE OF FILING FEES.

Subpart 1. **Incorporation of a municipality.** A petition for incorporation of a municipality must be accompanied by a filing fee of $600 when filed with the board.

Subp. 2. **Consolidation Annexation proceedings for municipality and an entire town.** A petition for consolidation annexation of a municipality and an entire town must be accompanied by a filing fee of $200.

Subp. 3. **Annexation of unincorporated property by board order.** A filing fee of $4 per acre must accompany a petition to annex unincorporated property by board order. The minimum fee is $100 and the maximum fee is $600. Where-the-petition-is initiated-by-property-owners,-the-filing-fee-will-be-reimbursed

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~~by-the-annexing-municipality-if-annexation-is-successful.~~

Subp. 4. **Orderly annexations ~~within-a-designated-area~~.** A filing fee of $1 per acre must accompany the joint resolution ~~or petition-for-designation~~. The minimum fee is $25 and the maximum fee is $200. ~~Thereafter,~~ Requests for ~~the-initiation-of~~ annexation of any part of the designated area shall be accompanied by a filing fee of $1 per acre with a minimum fee of $25 and a maximum fee of $200.

Subp. 5. **Annexation by ordinance.** A filing fee of $4 per acre must accompany the initial petition~~,-resolution,-or ordinance~~ submitted to the board~~,-with-a~~. The minimum ~~of~~ fee is $100 and a the maximum ~~of~~ fee is $600~~,-before-a-file-will be-opened-on-the-proceeding~~.

Subp. 6. **Consolidation of two or more municipalities.** A fee of $200 must accompany a petition for consolidation of a ~~municipality~~ two or more municipalities ~~to-an-adjoining municipality-when-filed-with-the-board~~.

Subp. 7. **Detachment of property from a municipality.** A filing fee of $4 per acre must accompany a petition to detach property from a municipality. The minimum fee is $100 and the maximum fee is $600.

Subp. 8. **Concurrent detachment and annexation of incorporated land.** A filing fee of $4 per acre must accompany the concurrent resolutions with a minimum fee of $100 and a maximum fee of $600.

Subp. 9. **Waiver of fees.** Where the strict application of the filing fee requirements would unfairly impose a burden on the petitioner, the board, in its discretion, may waive the filing fee.

REPEALER. Minnesota Rules, parts 6000.0300, 6000.1100, 6000.1300, 6000.1500, 6000.1800, 6000.2000, 6000.2100, 6000.2200, 6000.2300, 6000.2400, 6000.2700, 6000.2800, 6000.2900, 6000.3200, 6000.3300, and 6000.3500, are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD616

Agency: Municipal Board

Division:

Agency Contact: Pat Lundy 296-2428

Minnesota Rules: Parts 6000.0100; 6000.0110; 6000.0200; 6000.0400; 6000.0500; 6000.0600; 6000.0700; 6000.0800; 6000.0900; 6000.1000; 6000.1150; 6000.1200; 6000.1310; 6000.1400; 6000.1510; 6000.1600; 6000.1700; 6000.1900; 6000.2210; 6000.2500; 6000.2600; 6000.3000; 6000.3100; 6000.3400;

Title: Proposed Rules Relating to Municipal Board Procedures

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: January 9, 1985

STATE OF MINNESOTA

MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed Adoption of Rules of the Minnesota Municipal Board Governing Boundary Adjustments and Incorporation of Cities

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 28, 1985 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on January 23, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, and receiving no written requests for a public hearing within the 30-day comment period,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to Boundary Adjustments or Incorporation of Cities are adopted this 28th day of March, 1985 pursuant to authority vested in me (the Board) by Minnesota Statutes 414.01, Subd. 10.

STATE OF MINNESOTA

Patricia D. Lundy

Patricia D. Lundy
Assistant Director

Selection of the proposals will be based on the following criteria:

The extent to which a proposal meets these identified criteria weighs positively in favor of the proposal.

1) The extent to which the building is currently occupied by lower income families.

2) The extent to which units with two bedrooms or more will be rehabilitated.

3) The extent to which very low income families in the proposed building are housed in substandard conditions.

4) The extent the building is free from serious adverse environmental and site conditions.

5) The extent to which the proposed rehabilitation is financially feasible, given the maximum grant per unit, prevailing interest rates, proposed rents, and market for rehabilitated units.

6) The extent to which displacement of existing tenants will be minimized.

7) The extent to which the rehabilitated units will be affordable to low and very low income families.

8) The extent to which the proposed rehabilitation will have a positive impact on the physical environment of the surrounding neighborhood.

9) The extent to which the proposed rehabilitation eliminates substandard housing and prevents the recurrence of such conditions.

10) The extent to which a municipality rates one proposal over another within their community.

11) The extent to which proposals have been selected within a variety of municipalities. (Emphasis will be placed on achieving a distribution of dollars among the participating communities.)

12) The extent to which the grant dollars will be utilized for physical rehabilitation versus relocation expenses and other eligible soft costs.

In compliance with federal regulations, the agency has adopted a written tenant assistance policy concerning displacement, relocation assistance, and other assistance to tenants who reside or may reside in buildings to be rehabilitated. This policy as well as additional program design details are available to the public upon request. Please contact Lynn McDaniel at (612) 296-9827 or write to Minnesota Housing Finance Agency, 333 Sibley Street, St. Paul, MN, 55101.

Minnesota Municipal Board

Outside Opinion Sought Regarding Amendments to Minnesota Municipal Board Rules, Chapter 6000, Governing Boundary Adjustments or Incorporation of Cities

Notice is hereby given that the Minnesota Municipal Board is seeking information or opinions from sources outside the agency in preparing to amend Chapter 6000, Minnesota Municipal Board Rules governing municipal boundary adjustment or municipal incorporation pursuant to Minnesota Statutes, section 14.10.

The adoption of these rules is authorized by Minnesota Statutes 414.01, Subdivision 10, which gives the Board, in order to carry out the duties and powers imposed, the power to make such rules and regulations as are reasonably necessary in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state.

The estimated total cost of the proposed rules to local bodies in the state is not expected to exceed $100,000 annually in the next two years.

The purpose of proposed amendments to the Municipal Board Rules will be to provide the public with a clearer understanding of the agency's procedures, improve the quality of data received, change the filing fees, and make the rules legally consistent with the present law.

The proposed rules will have an impact on small business the same as any other petitioner, affected property owner, or resident. This impact on small business will be considered as required by Minnesota Statutes, Section 14.115.

The Municipal Board requests information and comments concerning amendments to the Minnesota Municipal Board Rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Written comments should be addressed to:

Patricia D. Lundy
Assistant Director
Minnesota Municipal Board
165 Metro Square Building
St. Paul, Minnesota 55101

Any written material received by the Municipal Board shall become part of the rulemaking record in the event the rules are promulgated. Oral statements will be received during regular business hours over the telephone at (612) 296-2428 and in person at the above address.

All statements of information and comment shall be accepted until 4:30 p.m. August 20, 1984.

Patricia D. Lundy
Assistant Director
Minnesota Municipal Board

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is August 21, 1984.

ADVISORY TASK FORCE ON AMERICAN INDIAN LANGUAGE AND CULTURE EDUCATION PROGRAMS has 1 vacancy open for a member. Members include representatives of community groups, parents of children eligible to be served by the programs, American Indian Administrators and teachers, and persons knowledgeable in the field of American Indian language and culture education. The task force advises the Board of Education on the administration of the American Indian Language and Culture Education Act; reviews proposals and makes recommendations to the board on approval and funding of bicultural programs in Minnesota schools. Between 3 and 5 meetings per year at various sites statewide; members are reimbursed for expenses. Members are appointed by the Board of Education. For specific information contact the Advisory Task Force on American Indian Language and Culture Education Programs, 303 Capitol Square Bldg., St. Paul 55101; (612) 296-6458.

MEDICAL POLICY DIRECTIONAL TASK FORCE ON MENTAL HEALTH has 4 vacancies open for members who are experts from the field of medicine, mental health, mental retardation, or related sciences, and members from social service, rehabilitation, volunteer services, nursing, hospital administration or related fields. The task force advises the Commissioner of Human Services on mental health and public policy. Members are appointed by the Commissioner. Members receive expenses. For specific information contact the Medical Policy Directional Task Force on Mental Health, Dept. of Human Services, Centennial Bldg., St. Paul 55155; (612) 296-3058.

ADVISORY COUNCIL ON WORKERS' COMPENSATION has 1 vacancy open for a public member. The council studies workers compensation law and its administration and recommends changes where appropriate. Members are appointed by the Commissioner of Labor and Industry. Monthly meetings at Space Center Bldg. Members receive $35 per diem plus expenses. For specific information contact the Advisory Council on Workers' Compensation, Dept. of Labor and Industry, Office of Public Affairs, Space Center Bldg., 444 Lafayette Road, St. Paul 55101; (612) 297-4373.

APPRENTICESHIP ADVISORY COUNCIL has 1 vacancy open for a public member. The council proposes occupational classifications and minimum standards for apprenticeship programs and agreements; advise the Commissioner of Labor and Industry. Members are appointed by the Commissioner. Quarterly meetings; members receive $35 per diem plus expenses. For specific information contact the Apprenticeship Advisory Council, Dept. of Labor and Industry, Office of Public Affairs, Space Center Bldg., 444 Lafayette Road, St. Paul 55101; (612) 297-4374.

ADVISORY TASK FORCE ON THE MINNESOTA BRAILLE AND SIGHT-SAVING SCHOOL has 1 vacancy open for a professional member. The task force advises the Board of Education on the management of the Braille and Sight-Saving School in Faribault. Members are appointed by the Board of Education. Members represent various geographic regions of the state and include parents or guardians of visually impaired children. Monthly meetings in the Twin Cities or Faribault. Members receive expenses. For specific information contact the Advisory Task Force on the Minnesota Braille and Sight-Saving School, P.O. Box 308, Faribault 55021; (507) 332-3363.

ADVISORY TASK FORCE ON THE WOMAN OFFENDER IN CORRECTIONS has 1 vacancy open for a member to reflect a statewide geographical representation. The task force consults with the Commissioner of Corrections regarding choice of model programs to receive funding. Review and make recommendations to the Commissioner on matters affecting women offenders. Identify problem areas and make recommendations for problem resolution. Assist the Commissioner when and where possible in seeking improved programming for women offenders. Members are appointed by the Commissioner of Corrections. Members receive expenses, in the same manner and amount as state employees. Meetings are held the 1st Wednesday of each month at the Dept. of Corrections. For specific information contact the Dept. of Corrections, 430 Metro Square Bldg., St. Paul 55101; (612) 296-3525.

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT MUNICIPAL BOARD

Office Memorandum

TO: File

DATE: 091784

FROM: Pat Lundy
Assistant Director

PHONE: 296-2428

SUBJECT: Rules - Response to Notice of Intent to Solicit Outside Opinion in the State Register

The only response received was a call from Larry Bakken from the Hamline Law School (641-2189), however, upon returning numerous calls, Mr. Bakken did not respond. Mr. Bakken called the office at 2:45 p.m. on July 31, 1984 and left a number with Karen indicating that he wanted to comment on the Rules. He asked that the call be returned on Tuesday. I called at 12:30 p.m. with no answer, at 4:12 p.m. with no answer, and again on August 7th at 8:24 a.m., and 9:14 a.m. on August 8th and left a message with his secretary. Mr. Bakken then called back on the 8th of August at 1:45 p.m. and left a message to return his call. I called on August 8th at 2:45 p.m. with no answer and on August 9th at 9:28 a.m. and left a message. Mr. Bakken did not return the call.

PDL:sg

STATE OF MINNESOTA

MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed Adoption of Rules of the Minnesota Municipal Board Governing Boundary Adjustments and Incorporation of Cities

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 23rd day of January, 1985 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Municipal Board for that purpose and be published in the State Register.

STATE OF MINNESOTA

Patricia D. Lundy

CERTIFICATE OF BOARDS

AUTHORIZING RESOLUTION

I, Robert J. Ferderer, do hereby certify that I am Chairman of the Minnesota Municipal Board, a board duly 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 held on the 18th day of December, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that Patricia D. Lundy, Assistant Director, and Terrence A. Merritt, Executive Director, of the Minnesota Municipal Board be, and hereby are granted the authority and directed to sign an order of the Minnesota Municipal Board directing the publication in the State Register of the proposed rules governing boundary adjustments and incorporation of cities as well as perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of January, 1985.

Robert J. Ferderer
Chairman

Richard Love
Attest by one other Board member

STATE OF MINNESOTA

MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed Adoption
of Rules of the Minnesota Municipal Board
Governing Boundary Adjustments and
Incorporation of Cities

CERTIFICATE OF MAILING

I, Starlene J. Guse, hereby certify that on October 5, 1984, I mailed the proposed rules to the following organizations that had not requested to be notified of proposed rules:

League of Minnesota Cities
c/o Joel Jamnick
183 University Avenue, East
St. Paul, Minnesota 55101

(October 15, 1984: Mr. Jamnick called to say the rules "looked fine".)

Minnesota Association of Townships
c/o David Fricke, Executive Director
P.O. Box 246
St. Michael, Minnesota 55376

(No response received.)

Starlene J. Guse

Starlene J. Guse

In the Matter of the Proposed Adoption
of Rules of the Minnesota Municipal Board
Governing Boundary Adjustments and
Incorporations of Cities

CERTIFICATE OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I hereby certify that on the 23rd day of January, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, I served the attached Notice of Intent to Adopt Rules Without Public Hearing and a copy of the proposed rules by depositing in the State of Minnesota Central Mail System for United States mailing at said city of St. Paul, Minnesota, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Municipal Board for the purpose of receiving notice of the proposed adoption of rules by this agency.

Patricia D. Lundy
Patricia D. Lundy
Assistant Director

Notary Valarie J. LaTour 3-8-85

Attest: Terrence A. Merritt
Terrence A. Merritt
Executive Director

VALARIE J. LaTOUR
Notary Public - Minnesota
Washington County
My Commission Expires
August 16, 1990

The following parties have requested notification of any Proposed Rules as of January 23, 1985:

Conrad M. Fredin
Attorney at Law
811 First National Bank Bldg.
Duluth, Minnesota 55802

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, Minnesota 55103

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, Minnesota 55934

Donald E. Montgomery, Executive Director
Assoc. Builders & Contractors, Inc.
6300 Walker Street, Suite 109
Minneapolis, Minnesota 55416

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, Minnesota 55488

Peter S. Popovich
Attorney at Law
314 Minnesota Building
St. Paul, Minnesota 55101

David R. Sollenberger
Winona City Manager
4th & Lafayette Street
Winona, Minnesota 55987

David R. Knodell, Esq.
Olson, Gunn and Seran, Ltd.
315 Peavey Building
730 Second Avenue, South
Minneapolis, Minnesota 55402

Frundt, Frundt & Johnson
Attorneys at Law
117 West 5th Street
Blue Earth, Minnesota 56013

Robert H. Trautman, Editor
West Publishing Company
50 West Kellogg Boulevard
P.O. Box 3526
St. Paul, Minnesota 55165

R. Michael Galvin, Jr.
Briggs and Morgan
2200 West 1st National Bank Bldg.
St. Paul, Minnesota 55101

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of Rules of the Minnesota Municipal Board
Governing Boundary Adjustments and
Incorporations of Cities

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 14.14, Subd. 1a, that their names be placed on file with and maintained by the Minnesota Municipal Board for the purpose of receiving notice of the proposed adoption of rules by this board is accurate and complete as of 10:00 A.M., this 23rd day of January, 1985.

Patricia D. Lundy, Asst. Dir.

Municipal Board

Proposed Rules Relating to Municipal Board Procedures

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Municipal Board proposes to adopt the above-entitled rules without a public hearing. The Minnesota Municipal Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules are encouraged to submit comments in support of or in opposition to the rules including impact on small business. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. Persons submitting comments shall have 30 days to submit comments on the proposed rules following publication in the *State Register*. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

If twenty-five (25) or more persons make a written request for a public hearing within the 30-day comment period, a public hearing will be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to Patricia D. Lundy, Minnesota Municipal Board, 165 Metro Square Building, St. Paul, Minnesota 55101. Any person requesting a public hearing should state his/her name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes 414.01, subd. 10. A Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

The proposed rules will not adversely affect small business and may enhance small business since the purpose of these rules is to clarify and streamline Municipal Board procedures.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as proposed for adoption will be delivered to the designee of the Attorney General for review as to form and legality, including the issue of substantial change, the agency's authority to adopt the rules and the existence of a rational basis for the need for and reasonableness of the proposed rules.

Persons who wish to be advised of the submission of this material to the Attorney General including any modifications to the rules as originally proposed, or who wish to receive a free copy of the final rules as adopted, should submit a written statement of such request to Starlene Guse, Minnesota Municipal Board, 165 Metro Square Building, St. Paul, Minnesota 55101.

The text of the proposed rules follows this notice in the *State Register*.

Copies of this notice and one free copy of the proposed rules are available and may be obtained by contacting Starlene Guse at the above address.

Patricia D. Lundy
Assistant Director

Rules as Proposed

6000.0100 ~~PETITION DEFINED~~ DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 6000.0100 to 6000.3500 the ~~term~~ terms defined in this part have the meanings given them.

Subp. 2. Parties. "Parties" includes petitioners specifically named in the pleadings. The term also includes other persons who file at the hearing an appearance form provided by the board and enter an appearance at the hearing. To be considered

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

parties, persons who fill out the appearance form must establish that they are residents or taxpayers in the incorporation, annexation, consolidation, or detachment area; or that by the outcome of the proceedings they will be bound and affected either favorably or adversely by an interest particular to these persons as distinguished from an interest common to the public or other taxpayers in general.

Subp. 3. Petition. "Petition" ~~shall include~~ includes: petition, resolution, ordinance, ~~and~~ or notice of intent.

Subp. 4. Property owner. "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5.

6000.0110 COMMENCEMENT OF PETITION.

A "petition," as the term is used in parts 6000.0100 to 6000.3500, may be initiated in accordance with Minnesota Statutes, chapter 414 by the required number of persons or by the municipality, town, or by the board as provided in ~~such~~ that chapter. Where the petition is filed by residents or property owners, the ~~signatures of the required~~ number of petitioners ~~must be attached to~~ required by statute to commence a proceeding must be stated in the petition~~, and~~. The petition must ~~clearly show~~ also state on its face the number of petitioners ~~required to sign such~~ who have signed the petition ~~to commence proceedings for incorporation, consolidation, annexation, or detachment, as the case may be, and the method of computing the number of petitioning signatures required~~. Where the petition is commenced by a municipality or town, ~~such~~ the petition must ~~show~~ include the appropriate action by the governing body, including the citation to the resolution, ordinance, or notice of intent.

The municipality, town, or the persons commencing a petition shall be designated as the "petitioner" or "petitioners."

6000.0200 ~~TITLE~~ FORM OF PETITION.

Subpart 1. Title. The petition ~~shall be designated~~ must be titled as follows:

In the matter of the Petition of (Certain Persons ~~(~~, or the City or Town of _____) for (incorporation, consolidation, annexation, or detachment ~~as the case may be~~ pursuant to Minnesota Statutes, section . . . . .).

Subp. 2. Body. The title must be followed by a brief description of the subject matter to which the petition relates. No petition shall be dismissed, impaired, or prejudiced because incorrectly entitled, or the parties ~~thereto~~ incorrectly designated~~, but~~. Opportunity shall be given in ~~such~~ these cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Sample petition forms will be provided by the board upon request.

6000.0400 REPRESENTATION.

~~The parties~~ A party may appear ~~either~~ in person or may be represented by an attorney. Where a petition is by property owners, one of the petitioners may represent the group. A ~~corporation cannot~~ government official may appear ~~in person~~ on behalf of a party that is a county, municipality, or town or government agency.

When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group.

6000.0500 PLEADINGS.

The pleadings before the board shall be the petition. Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings. No ~~answer, reply, protest, or petition to intervene~~ responsive pleading as necessary ~~to become a party of record to the proceeding. A petition may be amended upon motion to the board. A party may in writing notify the board of an interest in the petition for the purpose of obtaining a copy of any proposed findings of fact or other documents or any final order required to be served by statute or by the board rules of procedure.~~

6000.0600 PETITION AS EVIDENCE.

~~The petition shall contain a statement of all the facts which must be found by the board before the board can enter an order pursuant to Minnesota Statutes, chapter 414. If these facts are not controverted by opposing parties at the hearing on the petition,~~ The petition shall be prima facie evidence of ~~such~~ the facts~~, except that~~ contained in the petition if not controverted by opposing parties at the hearing. The board may ~~from appropriate public records or documents determine whether or not such are~~ independently verify the accuracy of the facts. ~~The petitioners shall prove such facts by competent evidence. Public records are admissible without foundation except proof that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.~~

6000.0700 AMENDMENTS.

~~Formal petitions~~ A petition may be amended at the discretion of the board at any time before the ~~record has been closed after public hearings required by law upon motion and upon~~ board has rendered a final decision on the petition. Notice is required to

all parties ~~to the proceeding (which~~ entitled to original notice. Amendments may be ~~done~~ proposed and granted at public hearings~~) except that~~. Where the petition is by property owners, the petition cannot be amended to include an area different than the one described in the petition signed by ~~such~~ the property owners~~, subject to the statutory authority of the board to alter the boundaries proposed in the petition~~ unless the amendment or a waiver is signed by all the property owners who signed the original petition.

6000.0800 ~~SERVICE~~ FILING OF PETITION.

Any petition pursuant to Minnesota Statutes ~~1971~~, chapter 414 must be filed with the board together with the following:

A. Filing fee (see part 6000.3400). No petition will be accepted or acted upon unless the filing fee is received.

B. A certification showing that the petition was served upon the proper parties when the statute indicates such necessity and the date filed~~. Under the section for annexation by ordinance, the board will accept~~ or a waiver ~~from the township stating it has no objections to a proposed annexation and waiving the 60 days before an ordinance can be adopted~~ authorized by Minnesota Statutes, section 414.033.

C. A map showing the property proposed for consideration and its relationship to any surrounding municipality. All distance references should be given by ~~both~~ length ~~and points of~~. Beginning points should be ~~definite~~ land survey monuments ~~with care to~~ and the description must close the boundaries ~~of the description~~. References to roads or railroads should be to survey lines such as centerline or known right-of-way line. The intent to include or exclude highway, railroad, and street right-of-ways surrounding platted blocks or lots should be ~~carefully considered and~~ clearly stated.

~~D. The petitioner is required to provide and pay for any necessary publication of notices of hearing pursuant to the appropriate section of the statute.~~

~~E. Any proposed amendments to the petition must be served upon all attorneys and parties of record. When any party has appeared by an attorney, service upon such attorney shall be deemed service upon the party.~~

6000.0900 CONTINUANCES ~~AND EXTENSIONS OF TIME~~.

~~For cause shown,~~ Continuances ~~and extensions of time~~ will be granted or denied by the board in its discretion for cause shown, or upon the board's own initiative. ~~Where a motion for continuance or extension of time is made other than at a public hearing, if such motion is granted, the public hearing shall nevertheless convene for the purpose of announcing the date to which such hearing is continued.~~

6000.1000 STIPULATIONS.

Parties may~~, by stipulation in writing filed with the board or presented at the hearing,~~ agree ~~upon~~ stipulate to any facts involved in the proceedings. ~~It is desired that the facts be thus agreed upon so far as and whenever practicable. Where facts are stipulated, any party entering an appearance of record subsequent to the stipulation may controvert such facts by evidence, but it shall be the obligation of such party to determine what facts have been stipulated, but where any person or municipality becomes a party of record subsequent to any stipulation of facts does not appear from the record that such facts have been stipulated or does not controvert them by evidence, the board may find such to be the facts in entering its final order~~ Parties who do not enter into the stipulation and who do not present controverting evidence concerning facts contained in the stipulation are bound by the facts stipulated.

6000.1150 PREHEARING CONFERENCE.

The board may, in its discretion, hold an informal prehearing conference conducted by a designated representative of the board. The purpose of the prehearing conference is to simplify the issues, to stipulate facts for testimony or exhibits, to consider the proposed witnesses, to consider such other matters as may be necessary or advisable, and, if possible, to reach a settlement without the necessity for a hearing. Agreements on issues may be put in the form of stipulations and entered on the record. Any final settlement may be set forth in a settlement agreement and made a part of the record.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

6000.1200 PUBLIC HEARINGS.

The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing. Public hearings shall be held by the board ~~as to any petition filed pursuant to Minnesota Statutes, chapter 414~~ in accordance with ~~the provisions as to hearings of such chapter~~ Minnesota Statutes, section 414.09.

The board may hear the facts or evidence of any person or organization. Any person may note an appearance for the record. No person becomes, or is considered to be, a party to the proceeding solely by reason of presenting facts or evidence or entering an appearance at the hearing.

The petitioner must pay for the publication of notices of hearings required by Minnesota Statutes, section 414.09.

6000.1310 EXAMINATION OF WITNESSES.

Witnesses shall testify before the board. The party calling the witness shall examine the witness first. Every witness is subject to direct examination by nonadverse parties and cross-examination by adverse parties. The board may question a witness. All parties shall have the opportunity to submit rebuttal evidence. Cross-examination of a witness by a party not an attorney shall be submitted to the presiding officer, and the presiding officer shall ask the question of the witness if it is considered admissible.

6000.1400 EXHIBITS.

Unless the ~~chairman or~~ presiding officer of the hearing shall ~~otherwise~~ direct otherwise, persons offering exhibits ~~offered~~ to the board ~~at any hearing or conference in a contested case~~ shall ~~be one~~ submit a single copy ~~only, and a reasonable number of copies shall be furnished to parties in attendance~~. Where possible, parties should offer an exhibit in 8-½ by 11-inch size.

6000.1510 ORDER OF PROCEDURE.

Unless the presiding officer of the hearing directs otherwise, the order of procedure at a hearing shall be as follows:

A. the petitioner shall begin the presentation of evidence;

B. adverse parties shall present testimony; and

C. nonadverse parties shall present testimony.

6000.1600 FAILURE TO APPEAR.

If ~~a petitioner~~ the initiating party fails to appear at a proceeding, the hearing may be dismissed with or without prejudice at the discretion of the board~~, or the board may, in its discretion, approve the petition request upon the basis of a verified statement of proof and affidavits, if any, filed in the case, which in all cases shall be considered as having been offered in evidence at the hearing by the petitioner, but the board shall not approve the petition upon such a showing if any person appearing at the hearing who qualifies as a party to the proceeding shall object thereto~~. The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.

6000.1700 ADMISSION OF EVIDENCE.

~~In a contested case,~~ The board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent ~~men~~ persons in the conduct of their affairs. It shall give effect to rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and repetitious evidence. Public records are admissible without foundation except proof that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.

6000.1900 EVIDENCE IN A ~~CONTESTED CASE~~ PROCEEDING.

Subpart 1. Notice of certain facts. All evidence ~~in a contested case, including records and documents in the possession of the board of which it desires to avail itself,~~ shall be ~~offered and~~ made a part of the record in the ~~case~~ proceeding, and no other factual information or evidence shall be considered in ~~the determination~~ of the ~~case~~ proceeding, except ~~that~~ the board may take notice of appropriate facts, public documents, or records of a general, scientific, or technical nature by appropriate notice to all parties ~~of record limiting~~. The time within which ~~such~~ the parties may object to the accuracy of the facts sought to be proved from ~~such~~ the documents or records shall be limited by the board.

Subp. 2. Record of proceedings. The board shall record all proceedings. Testimony before the board shall be taken by electrical recording device or by official court reporters. A transcript shall be furnished upon request at the expense of the requester.

6000.2210 SUBPOENAS.

Subpart 1. Generally. A request for a subpoena, whether for an individual or for the production of books, papers, or documents, shall be in writing to the executive director of the board. The party requesting the subpoena shall prepare the subpoena for the board's signature. A request for the production of documentary evidence must be verified and must specify as nearly as possible the books, papers, or documents desired.

Subp. 2. Fees for witnesses. Witnesses who are subpoenaed are entitled to the same fees that are paid in district courts of Minnesota. The fees are to be paid by the party requesting the subpoena.

Subp. 3. Service. Service of subpoenas shall be the same as service of subpoenas for the district courts of Minnesota.

6000.2500 REQUESTS FOR ~~BRIEFS~~ WRITTEN OR ORAL ARGUMENTS.

~~If briefs~~ Requests for written or oral arguments ~~are desired by any of the parties to the proceeding, they shall notify the chairman or presiding officer before or~~ must be made at the hearing or the parties waive their rights to submit written or oral arguments. If ~~such~~ a request is made, the presiding officer shall allow all parties to ~~file briefs~~ submit written or ~~make~~ oral arguments, or ~~he may permit~~ both. ~~He~~ The presiding officer shall also prescribe the time for service and filing of ~~briefs~~ written arguments or making of oral ~~argument~~ arguments.

6000.2600 FILING AND SERVICE OF BRIEFS WRITTEN ARGUMENTS.

All ~~briefs for presentation~~ written arguments presented to the board must be filed with the ~~secretary~~ executive director accompanied by ~~written evidence of~~ certification showing service upon ~~opposing counsel, party, or~~ all parties.

6000.3000 ~~PETITIONS~~ REQUEST FOR FURTHER ADDITIONAL HEARING.

~~Before the final submission of any proceeding, any party thereto desiring a further hearing may file a petition therefor with the board, which said petition~~ A party may submit a written request for an additional hearing at any time prior to the board's final decision. The request shall clearly set forth the ~~grounds relied upon for a further~~ reasons for the additional hearing; and ~~if it is proposed to produce additional testimony, the testimony so to be produced shall be briefly summarized~~ include a brief summary of additional evidence proposed to be submitted. No ~~further~~ additional hearing will be granted where it appears that the evidence to be ~~adduced~~ submitted will be ~~merely cumulative~~ incompetent, irrelevant, immaterial, cumulative, or repetitious. ~~Such petition~~ The request shall be served upon all parties to the proceeding. ~~An adverse~~ A party shall have ~~ten~~ seven days from the date of ~~the~~ service of ~~such petition within which~~ the request to ~~answer thereto~~ make a written response. No reply to ~~such answer~~ the response will be permitted. The board may grant or deny ~~such petition~~ the request without hearing or, in its discretion, ~~set~~ hold a hearing on ~~such petition~~ the request.

6000.3100 ~~PETITION~~ REQUEST FOR ~~REHEARING,~~ AMENDMENT~~, VACATION, RECONSIDERATION, REARGUMENT~~.

Within ~~ten~~ seven days from the date of the mailing ~~by the executive director~~ of the ~~final decision or~~ board's order, any party may ~~petition for a rehearing, or for~~ submit a written request for an amendment ~~or vacation~~ of the findings of fact, ~~decision or~~ conclusions of law, and order~~, or for reconsideration or reargument~~. ~~If such petition be for a further hearing, rehearing, vacation, reconsideration, or reargument, the grounds relied upon~~ The request shall ~~be~~ specifically set forth ~~and~~ the reasons for the amendment, any claimed errors ~~clearly stated~~, and any proposed amendments to the findings of fact, conclusions of law, and order. ~~If such petition be for an amendment of the findings of fact, decision, or order, such petition shall contain the desired proposed amendments, and the reasons therefor shall be clearly stated. Such petition~~ The request shall be served upon all parties to the proceeding. ~~An adverse~~ A party ~~shall have ten~~ has seven days from the date of the service of ~~such petition~~ the request to ~~answer thereto, and~~ respond. No reply will be permitted. The board may grant or deny ~~such petition~~ the request without a hearing~~,~~ or, in its discretion ~~set~~, hold a hearing ~~thereon~~ on it. ~~Pending the decision of the board on such petition, the board may vacate and set aside said decision or order.~~ No ~~such petition will~~ request shall extend the time of appeal from ~~said decision or~~ the findings of fact, conclusions of law, and order. If a request is for amendment to only change the date in the findings of fact, conclusions of law, and order, the relief may be sought informally by telegram or otherwise upon notice to all parties.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ outs indicate deletions from proposed rule language.

6000.3400 SCHEDULE OF FILING FEES.

Subpart 1. Incorporation of a municipality. A petition for incorporation of a municipality must be accompanied by a filing fee of $600 when filed with the board.

Subp. 2. ~~Consolidation~~ Annexation proceedings for municipality and an entire town. A petition for ~~consolidation~~ annexation of a municipality and an entire town must be accompanied by a filing fee of $200.

Subp. 3. Annexation of ~~unincorporated~~ property by board order. A filing fee of $4 per acre must accompany a petition to annex unincorporated property by board order. The minimum fee is $100 and the maximum fee is $600. ~~Where the petition is initiated by property owners, the filing fee will be reimbursed by the annexing municipality if annexation is successful.~~

Subp. 4. Orderly annexations ~~within a designated area~~. A filing fee of $1 per acre must accompany the joint resolution ~~or petition for designation~~. The minimum fee is $25 and the maximum fee is $200. ~~Thereafter,~~ Requests for ~~the initiation of~~ annexation of any part of the designated area shall be accompanied by a filing fee of $1 per acre with a minimum fee of $25 and a maximum fee of $200.

Subp. 5. Annexation by ordinance. A filing fee of $4 per acre must accompany the initial petition~~, resolution, or ordinance~~ submitted to the board~~, with a~~. The minimum ~~of~~ fee is $100 and ~~a~~ the maximum ~~of~~ fee is $600~~, before a file will be opened on the proceeding~~.

Subp. 6. Consolidation of two or more municipalities. A fee of $200 must accompany a petition for consolidation of ~~a municipality~~ two or more municipalities ~~to an adjoining municipality when filed with the board~~.

Subp. 7. Detachment of property from a municipality. A filing fee of $4 per acre must accompany a petition to detach property from a municipality. The minimum fee is $100 and the maximum fee is $600.

Subp. 8. Concurrent detachment and annexation of incorporated land. A filing fee of $4 per acre must accompany the concurrent resolutions with a minimum fee of $100 and a maximum fee of $600.

Subp. 9. Waiver of fees. Where the strict application of the filing fee requirements would unfairly impose a burden on the petitioner, the board, in its discretion, may waive the filing fee.

REPEALER. Minnesota Rules, parts 6000.0300, 6000.1100, 6000.1300, 6000.1500, 6000.1800, 6000.2000, 6000.2100, 6000.2200, 6000.2300, 6000.2400, 6000.2700, 6000.2800, 6000.2900, 6000.3200, 6000.3300, and 6000.3500, are repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture
Planning Division

Adopted Emergency Rules Relating to Agricultural Resource Loan Guaranty Program

The rules proposed and published at *State Register*, Volume 9, Number 18, pages 874-881, October 29, 1984 (9 S.R. 874) are adopted as proposed.

C3-83-640 Calvin Finch, Appellant, v. Sharon Wemlinger (Now Known as Sharon O'Flannigan), and Michael O'Donnell. Ramsey County.

Whether a public official may prevail in his/her qualified immunity defense to a damage action asserted under 42 U.S.C. § 1983 (1982) depends upon the objective reasonableness of his/her conduct as measured by reference to clearly established law. No other circumstances are relevant to the legal issue of qualified immunity. Since appellant cannot establish that his actions were within a clearly established constitutional or statutory right as of 1977, respondent officials must be afforded the protections of the qualified immunity defense.

Affirmed. Kelley, J.

C0-84-847 John Knotz, v. Viking Carpet, Relator. Workers' Compensation Court of Appeals.

Minn. Stat. § 176.011, subd. 3 (1984) requires determination of an employee's daily wage based on his earnings rather than on remuneration he actually receives.

Corporate minutes disclosing a contract of employment providing that employee would work 40 hours a week in 1982 and would receive $200 a week for wages require a finding that he was earning a weekly wage of $200 on March 8, 1982, when he sustained injuries in a work-related accident.

Affirmed in part, reversed in part, and remanded. Kelley, J.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota Tax Court Regular Division

Gerald and Judith Funk, Appellants, v. The Commissioner of Revenue, Appellee, Docket Nos. 3893 and 3760

Findings of Fact, Conclusions of Law, and Order for Judgment Dated January 31, 1985

The above matter was tried on August 7, 1984 by the Minnesota Tax Court, Judge Carl A. Jensen presiding, at the Courthouse in Hastings, Minnesota.

Gerald Funk and Judith Funk appeared on their own behalf.

Neil Scott, Special Assistant Attorney General, appeared on behalf of appellee.

Briefs were subsequently filed by the parties.

SYLLABUS

Residents of the State of Minnesota who are employed within the State of Minnesota are subject to Minnesota Income Taxes.

FINDINGS OF FACT

1. Appellants Gerald Funk and Judith Funk were residents of the State of Minnesota during the years 1979, 1980 and 1981. Gerald Funk was employed by Republic Airlines and Judith Funk was employed by J. C. Penney Company, and they were paid by checks from their employers.

2. Appellee has assessed additional income taxes due from appellants for the years 1979, 1980 and 1981. It appeared at the trial that appellee agreed that some adjustments should be made to the previous assessments after taking into consideration additional facts that had come into the possession of the appellee.

3. Appellants claim that they were not liable for Minnesota income taxes during the years in question on the basis that they owed allegiance only to their creator, that appellants were sovereign, that they received no benefits from the State of Minnesota, and that they received no taxable income on the grounds that they exchanged their labor for the payments received from their employers. They also made some claim that they received Federal Reserve Notes in exchange for the checks and that Federal Reserve Notes are not legal tender.

4. Appellants are liable for Minnesota income taxes during the years 1979, 1980 and 1981 and the appellee should recalculate the income taxes due from appellants on the basis of the information now in the hands of appellee, together with all penalties and interest.

CONCLUSIONS OF LAW

1. Appellee is directed to recalculate the correct amount of Minnesota income taxes due from appellants for the years 1979, 1980 and 1981, together with penalties and interest, and to serve notice of such recalculation on appellants by registered mail.

2. Such recalculated amount shall become the judgment of this court.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

January 31, 1985

By the Court,
Carl A. Jensen, Judge
Minnesota Tax Court

ERRATA

Municipal Board

Correction of Proposed Rules Relating to Municipal Board Procedures

The following are corrections of errors that appeared in the *State Register,* Vol. 9, Issue #31, on January 28, 1985 (SR 1683):

6000.0400 REPRESENTATION, which read:

''~~The parties~~ A party may appear. . . .'' should have read: ''~~The parties~~ A party may appear . . .''

6000.0500 PLEADINGS, which read (line 3):

''as necessary ~~to become a party of record~~ . . .'' should have read: ''is necessary ~~to~~ . . .''

6000.1200 PUBLIC HEARINGS, which read (line 2):

''regarding the hearing. Public . . .'' should have read: ''regarding the hearing.''

6000.1900 EVIDENCE IN A ~~CONTESTED CASE~~ PROCEEDING.

Subpart 1. line 5, which read:

''parties ~~of record limiting~~. The . . .'' should have read: ''parties of ~~record limiting.~~ The . . .''

6000.2600 FILING AND SERVICE OF BRIEFS WRITTEN ARGUMENTS. should have read:

6000.2600 FILING AND SERVICE OF ~~BRIEFS~~ WRITTEN ARGUMENTS.

6000.3000 ~~PETITIONS~~ REQUEST FOR FURTHER ADDITIONAL HEARING. should have read:

6000.3000 ~~PETITIONS~~ REQUEST FOR ~~FURTHER~~ ADDITIONAL HEARING.

6000.3400 SCHEDULE OF FILING FEES.

''Subpart 1. Incorporation of a municipality.'' should have read:

''Subpart 1. Incorporation of ~~a~~ municipality.''

Under the same rule, **''Subp. 3. Annexation of ~~unincorporated~~ property by board order.''** should have read: **''Subp. 3. Annexation of ~~unincorporated~~ property by board order.''**

Under the same rule, **Subpart 5**, line 2, previously read:

''submitted to the board~~,~~ ~~with~~ a. The minimum. . . .'' should be changed to read:

''submitted to the board~~,~~ ~~with~~ a. The minimum . . .''

Under the same rule, **''Subp. 9. Waiver of fees.''** should read: **''Subp. 9. Waiver of fees.''**

These errors occurred on pages 1683-1688.

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Robert J. Ferderer, do hereby certify that I am a member and the Chairman of the Minnesota Municipal Board, a board duly 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 15th day of March, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and 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 Minnesota Municipal Board be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 414.01, Subdivision 10 and that Patricia D. Lundy, the Assistant Director of the Minnesota Municipal Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 15th day of March, 1985.

Robert J. Ferderer

(Officier of the Board)

Richard L. Jane

Attest by one other Board Member

STATE OF MINNESOTA

MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed
Adoption of Amendments of Rules
for the Minnesota Municipal Board

STATEMENT OF NEED
AND REASONABLENESS

GENERAL STATEMENT

A revision of the Municipal Board Rules of Procedure has not been done since 1974. The amendments will provide a clearer understanding of agency's procedures, improve the quality of data received, and make the rules legally consistent with present law since a number of amendments have occurred to Chapter 414 since 1974.

The amended rules will not adversely affect small business and may enhance small business by clarifying the procedures and streamlining.

The need for and reasonableness of each of the new rules and amendments to the existing rules is as follows:

MINNESOTA RULE 6000.0100

The title of the rule is changed from "Petition Defined" to "Definitions" because all definitions are consolidated in this rule.

Subpart 1 is amended to include terminology to apply to all definitions.

Subpart 2. "Parties" is former rule 6000.0300 paraphrased with the exception of the following sentence which is now under 6000.1200. "The board may hear the facts or evidence of any person or organization, but no person becomes, or is considered to be, a party to the proceeding solely by reason of entering an appearance at the hearing." This sentence is transferred to the public hearing rule because it addresses more particularly the facts or evidence the board may hear of any person or organization at the board hearing.

Subpart 3 is amended for stylistic and technical improvement.

Subpart 4. The following is added to eliminate confusion about who constitutes a property owner. "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5."

MINNESOTA RULE 6000.0110 COMMENCEMENT OF PETITION.

Stylistic and technical improvements are made to more clearly express how an initiating party must show that they have the required number of residents or property owners to commence a proceeding.

MINNESOTA RULE 6000.0200 FORM OF PETITION

The title is changed from "TITLE" to "FORM" OF PETITION because this rule does more than describe the title. The rule is broken into two subparts

to make it more understandable. The words "shall be designated" are changed to "must be titled" to more accurately reflect what is being required on the title. The words "as the case may be" are struck for stylistic improvement. The words " pursuant to Minnesota Statutes, section .....)" are added to help eliminate any possible confusion as to what section of law the petition is initiated under. The word "thereto" is deleted and the word "such" is changed to "these" for stylistic improvement. The sentence, "Sample petition forms will be provided by the board upon request." is added to assist the petitioners, however, the Municipal Board sample form is not being required.

MINNESOTA RULE 6000.0400 REPRESENTATION.

The first sentence is amended for stylistic and technical improvement. The sentence, "Where a petition is by property owners, one of the petitioners may represent the group." is added to clarify how groups may be represented. "A corporation cannot appear in person" is changed to "A government official may appear on behalf of a party that is a county, municipality, town, or government agency." A corporation representative may qualify under the definition of parties in rule 6000.0100, subpart 2 and is unnecessary. The last sentence "When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group." is not new, but is presently under rule 6000.0800 Service, E. (With the exception of the group representative which is added consistent with the previous amendment.)

MINNESOTA RULE 6000.0500 PLEADINGS.

Objections filed are sometimes mistakenly considered to be responsive pleadings. The addition of the sentence, "Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings", should eliminate that misunderstanding. The second sentence is amended to exclude the reference to becoming a party because party is defined in rule 6000.0100, subpart 2. The words "no responsive pleading is necessary" is added to eliminate confusion on the need. The remaining language in this rule is deleted because it is unnecessary. The general data practices act governs how copies of public documents can be obtained not <u>just</u> by parties but by the general public.

MINNESOTA RULE 6000.0600 PETITION.

The first sentence is deleted since it is presently inconsistent with the law. Chapter 414 no longer requires that information on the petition. The second sentence is deleted because it is combined with the following sentence in a more concise manner. The next amendment allows the board to "independently verify the accuracy of" the facts as opposed to the former language "from appropriate public records or documents determine whether or not such are" the facts. The amended language is more specific and more clearly reflects verification of accuracy. The remaining language is struck because it is contained in rule 6000.1700 ADMISSION OF EVIDENCE.

MINNESOTA RULE 6000.0700 AMENDMENTS.

This rule is changed to provide for amendments to annexations by ordinance, which is not addressed in the existing rule and has caused

confusion. The amendment ensures that notice is required to all those who are entitled to original notice in Chapter 414. The amendments clarify that amendments can be made any time until "the board has rendered a final decision on the petition." There have been instances of confusion in the past as to when and how amendments can occur. In the third sentence the word "done" is changed to "proposed and granted" to more accurately reflect the action. The words "subject to the statutory authority of the board to alter the boundaries proposed in the petition" are stricken because they are unnecessary. Language is added to clarify how an amendment for a petition signed by property owners is accomplished when the amendment is for a different area than the one described in the original petition. The amendment allows the property description to be corrected or changed without taking away rights of the property owners. The amendment states it cannot be amended for a different area "unless the amendment or a waiver is signed by all the property owners who signed the original petition."

MINNESOTA RULE 6000.0800 FILING OF PETITION

The title is changed from "SERVICE" to "FILING" OF PETITION to more accurately reflect the contents of the rule.

B. The language deleted is unnecessary because of amendments to Chapter 414. Waivers are now included under 414.033 and the number of days for objection or waivers is changed from 60 under previous statutory language to 90 days.

C. Amendments are made for stylistic and technical improvements to

more clearly state the information required.

D. This is deleted because it is now contained in rule 6000.1200 PUBLIC HEARINGS.

E. This is deleted because the first sentence is now combined under rule 6000.0700 AMENDMENTS. The second sentence is deleted because it is now contained under rule 6000.0400 REPRESENTATION.

MINNESOTA RULE 6000.0900 CONTINUANCES.

"AND EXTENSIONS OF TIME" is deleted from the title and first sentence because it is unnecessary. The words in the first sentence have been rearranged and the words "for cause shown, or upon the board's own initiative." are added for clarity. The deletion of the last sentence is made to eliminate driving great distances merely to continue a hearing. It is a burden of time and dollars to have the director drive to various parts of the state merely to open a hearing and continue it to another date.

MINNESOTA RULE 6000.1000 STIPULATIONS.

The deleted language is replaced by new language which is more succinct and understandable.

MINNESOTA RULE 6000.1150 PREHEARING CONFERENCE.

This rule is new and is being added in response to the desire on

everyone's part to save time and money in the process. It will help focus issues, promote joint agreement and reduce the need for more lengthy, contested, expensive hearings wherever possible.

MINNESOTA RULE 6000.1200 PUBLIC HEARINGS.

The sentence "The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing." is added to assist in saving possible costs to the agency.

The amendments in the next sentence are made for stylistic and technical improvement. The next sentence is not new but is taken from former rule 6000.0300 PARTIES. The last sentence is former rule 6000.0800 SERVICE, D. It appears more logical to have these two sentences under PUBLIC HEARINGS where people will want to know who the board will be hearing from and who must pay rather than under the rules on PARTIES and SERVICE OF PETITION.

MINNESOTA RULE 6000.1310 EXAMINATION OF WITNESSES.

This is not new language, it is similar to former rule 6000.1300 EXAMINATION OF WITNESSES. It is rephrased to more clearly express and reflect the intent of the rule.

MINNESOTA RULE 6000.1400 EXHIBITS.

The first sentence amendments are for stylistic and technical improvement. The words "where possible parties should offer an exhibit in

8-1/2 by 11-inch size" are added to conform to the general trend of reducing size for cost efficiency.

MINNESOTA RULE 6000.1510 ORDER OF PROCEDURE.

This is not new language. It is former rule 6000.1500 ORDER OF PROCEDURE paraphrased in a more concise manner with the exception of the last sentence which is now covered under rule 6000.0100 DEFINITIONS, subpart 2 Parties.

MINNESOTA RULE 6000.1600 FAILURE TO APPEAR.

The words "a petitioner" are changed to "the initiating party" for stylistic and technical improvement. The sentence, "The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.", replaces old language to simplify and clarify a procedure when there is failure to appear.

MINNESOTA RULE 6000.1700 ADMISSION OF EVIDENCE.

The amendments in this rule are made for stylistic and technical improvement. The last sentence added is not new. It is from present rule 6000.0600 PETITION. The Revisor of Statutes suggested it was more proper under this rule.

MINNESOTA RULE 6000.1900 EVIDENCE IN A PROCEEDING.

The words in the title "CONTESTED CASE" are changed to "PROCEEDING" to be consistent with the law, which contains the word "proceeding". The word "case" is replaced with "proceeding" throughout rule 6000.1900.

Subpart 1. The amendments made in this subpart are for technical and stylistic improvement.

Subpart 2. This is not new language, but language from rule 6000.2100 RECORD OF PROCEEDINGS paraphrased.

MINNESOTA RULE 6000.2210 SUBPOENAS.

Subpart 1. This is not new language, but is paraphrased and streamlined from present rule 6000.2200 SUBPOENA FOR WITNESSES AND DOCUMENTARY EVIDENCE. The amendment also clarifies who has responsibility for preparing the subpoena.

Subpart 2. Streamlined from present rule 6000.2300 FEES OF WITNESSES.

Subpart 3. Streamlined from present rule 6000.2400 SERVICE OF SUBPOENAS.

MINNESOTA RULE 6000.2500 REQUESTS FOR WRITTEN OR ORAL ARGUMENTS.

The word "briefs" is changed to "written arguments" throughout this rule and rule 6000.2600 to use more common language. Other amendments are

made for technical and stylistic improvement, as well as to remove ambiguity.

MINNESOTA RULE 6000.2600 FILING AND SERVICE OF WRITTEN ARGUMENTS.

The word "secretary" is changed to "executive director" to conform with amendments to Chapter 414. Other amendments are for stylistic and technical improvement.

MINNESOTA RULE 6000.3000 REQUEST FOR ADDITIONAL HEARING.

The word "PETITIONS" is changed to "REQUEST" and the word "FURTHER" is changed to "ADDITIONAL" in the title and in the entire rule. The deletion and amended language is made to simplify the rule. The word "request" instead of "petition" is made to avoid confusion with other "petitions". The words "merely cumulative" are exchanged for "incompetent, irrelevant, immaterial, cumulative, or repetitious" for more explicit reasons for additional hearings. The time a party has to make a response has been reduced from ten to seven days to make the process more responsive and less time consuming for all concerned (including small business). (This is an amendment to streamline the procedure that was also considered in addressing the impact on small business.)

MINNESOTA RULE 6000.3100 REQUEST FOR AMENDMENT.

The title and rule is amended to replace the word "PETITION" with "REQUEST". The words "REHEARING, VACATION, RECONSIDERATION, REARGUMENT" in the title and rule are deleted because they are confusing to the users and

because there are other alternatives already available in the rules and Chapter 414 to respond to a board order. The amendment streamlines the process without taking away an avenue of recourse for the parties. The amendment reducing the time from ten to seven days is consistent with the previous rule and will streamline the process. The remainder of the amendments are for technical or stylistic improvement. The last sentence is not new, it is former rule 6000.3200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION paraphrased and made more succinct.

MINNESOTA RULE 6000.3400 SCHEDULE OF FILING FEES

Subpart 2. The word "consolidation" is changed to "annexation" to reflect a change in the law.

Subpart 3. The title is changed to conform to the words used in the law. The last sentence is deleted because it is questionable whether the board can require cities to reimburse property owners. Further, other governmental units are not required to reimburse for other types of boundary adjustments.

Subpart 4. Amendments are for stylistic and technical improvement.

Subpart 5. Amendments are for stylistic and technical improvement. The word "petition" under the DEFINITIONS section includes "resolution and ordinances" and those words, therefore, are deleted because they are unnecessary. The phrase "before a file will be opened on the proceeding" is deleted because it is included in rule 6000.0800, part A.

Subpart 9. The sentence "Where the strict application of the filing fee requirements would unfairly impose a burden on the petitioner, the board in its discretion, may waive the filing fee." is added to eliminate an extra filing fee burden on petitioners. An example is where there is a fee paid for a particular proceeding that was contested and the Municipal Board has successfully encouraged the parties to get together to resolve their differences. The result is a refiling for substantially, if not exactly, the same property under another section of the law, which under strict interpretation of existing rules for filing fees would require an additional filing fee. The petitioner would in fact be paying two fees as the result of a cooperative effort by all parties and saving all parties and the state additional costs and time. The intent of this amendment is to support, not hinder cooperation of parties.

REPEALER.

MINNESOTA RULE 6000.0300 (PARTIES). This is now interwoven with rule 6000.0100, subpart 2 PARTIES.

MINNESOTA RULE 6000.1100 DOCKETS. This rule is unnecessary because Minnesota Data Practices Act (M.S. 15.1621) governs how copies of public documents can be obtained and the Minnesota Records Retention Schedule (M.S. 138.17) governs retention and disposal of public records.

MINNESOTA RULE 6000.1300 EXAMINATION OF WITNESSES is now paraphrased in rule 6000.1310 EXAMINATION OF WITNESSES.

MINNESOTA RULE 6000.1500 ORDER FOR PROCEDURE is now paraphrased in rule 6000.1510 ORDER OF PROCEDURE in a more concise manner.

MINNESOTA RULE 6000.1800 DOCUMENTARY EVIDENCE is unnecessary because rule 6000.1900 EVIDENCE IN A PROCEEDING adequately covers intent of former rule.

MINNESOTA RULE 6000.2000 OFFICIAL NOTICE is now paraphrased in a more concise way in rule 6000.1900, subpart 1 NOTICE OF CERTAIN FACTS.

MINNESOTA RULE 6000.2100 RECORD OF PROCEEDING is now contained in rule 6000.1900, subpart 2 RECORD OF PROCEEDING paraphrased.

MINNESOTA RULE 6000.2200 SUBPOENA FOR WITNESSES AND DOCUMENTARY EVIDENCE is now contained in rule 6000.2210, subpart 1 paraphrased.

MINNESOTA RULE 6000.2300 FEES OF WITNESSES is now paraphrased in rule 6000.2210, subpart 2.

MINNESOTA RULE 6000.2400 SERVICE OF SUBPOENAS is paraphrased in rule 6000.2210, subpart 3.

MINNESOTA RULE 6000.2700 RECORDING AND TRANSCRIBING ORAL ARGUMENT is now contained in rule 6000.1900, subpart 2 RECORD OF PROCEEDING.

MINNESOTA RULE 6000.2800 DECISION AND ORDER; FILING, CONTENT, SERVICE is repealed because it is unnecessary. The board must file decisions with all

parties required as under the uniform procedures section, Minnesota Statutes 414.09. Parties may request copies of any public documents under the Minnesota Data Practices Act making this specific rule unnecessary. Chapter 414 requires all orders of the board to be in writing with accompanying Findings of Fact.

MINNESOTA RULE 6000.2900 PROPOSAL FOR DECISION OR ORDER is repealed because: Chapter 414 now contains provisions for instances where a majority of the members have not heard or read the evidence; the Minnesota Data Practices Act allows parties to request copies of public documents and other options are available to the parties including requests for additional hearing (6000.3000) and requests for amendments (6000.3100) in addition to the appeal process under Chapter 414. This rule is therefore unnecessary and repealed to streamline the process and reduce costs.

MINNESOTA RULE 6000.3200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION is repealed because it is contained in a more succinct fashion - under rule 6000.3100 REQUEST FOR AMENDMENT, in the last sentence.

MINNESOTA RULE 6000.3300 SECOND PETITION UPON SAME GROUND. Second petition upon same ground is repealed because there must ultimately be an end to a proceeding. Other options are available in Chapter 414 and other rules.

MINNESOTA RULE 6000.3500 ORDERLY ANNEXATION is repealed because it is unnecessary with the amendments that have been made to Minnesota Statutes 414.0325 and other rules with the exception of the reporting requirements, current subpart 4, which requires "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." This is repealed because it is an undue burden on parties, it is costly, and parties have not been following this rule. It is not cost efficient for the agency to require them to do so. If there are problems with a joint agreement, one of the parties will seek to have it amended or bring it to the attention of the board.

Subpart 5 AMENDING THE JOINT AGREEMENT is repealed because it requires the board to only accept amendments after notice and hearing. This is another cost to the State of Minnesota as well as the parties. If an amendment is made to the joint agreement and signed by all parties, it is unnecessary for the board to hold a hearing. There have been no requests to do so.

In the Matter of the Proposed Adoption
of Rules of the Minnesota Municipal Board
Governing Boundary Adjustments and
Incorporation of Cities

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Ann L. Russell, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Ann L. Russell
Special Assistant Attorney General

Dated: March 28, 1985

Fox River Bond
25% Cotton

STATE OF MINNESOTA

MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed Adoption
of Rules of the Minnesota Municipal Board
Governing Boundary Adjustments and
Incorporation of Cities

CERTIFICATE

I hereby certify that no requests were made for notice of submission of the above rules to the Office of the Attorney General.

Starlene J. Guse

Starlene J. Guse

Patricia D. Lundy

Patricia D. Lundy
Assistant Director