

**JOINT PUBLIC HEARING
OF THE SPRING LAKE TOWNSHIP BOARD
AND THE
CITY OF PRIOR LAKE**

May 22, 2003 (7pm)
Prior Lake Fire Station No. 1

Call to Order and Pledge of Allegiance. Present were Township Board Members Eugene Berens, John Henschel and Steve Pierson, Mayor Haugen and City Councilmembers Blomberg, Petersen, Zieska and LeMair, City Manager Boyles, City Attorney Pace, Township Attorney Tiede, City Planning Coordinator Kansier, City Engineer McDermott, Township Clerk Mueller, Meeting Facilitator Fred Richards, and Recording Secretary Meyer.

Fred Richards (*Meeting Facilitator*): Identified his background as a former Mayor, Councilmember, and Chair of a Housing & Redevelopment Authority, and a neutral with respect to the issues to be discussed. Asked the elected officials to each introduce themselves. Proceeded to provide a brief overview of the issues, the process for the meeting tonight and some procedural requests. Commented that over the past several days, he has familiarized himself with the issues surrounding the proposed orderly annexation and complimented each of parties on their foresight, understanding, and thoroughness.

Boyles: Discussed the history of annexation and the rationale that has led to the current discussion of annexation, including the growth of Prior Lake and the Scott County area, the designation of the Urban Expansion Area, similar issues impacting other communities within Scott County, transportation issues that have been impacted by growth, and the reasons the original 1972 orderly annexation agreement is no longer effective. Commented that with these issues before them, the City Council and Township Board felt it important to develop a partnership to be proactive in addressing management of this type of growth through orderly annexation.

Pierson: Discussed the issues from the perspective of the Township, the input that has been received, and the specific changes from the initial proposal. Further discussed the current proposal and the additional provisions that the Township would negotiate to the orderly annexation area and elements of the draft agreement.

Kansier: Provided clarification to the most asked questions and related ordinances in connection with the agenda materials, including that existing uses would be allowed to continue indefinitely until such time as the property owner chose to develop, sell, or change uses. Operating farms or horse ranches would only be restricted if the used was stopped for a period of time, or significantly expanded. With regard to firearms, snowmobiles or hunting, these types of regulations are not included within the City zoning and subdivision code. Police regulations of this type would not be extended to the orderly annexation area until the area was actually annexed. Scott County police regulations would continue to apply. Upon annexation, the City does regulate uses such as snowmobiles, hunting and firearms. Further discussed the City's lot size requirements, which are similar to those of Scott County. Other factors limit development as well, such as the number of sewer and water connections units determined by the Metropolitan Council. Existing lots of record legally created are generally buildable. There are minimum sizes in the shoreland district. Also discussed how variances approved by the three-person board would be treated. Further discussed the similar uses permitted in the Industrial District. It appears that the existing uses in the Spring Lake Industrial park would also be permitted by the City's zoning ordinances. With respect to keeping existing wells, that would be regulated by the MN Dept. of Health. It is our understanding that wells in compliance could be kept to be used for landscape irrigation or filling of swimming pools.

Questions and Answers from Elected Officials: None at this time.

Public Comment

Todd Bodem (*17271 Kenyon Avenue, Suite 103, Lakeville - representing Tollefson Development*): Supported the annexation proposal and advised of their eagerness to cooperate with the City and Township.

Mark Roth (*1705 E. 165th Street (Autumn Acres)*): Opposed annexation and is disappointed with the 5 minute time limit. Submitted a list of questions to the Council that he believed residents affected by the annexation deserved answers to.

Discussed his primary issue regarding the properties scheduled for annexation not until 2024, particularly because they will be exempted from City taxes until that time. His particular area does not benefit from the tax phasing and is concerned with the cost of utilities, assessment for water and sewer, and City taxes. There should be equivalent consideration for areas like his. Submitted their list of questions for the record.

Jodi Langhorst (1985 – 165th Street East, Shakopee (Autumn Acres)): Opposed annexation for Autumn Acres and in general. Encouraged Board members to oppose annexation. Believed there are a lot of questions and there is no rush to make a decision. Her particular subdivision is new, and to bring in unneeded services would be unduly invasive. Believed that the Township adequately provides all of the services they need. Believed City taxes are too high and a lot of money is used to expand government in a time when the national economy is very slow. Concerned with her property in particular because it will likely need a lift station and there would be additional costs related. Did not believe everyone shares the City's 2020 Vision, and some would like to preserve the rural atmosphere offered by the Township.

Sandra Breggeman (1966 Shoreline Blvd, Shakopee): Agreed with the comments of Ms. Langhorst. Would like to see her rural atmosphere maintained. Opposed to annexation, and believed that the City only wants gain prestige by acquiring additional land.

Ed Theis (891 East 160th Street): Supported annexation, noting that he has 400 acres that he would like to have water and sewer services extended to. The sooner, the better.

Jim Lerschen (2771 South Shore Drive): Believed that many of his issues and questions are being answered tonight in the agenda materials. Believed they are very valuable. His area is not scheduled for annexation for 21 years. Understood that City codes would apply immediately, and believed that was unreasonable.

Kansier: Explained that as the agreement is currently drafted, only Building, Zoning and Subdivision Codes would be effective for those areas.

Petersen: Asked for clarification of the role of the three-person board.

Zieska: Asked for clarification if properties included in the 2024 annexation area, would come to the City for a building permit, even though there is a potential that it may never be annexed.

Kansier: Explained that the three-person board has applied the Scott County zoning ordinances. In this case, the three-person board would review any applications based upon the City's ordinances. Confirmed that, as written, the City would regulate all building activity despite when the property was scheduled for annexation.

Sylvia Mourning (2510 Spring Lake Road): Concerned with the expansion of County Road 12, the development of the park area, and the development of the Stemmer property near her home. Also questioned why the south edge of Spring Lake would be delayed to 2024.

Pierson: Explained that the area along the south edge of South Shore Drive was impacted by the extension agreement for sewer and water to the South Shore Drive project area. The agreement provided that the area along the south edge would remain in the Township until such time as the bonds are paid for the project. Further explained that an extension of the South Shore Drive is being considered in order to extend services to the Vergus area. That area is being stretched to 2024 in order that the Township can finance the project. If the Township does not do the project, the City would like to see that area annexed sooner.

Jerry Guderjan (17056 Maple Lane): Believed most of his issues have been addressed. Did not understand why annexation would take place at all. Asked what the City would give to residents for the increase in taxes.

Barbara Lerschen (2771 South Shore Drive): Her area is in the 2024 bracket. Believed annexation has always been an issue and nothing much has changed over the years. Familiar with the orderly annexation process and believed her major issues are with zoning and subdivision ordinances. Asked if a lot that did not meet existing City requirements would be grandfathered in and how a person can determine what is allowable and what isn't. Not in favor of the agreement for that reason. Concerned that

City regulations would be imposed in an area where the residents have no elected official. Recommended that the current regulations remain in place for the areas until the annexation date.

Barbara Kane Johnson (3450 180th Street East): Believed that annexation did not address the common good of the Spring Lake Township public. Disappointed with the annexation of property west of Marschall Road and thanked the Township for listening to our comments.

Ernie Peacock (17325 Panama Avenue): Concerned that the residents of Spring Lake Township do not have a vote on the issue of annexation. Believed a majority of the residents do not favor annexation. Asked the Township Board to support a majority vote of all residents.

Evelyn Kjos (17077 Mushtown Road): Believed because of the proximity of her property to the City, annexation is inevitable. She recently put in a new well and septic system. Very concerned with the overall costs, but specifically for those on fixed incomes. Asked about assessment deferral and deferral of connection charges.

Zieska: Explained that the City does have a deferral program for assessments. Advised that those persons with questions regarding those programs and the criteria for participation, contact City Engineer Susan McDermott.

Bill Tisdale (17131 Sunset Avenue): Believed most of his questions have been answered, but asked why annexation is necessary at all, and instead just get sewer and water. Also concerned with the allowable density in undeveloped areas.

Joe West (965 E. 160th Street, Shakopee): Opposed to annexation even though his neighbor is in favor. Believed annexation should take place on a case-by-case basis. Commented that the original orderly annexation agreement was initiated because of the pollution to the area lakes and the in need for sewer and water. Now it seems, associated with the City's 2020 Vision, the City seeks to be larger in order to accomplish providing further services to its residents. Commented that annexing larger tracts of land encourages leap-frog development. Believed annexation is a means for allowing cities to grow, but orderly annexation does not allow the people being annexed to have a voice.

Sean Condon (1750 165th Street E.): Agreed with the comments by Jodi Langhorst. Requested that Autumn Acres be moved to 2024 to correspond with the projected life expectancy of the water and sewer systems for the new development. Also concerned with the proposal for the development of the Stemmer Property and the expansion of County Road 12. Did not believe simply widening CR12 is sufficient to carry the additional traffic.

James Lally / Dave Brown (17351 Langford Blvd. - landowners in Spring Lake Township representing other landowners within the Township): Support orderly annexation and concur with the existing staging.

Jim Weninger (2591 Spring Lake Road): Advised that he has been a resident in Spring Lake Township for 57 years. Has seen a lot of development and watches the development move closer every year. Without this agreement, annexation happens piece meal, rather than planned for. The intent of the initial agreement was to lay a framework. He participated in the development of the agreement. Believed that annexation and the subsequent extension of water and sewer is the only thing that can happen to improve the pollution of our chain of lakes. Supported the proposed annexation as a systematic approach to controlling the growth that will come regardless of whether any of us want it. Did believe consistency in ordinances is imperative and that those items can be worked out in the details.

Dan Borchardt (986 170th Street): His property is not included in the orderly annexation area. Submitted his name as one of those included on a petition opposing annexation. Believed there was a lack of notification of the process, some never getting any written notification. Did not believe the City has done a good job in planning for industrial or commercial uses, and that is the rationale for wanting to acquire large, undeveloped tracts of land. Believed that piece meal annexation has taken place effectively.

Shilda Vafaei (17280 Panama Avenue): Asked if once they are annexed (proposed for 2004), when will the work be completed, and at what cost. Believes that due to a lack of this information, she is unable to make an informed decision whether or not to support the annexation proposal. Commented that an estimate of some sort would be helpful. Believed growth was inevitable, but agreed that maybe a Township –wide vote would be the most equitable. Also asked if annexation takes place,

would her property be subject to condemnation for road expansion, and would it be possible to reduce the speed of the roadway in that area.

Royce Nybert (1656 – 165th Street E., Shakopee): Concerned with development because Scott County and the City have not effectively planned for roadways, and other impacts of this type of growth. The planning needs to take place first. Believed that this plan will only lead to more and more costs and uncontrolled growth.

Joan Hennen (17220 Langford Ave.): Asked the City Council about the pressure the elected officials are receiving from developers.

Jack Dietor (2700 South Shore Drive): Commented that his cost for water & sewer hook-up has ultimately cost him about \$40,000 which is way above the \$12,000 estimate. Very concerned about costs.

Randy Langhorst (Autumn Acres): Commented that letting Autumn Acres develop was very poor planning by the County, and it is even worse planning to now annex the property. He can't afford to give up his well and septic.

Roth: Believed that the annexation effort is being pushed by the City's inability to expand its commercial tax base. This feels like a land grab. Prior Lake has failed to attract the big box development and seems bent on staying small and then increasing its tax base through annexation. Asked the Township Board to be extremely thoughtful with respect to the ultimate financial impact on Township residents.

The panel took a brief 15 minute break.

Comments by the Township Board and City Council

Henschel: Commented that with respect to a vote of the majority, the approach would not accomplish anything because the annexation statutes do not give it legal weight. The intent was to be proactive to solve a problem. Previous discussions involving annexation have led to the City and Township renegotiating the 1972 Orderly Annexation Agreement.

Resident: Comment was spoken from the audience, not picked up from the microphone and therefore outside of the recognized record.

Richards: Suggested that the elected folks have been very patient in listening to the comments expressed during the public hearing process. Now it is time to allow them an opportunity to respond.

Haugen: Added that this issue is not an easy one, but he has tremendous respect for the Township Board members sitting before us. A lot of thought, dialogue and give-and-take has taken place to come up with a resolution to a problem that affects all of us. It is not easy for your representatives. The charge of your elected officials is to make decisions for the majority that will benefit this community over time. It would be easier to let the issue drop, than it is to recognize the need to plan for the long-term. With urban sprawl, right or wrong, growth is happening. The challenge is to put something in place to proactively manage that growth.

Pierson: With respect to the newer septic systems and wells in the Autumn Acres acres, asked the City's position.

McDermott: Explained that one of the ways to extend utilities is by accepting a petition of property owners which would have to be signed by 35% of the up-front property owners. Traditionally, the City Council would like to see a number more like 50% of the affected property owners. Further advised that trunk mains are being installed along County Road 42 and services were not stubbed out for the homes on large lots and will not be requiring those homes to connect within a year as the ordinance states.

Pierson: Commented that the Township Board is concerned with road improvements for 165th and County Road 12 in connection with the Stemmer property. Believe that in the event 165th was connected to the Stemmer property, the 165th outlet on County Road 17 would be closed. The outlet would be to the north of 165th.

Berens: Asked if t with respect to the sewer on Autumn Acres, if the City would agree to a 60% petition.

Haugen: Suggested that the City staff and Board members further talk through what may be reasonable with respect to Autumn Acres, rather than making any permanent decision.

Zieska: Commented that the City is charged with providing for the public health, welfare and safety of its citizens. Believed that requiring a number as high as 60% on a given neighborhood is not appropriate because the decision should be made based upon the number of failing systems, which create a much higher potential for impacting public health.

Berens: With respect to sewer and water services on Vergus Avenue, the number is 74.

Haugen: Commented that one issue raised by a resident was if the Council or Township were experiencing growth from developers. He has never received any such contact.

The Council and Township members each echoed that they had received no contact from developers.

Blomberg: Asked for clarification if a variance has not been utilized, it will be valid for year following the effective date of the new orderly annexation area refers to the date the agreement is adopted, or the date the property is proposed for annexation.

Kansier: Explained that the City ordinances provide that once a variance is issues, a property owner has one year in which to use it. The provision referred to would mean the expiration for any variance granted would be one year from the date of adoption of the Orderly Annexation Agreement.

Blomberg: Further asked the process for postponing annexation if sewer and water service is not within 150 feet.

Haugen: Despite the City's intentions, explained that it is difficult for the City to guess when it will be able to provide extension of City sewer and water service to some areas. In those cases, annexation would not be required until sewer and water service is available.

Blomberg: With respect to the compliance evaluation of current septic systems, asked who provides those evaluations and who bares the cost.

Henschel: Advised that currently residents in the Township are responsible for that cost.

LeMair: Thanked each of the people who expressed their views tonight, and empathize with those wanting to maintain their rural lifestyle. In many cases, the concerns expressed here tonight involve what other property owners may do with their land. It isn't always the answer you may want to here, but it is a right and a reality that development will happen. Even though there may be dissatisfaction with the City's management and planning of growth in past, that is something we are trying to change. Advised that the intent of this annexation is to create a proactive plan to manage that growth. One of the pieces of that plan is the City's 2020 Vision and Strategic Plan. This agreement is yet another component.

Petersen: With respect to the management of roads in the City, commented that Prior Lake is challenged with usual circumstances with Highway 13 running crooked, and a chain of lakes in the middle of the City. This annexation plan is necessary in order to begin planning for the management of growth, including roadways. Further discussed Prior Lake's inability to develop commercially. Prior Lake is not optimally located with a traffic count like that generated at CR 42 and TH13. Believed that we all want the same things as far as commercial development, but you can't force them come here.

Zieska: Addressed the reference to City land grabs, commenting that Prior Lake has not made a habit of initiating annexation, except in the case of Ryan park. Property owners are the ones who have initiated annexation. Further discuss the financial position of the City, noting that despite cuts in state aid, Prior Lake has prepared for the loss, has underestimated its revenues from growth, its programming monies for infrastructure and capital improvements, and that as the annexation agreement is drafted, the City will end up subsidizing tax payments over the next four years, expanding its service area, and making cash payments to the Township.

Blomberg: Commented that she grew up in a rural area and empathized with the position of many of the Township residents. Advised that this action needs to happen for a number of reasons, including environmental impacts upon the lakes, haphazard division of land, and making decisions for the common good of the people. The means to accomplish this is proactive planning.

Henschel: With respect to the changes of the proposed agreement, concerned how residents would have representation among Prior Lake elected officials when regulated by the City's zoning and subdivision regulations. Believed some sort of mechanism needs to be set up.

Berens: Added that with those properties initially guiding by the City zoning and subdivision regulations, if they are ultimately not annexed as per the agreement, it doesn't make sense that those regulations are in affect.

Councilmembers agreed that some revision and additional thought would need to be given to address those concerns.

Zieska: Supported the provision that existing lots of record would be grandfathered into the City as a lot of record. Also noted that City ordinance would need to be reviewed in order to address the things permitted in a rural setting, such as snowmobiles and hunting.

Henschel: Commented that with respect to lot width (*no. 6*), any lots of record be grandfathered in for all areas, not just the 2024 area.

The Township Board and Councilmembers reviewed proposed revisions referenced in the Public Hearing materials as *Spring Lake Township Proposed Changes to the Prior Lake Annexation Proposal*

Pierson: With respect to Area & Year #1, believed the Autumn Acres should be considered further as to the year of annexation, but believed the proposal is otherwise reasonable.

Haugen: Agreed and Councilmembers supported as well.

Pierson: With respect to Area & Year #2, asked if the language is appropriate specifically to the 150 foot proximity.

Zieska: Believed 150 feet was appropriate, and consisted with existing City practice.

Haugen: Added that the annexation for the proposed areas in a given year, would come before the City Council at its first meeting in January of that year. The potential tax change would not take place until the following year.

Pierson: Asked, for example, if an area is scheduled for 2008 and sewer and water is 2000 feet away, but during that summer, water and sewer service is extended to within 150 feet, the area could still be annexed prior to August first. If the area was annexed, but sewer and water service was not available until the following year, then the tax impact would be even further out from the date of annexation.

Haugen: Confirmed.

Pierson: With respect to a sunset provision, would like to add that if an area isn't annexed because of the proximity issue, the City would have until 2024 to provide such service, or the annexation would be void and the property would become permanently part of the Township. The only exception would be the Vergus Avenue area scheduled for 2024.

Haugen: Suggested that the annexation agreement simply terminate 20 years after the bonding of the Vergus project.

Pierson: Agreed with the simpler language. Further commented on further reviewing, with respect to #3, the jurisdiction that will apply to the annexation area.

Haugen: Confirmed.

Pierson: Believed that #4 had been clarified, but that language should be added to the agreement. Asked the City's thoughts on #5 regarding a 3-year renewable extension for compliant septic systems.

Boyles: Asked that item nos. 5 and 10 be addressed together.

Zieska: Supported the idea for providing a deferral for hook-up charges for assessed properties that have compliant septic systems until such time as they hook-up, but that if the amount of the assessment is credited for those with compliant systems, it will fall to the other property owners in the area. The total amount for the project doesn't change, nor does the amount that the City pays. In essence, the other properties in the area will be subsidizing the project for those with compliant systems.

Pierson: Suggested revisiting that item with some additional thought. For #6 regarding Shoreland regulations, suggested that the County's land use regulations be used, rather than the more restriction regulations of the City for the 2024 areas, particularly Vergus Avenue.

Henschel: Did not believe that they could identify tonight all of the lots of record in the Township. All areas should be included.

Pierson: Added that in many cases, the County regulations are more restrictive. Suggested language that would adopt either the County or the City regulations, whichever is less restrictive.

Boyles: Noted that properties in the community must be treated similarly. The same standards must apply across the board. Secondly, in the 2024 area, the real limitation is the Met Council's regulation of the number of units. If Scott County zoning requirements are extended, the patchwork development continues.

Henschel: Noted that we are only talking about grandfathered lots, which he believed was not an issue from the start.

Boyles: Confirmed.

Pierson: Advised that we are talking about lot width in areas to be developed as well.

Henschel: Did not believe that would come into play in the Vergus area, because the lake side lots are lots of record.

Pierson: Volunteered to check with Lee Kopy, the architect on the project.

Boyles: Suggested that this item be set aside because of its significant issues for some additional scrutiny.

Pierson: Reviewed that items #1, #3, and #6 need further discussion. Went on to #7 regarding uses in the industrial park and asked if any further clarification was necessary. For #8, asked if there were any issues.

Boyles: Suggested that with respect to #8, this park be placed on the schedule to receive similar amenities for a neighborhood park in Prior Lake, including picnic shelter, play equipment and trails. The fishing pier is possible but dependent on DNR funding and not typical of a standard neighborhood park.

Zieska: Noted that there is potential that this area will never come into the park. However, the City in making a good faith effort, will bear the costs for these improvements.

Pierson: Believed the 2024 area will ultimately be annexed. Further discussed a phase-in of City property taxes for properties annexed in 2004-2007.

Haugen: Confirmed and Councilmembers concurred.

Boyles: Clarified that the tax phasing would be for existing parcels, and if the area was subdivided or accelerated in terms of annexation, the tiering would not apply.

Pierson: Confirmed. Continued that before any final agreement is adopted, the Township would like to hear from the County Commissioners on the issue of changing the area east of Vergus and north of 190th Street from the Urban Expansion Area to Rural Residential. Lastly, discussed the formula for reimbursement to the Township in connection with #12 of the agenda materials.

Boyles: Suggested using numbers rather than a formula from a financial planning perspective, and for the sake of simplicity.

Pierson: Commented that his preference would be to keep the formula to be calculated at the time of annexation to accommodate for any increases over the 11 year period.

Zieska: Did not have a problem in staying with the formula. Councilmembers concurred.

Pierson: No other issues.

Berens: Thanked Board member Pierson for all of his efforts during this process. Believes we are getting close to an agreement that will best address the needs of all involved.

Haugen: Thanked the citizens, Township, staff and Councilmembers for their support of the process. Long-term this may be one of the most beneficial things we do for our joint communities as a whole. Suggested a motion by the respective boards directing the subcommittee and counsels to prepare a final agreement for consideration based upon the details worked out tonight.

MOTION BY ZIESKA, SECOND BY BLOMBERG TO DIRECT STAFF TO WORK WITH THE ANNEXATION SUBCOMMITTEE TO RESOLVE THE FINAL DETAILS BASED UPON THE DISCUSSION TONIGHT AND DIRECT THE ATTORNEYS TO PREPARE AN AGREEMENT FOR PRESENTATION TO THE RESPECTIVE BOARDS IN THE NEXT 30 DAYS.
VOTE: Ayes by Haugen, Blomberg, Petersen, Zieska and LeMair, the motion carried.

MOTION BY HENSCHEL, SECOND BY BERENS, TO DIRECT BOARD MEMBER PIERSON TO WORK WITH THE CITY'S ANNEXATION SUBCOMMITTEE TO WORK OUT THE DETAILS BASED UPON THE DISCUSSION TONIGHT AND DIRECT PETER TIEDE TO PREPARE AN AGREEMENT IN COOPERATION WITH THE CITY ATTORNEY.
VOTE: Ayes by Berens, Henschel, and Pierson, the motion carried.

Richards: Thanked all of the participants for their cooperation through this process.

The meeting adjourned at 10:25pm.

Kelly Meyer, Recording Secretary