

January 30, 2002

Dawn Grossinger  
Monticello City Clerk  
Monticello City Hall  
505 Walnut Street, Suite #1  
Monticello, MN 55362-8831

Re: Docket Number: A-6563

City of Monticello  
M.S. 414.033, Subd. 2(1)  
Ordinance No. 365

Ms. Grossinger:

On January 18, 2002, the Director of the Office of Strategic and Long Range Planning approved the above-referenced ordinance in accordance with Minnesota Statute § 414.033, subd. 7. The annexation is final upon the date the ordinance is approved by the Director.

Prior to approving this ordinance annexation the Director considered the additional material submitted by both the City and Monticello Township, relating to the continued validity of a joint resolution designating for orderly annexation a certain unincorporated area that includes the property described in the subject ordinance (OA-532). While the Director does not agree with the City's position that the joint resolution is no longer effective, that determination does not preclude approval of the ordinance.

The submission of a joint resolution designating an area for orderly annexation confers jurisdiction over annexations in that area upon the Director. Minnesota Statute § 414.0325, subd. 1. However, the existence of such a joint resolution does not in itself preclude approval of annexations otherwise authorized by law. *See, e.g., LaCrescent Township v. City of LaCrescent*, 515 N.W.2d 608 (Minn. App. 1984). Nothing in Minnesota Statute § 414.0325 or 414.033 expressly prohibits ordinance annexation of property contained in an orderly annexation area.<sup>1</sup> Nor should such a prohibition be implied. Rather, it seems plain that Section 414.033 was intended to provide a means to annex certain properties, in addition to procedures

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<sup>1</sup>Minnesota Statute § 414.0325, subd. 2a which expressly provided for certain ordinance annexations in an orderly annexation area "notwithstanding the abutting requirements of subdivision 1," was repealed by Minnesota Laws 1997, ch. 202 art. 539. While that repeal removed authority for ordinance annexation of non-abutting property, it did not preclude ordinance annexations of abutting property, pursuant to Section 414.033, subd. 2.

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otherwise provided by statute. Consequently, inasmuch as the above-referenced ordinance appears to be in conformity with Section 414.033, subd. 2(1), it has been approved<sup>2</sup>.

The law requires that a copy of the annexation ordinance must be delivered immediately by the governing body of the municipality to the appropriate county auditor or auditors, and filed with the township. We recommend that you also file the annexation ordinance with the County Recorder. **This office will file a copy of the ordinance with the Secretary of State.** If you have population in the affected area, please contact the State Demographer's Office at (651) 296-9036 for forms.

If you have any questions, please contact this office.

Sincerely,

Christine M. Scotillo  
Executive Director  
Municipal Boundary Adjustments

CMS:sjh

c: The Honorable Mark Ourada  
The Honorable Mark Olson  
Wright County Auditor  
Monticello Township Clerk  
State Demographer's Office  
Secretary of State

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<sup>2</sup>In approving the ordinance, the Director expresses no opinion concerning the Township's claim that any annexation of property from the orderly annexation area, including an ordinance annexation, gives rise to City obligations to the Township under the joint resolution.