

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of the Petition of the City of Baxter
for the Annexation of Certain Land
pursuant to Minnesota Statutes 414.031

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

The above entitled matter came on for an evidentiary hearing before Administrative Law Judge Raymond R. Krause at 2:00 p.m. on August 18, 2008 at Baxter City Hall, 13190 Memorywood Drive, Baxter, Minnesota. The afternoon hearing was continued and reconvened at 6:30 p.m. on that day in the same location to provide an opportunity for public comment. The hearing ended and the record closed at the conclusion of the 6:30 p.m. hearing on August 18, 2008. The hearing was recorded digitally.

J. Brad Person, Baxter City Attorney, appeared on behalf of the Petitioner, City of Baxter ("Baxter" or "City"). Trevor Walter, Baxter Director of Public Works and William Deblon, Community Development Director, testified at the evidentiary hearing. Baxter Mayor Darrel Olson made a statement at the evening hearing.

STATEMENT OF ISSUE

The issue in this proceeding is whether the Petition for Annexation should be granted based on the factors set out in statute.¹ The ALJ finds that the Petition should be granted.

Based upon all of the testimony, exhibits and the record in the proceeding, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural History

1. On May 2, 2008, the City of Baxter filed a resolution of its City Council with the Chief Administrative Law Judge seeking the annexation of approximately 66.87 acres of property located in West Crow Wing Unorganized Territory pursuant to Minn. Stat. § 414.031, subd. 1(a)(1). The resolution, which was dated March 18, 2008, proposed for annexation the area described as follows:

¹ Minn. Stat. § 414.031, subd. 4.

Cheri Brooks
4237 Maryville Court
Brainerd, MN 56401:

That part of the Southwest Quarter of the Southwest Quarter (SW1/4-SW1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28), described as follows: Beginning at the Southwest corner of said Section 31; thence Easterly along the South line of said Section a distance of 1100 feet to the place of beginning; thence North 200 feet parallel to the West line of said Section; thence Easterly 200 feet parallel to the South line of said Section; thence South parallel to the West line of said Section to the South line of said Section; thence Westerly along said Section line to the place of beginning. Subject to mineral reservations of record;

Stephen and Julie Dabill
6646 Woida Road
Brainerd, MN 56401:

The West 200 feet of the South 544.50 feet of the East Half of the Southwest Quarter of the Southwest Quarter (E1/2-SW1/4-SW1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

Kip Dixon and Robert W. Dixon
7216 Woida Road
Brainerd, MN 56401:

The East 165 feet of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

Dorothy Dixon, Dennis Dixon and Sharon Petterson
7256 Woida Road
Brainerd, MN 56401:

The Southwest Quarter of the Southeast Quarter, Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28); EXCEPT the West Half of the East Half, ALSO EXCEPT the West Half of the Southwest Quarter of the Southeast Quarter, AND EXCEPT the East 165 feet of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter;

John Ferguson
13475 Kenwood Drive
Baxter, MN 56425:

The West 150 feet of the West Half of the Southeast Quarter of the Southwest Quarter (W1/2-SE1/4-SW1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

Bruce and Angela Kruchten
5163 Cottage Grove Terrace
Baxter, MN 56425:

The East Half of the Southwest Quarter of the Southwest Quarter (E1/2-SW1/4-SW1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28), except the West 200 feet of the South 544.50 feet of the East Half of the Southwest Quarter of the Southwest Quarter, and except the South 200 feet of the East 200 feet of the West 1300 feet of the Southwest Quarter of the Southwest Quarter;

Edward Meyer, Beverly Meyer and Ruby Meyer
7104 Woida Road
Brainerd, MN 56401:

The East Half of the West Half of the Southwest Quarter of the Southeast Quarter (E1/2-W1/2-SW1/4-SE1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

Darlene Schermann
7010 Woida Road
Baxter, MN 56425:

The East Half of the East Half of the East Half of the Southeast Quarter of the Southwest Quarter (E1/2-E1/2-E1/2-SE1/4-SW1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

AND

The West Half of the West Half of the Southwest Quarter of the Southeast Quarter (W1/2-W1/2-SW1/4-SE1/4), Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28);

Redman Inc.
PO Box 689

Nisswa, MN 56468

The West Half of the East Half of the Southwest Quarter of the Southeast Quarter (E1/2- W1/2-SW1/4-SE1/4) of Section Thirty-one (31), Township One Hundred Thirty-four (134), Range Twenty-eight (28).

2. On May 22, 2008, a Notice of Hearing was issued by the Office of Administrative Hearings and duly published by the *Brainerd Dispatch* for two successive weeks, on May 30, 2008 and June 6, 2008.

3. The hearing was opened on June 26, 2008 and was continued to August 18, 2008.

4. On July 8, 2008, a Notice of Reconvened Hearing was issued by the Office of Administrative Hearings and duly published by the *Brainerd Dispatch* for two successive weeks, on August 1, 2008 and August 8, 2008.

5. The Reconvened Hearing was conducted on August 18, 2008 and the hearing record closed on August 18, 2008.

Population

6. According to a 2006 census, the population of Baxter in 2006 was over 7,500.²

7. Baxter's population was approximately 1,000 in 1960. Baxter is growing and is expected to continue to grow, possibly to 12,000 by the year 2030.³

8. There are eight homes and one business in the subject area.⁴

Physical Features Generally

9. Baxter is located in central Minnesota in what is known as the central lakes region of the state. The City is approximately 20.3 square miles (12,988 acres). Approximately one-fifth of this area (2,530 acres) is water or wetlands.⁵

10. Baxter has abundant groundwater resources and a high groundwater table, except in the area near the Mississippi River. Rainfall in Baxter soaks rapidly through the coarse sandy soils and from the lakes and wetlands that are directly connected to the groundwater table.⁶

11. Almost all of Baxter is flat to gently rolling sandy soil. Because of the makeup of the soil, fertilizers and pesticides from improper lawn management practices and malfunctioning sewer systems can easily pollute the groundwater.⁷

12. Highway 371 bypasses downtown Brainerd and skirts the eastern boundary of Baxter. This bypass has transformed Baxter to being the retail, housing and resort gateway to the lakes region of Central Minnesota with major intersections created between highway 371 and County Roads 48, 210 and 77; and Excelsior Road.⁸

13. The subject area consists of two rectangles totaling 66 acres.⁹ The eastern portion is surrounded on all four sides by City property. The western portion is bounded on three and a half sides by City property.¹⁰

² Hearing Exhibit 12 (Ex. 12), City of Baxter, Comprehensive Plan 2007, page 2.

³ *Id.*

⁴ Ex. 13, Proposed Tax Comparisons for Affected Parcels.

⁵ Ex. 12, page 4.

⁶ *Id.*

⁷ *Id.*

⁸ Ex. 12, pages 4-5.

⁹ Factual Information report supplied by Baxter City Officials to the Municipal Boundary Adjustments Office, dated July 22, 2008, page 1.

¹⁰ Ex. 1; Testimony of Trevor Walter.

14. The southern boundary of the subject area is Woida Road, a major east-west thoroughfare that, at one time, was the northern boundary of Baxter.¹¹

Physical Development, Planning and Intended Uses for Subject Area

15. Although Woida Road was the original northern boundary of Baxter, that boundary has moved north over the years. The current northern boundary of the City is near County Road 77 (Pine Beach Road) which is approximately four miles north of Woida Road.¹²

16. The City of Baxter's 2007 Comprehensive Plan includes plans to provide additional residential, commercial and industrial development in the northern part of the City.¹³

Transportation

17. Traffic at the intersection of Woida Road and Highway 371 is currently managed with a traffic light.¹⁴

18. The Minnesota Department of Transportation has an access management plan for Highway 371 from Woida Road to the City limits in Nisswa which includes working with local governments to close accesses and build frontage and backage roads.¹⁵

19. Baxter's 2007 Comprehensive Plan recommends promoting policies and projects that encourage local traffic to stay off high-speed roads, including use, when possible, of frontage and backage roads.¹⁶

20. Some proposed backage roads will pass through the subject area.¹⁷

21. Woida Road was built before 1985 and is in poor condition. It has lots of cracks and the old bituminous pavement is starting to break up badly, providing a poor ride condition. In addition, Woida Road is too narrow for the amount of traffic it carries.¹⁸

22. The north 33 feet of Woida Road is on Baxter side of the municipal boundary and has already been at least 50% annexed, the County turned over jurisdiction of the road to Baxter about twelve years ago. For the past six years, Baxter

¹¹ *Id.*

¹² Hearing Ex. 3; Test. of T. Walter.

¹³ Hearing Ex. 12, page 6.

¹⁴ Test. of T. Walter.

¹⁵ Test. of T. Walter.

¹⁶ Hearing Ex. 12, page 24.

¹⁷ Hearing Ex. 2; Test. of T. Walter.

¹⁸ Test. of T. Walter.

has provided all of the maintenance for Woida Road from Highway 371 to Englewood Road.¹⁹

23. The City is permitted to designate 20% of its roads as “state aid collector roads.” Roads with this designation receive funding from the state for construction and maintenance. Because approximately 33 feet on the north side of Woida Road is not formally a part of the City of Baxter, the City only gets 50 percent of the state funding it would otherwise get for Woida Road. Baxter has been losing 50 percent of its state construction and maintenance funding for Woida Road for ten years as a result of the fact that the north 33 feet of the road are outside the City limits.²⁰

24. If the annexation is successful, Baxter will receive significantly more funding from the state for construction and maintenance of Woida Road, including funds for badly needed renovation of the road.²¹

Land Use Controls, Planning and Comprehensive Plans

25. The City land surrounding the eastern part of the subject area is zoned C2, which is the highest density commercial zoning. The City land surrounding the western part of the subject area is zoned R2 and R3, which are medium density and multiple family zoning. South of Woida Road, the City land is zoned R1, which is low-density residential.²²

26. The County zoning for the eastern parcel of the subject area is for large, single-family residential and agricultural use; the zoning for the western parcel is for rural residential, agricultural and residential use.²³

27. As part of its 2008 Alternative Urban Areawide Review (AUAR), the City of Baxter proposed future land use for the subject area. The AUAR shows proposed zoning from east to west on and around the subject area, of C2 (high use commercial) followed by OS (office service), then R2/3 (medium/high density residential and R1/2 (low/medium density residential). This gradual “stepped change” approach to zoning is preferred to minimize the kinds of conflicts that arise when, for example, heavy commercial zoning is directly next to single-family homes.²⁴

28. If the County maintains zoning authority over the subject area, it poses a problem of inconsistency and a lack of a cohesive plan. These kinds of zoning conflicts can create islands within the City whose uses are inconsistent with the uses surrounding them. Proper zoning and effective enforcement require the subject area to be brought within the City’s zoning authority.²⁵

¹⁹ *Id.*

²⁰ Test. of T. Walter.

²¹ *Id.*

²² Ex. 6; Testimony of William Deblon.

²³ Ex. 7; Test. of W. Deblon.

²⁴ Ex. 8, Test. of W. Deblon.

²⁵ Test. of W. Deblon.

Government Services

29. Both Baxter and the subject area contract with the City of Brainerd for fire protection, so they currently receive the same fire services. Baxter is hoping to develop its own fire department or substation and has purchased land, about ½ mile south of Woida Road, to build a fire station or substation. If Baxter does build a fire substation or station and the subject area were annexed, it would receive fire services from that station. Otherwise, as part of the City, it will receive services from Brainerd, which currently provides fire services to the subject area.²⁶

30. The subject area is currently served by the Crow Wing County sheriff's department. Baxter has its own police department, which would serve the subject area if it were annexed.²⁷

31. There has been a water main on Woida Road since 1998. Households south of Woida Road have been receiving water through that main since it was built. Residents of subject area do not receive water from the City, but could if the subject area were annexed. These residents were told about the deferred connection charge for water in 1998 at the time the water main was put in.²⁸

32. Baxter is planning to add water mains between Englewood Road and Highway 371 to create a "water loop" which would run on the northern edge of the western parcel of the subject area. This "water loop" would generate better water volume and water pressure, which is especially critical for fire fighting.²⁹

33. There are no sewer lines currently running along Woida Road or elsewhere in the subject area. Currently the property owners in the subject area rely on septic systems. Sewer mains proposed to be built along Woida Road would have to run down the center of the road and that would require tearing up the road completely. Because the road is currently in need of redoing, this would be the sensible and cost-effective time to install sewer mains in Woida Road.³⁰

34. If the parcels on the subject area are annexed, they could be charged an assessment for connecting to the new sewer lines. If the area is not annexed the City would have to carry the cost until there could be a future assessment for a future connection charge to the City sewer. Deferring the assessment would produce significant additional costs for the City and would make it less likely that the City could afford to add the sewer main at this time.³¹

²⁶ Test. of T. Walter.

²⁷ Test. of T. Walter.

²⁸ Test. of T. Walter; Ex. 3.

²⁹ Test. of T. Walter; Ex. 4.

³⁰ Test. of T. Walter; Ex. 5.

³¹ Test. of T. Walter.

35. The subject area and the City are already part of the same school district, District 181, so annexation will not have an impact on school attendance or enrollment.³²

Fiscal Impact

36. If the subject area is annexed, the significance of the tax increase on each parcel within the subject area would vary from about 33% to 80%. The average increase would be approximately 57%.³³

Adequacy of Town Government to Deliver Services

37. The City of Baxter has a comprehensive plan which was updated in 2005 and again in 2007.³⁴

38. Baxter's first comprehensive plan was created in 1973.³⁵

39. The comprehensive plans have been developed over time with significant community and leadership input, include public hearings and opportunities for public comment.³⁶

40. Baxter completed an Alternative Urban Areawide Review (AUAR) process for North Baxter, an area including the subject area. An AUAR is an alternative form of environmental review that substitutes for either an Environmental Assessment Worksheet (EAW) or an Environmental Impact State (EIS). The AUAR was completed with the cooperation of Crow Wing County.³⁷

41. Part of the assumption underlying the annexation process, and agreed to by the City and the County, was that the entire AUAR area would be annexed into the City in the future, even though the City and County have no orderly annexation agreements.³⁸

42. The City of Baxter plans to allow the property owners in the subject area to continue to use their private wells and septic systems until water and sewer are extended past the subject area.³⁹

43. The City has specific plans to extend both water and sewage systems past the subject area in the near future.⁴⁰

³² Test. of T. Walter.

³³ Ex. 13; test. of T. Walter.

³⁴ Ex. 12, page 1.

³⁵ *Id.*

³⁶ Ex. 12, test. of W. Deblon.

³⁷ Ex. 9 and Ex. 11, page 2.

³⁸ Ex. 11, page 3.

³⁹ Test. of T. Walter; Factual Information report (Factual Information report) supplied by Baxter City Officials to the Municipal Boundary Adjustments Office, dated July 22, 2008, page 5.

⁴⁰ Test. of T. Walter; Factual Information Report, page 4.

44. The City also plans to provide fire protection, law enforcement, street improvements, street maintenance, administrative, recreational and building code services to the subject area.⁴¹

45. There is no existing town government that can provide these services. Crow Wing County has no plans to provide these services to the subject area.

Previous Annexation Agreements and Orders

46. The City presented no evidence of previous annexation agreements and orders.

Environmental Problems

47. There are two areas of wetlands on the eastern portion of the subject area, and one small area in the western portion. The wetlands in the northeast corner of the subject area are a Department of Natural Resources protected area. City sewer connections would better protect the wetlands on the subject area than do the current septic systems used on the subject area.⁴²

Plans for Providing Services within Reasonable Time after Annexation

48. Because the subject area is almost entirely surrounded by the City and the City already provides many services, the subject area would have immediate access to City services.

49. Extending water service into the subject area would be a fairly simple matter of stubbing curb stops to the north side of Woida Road to extend service from the water line that is already in place on Woida Road.⁴³

50. Sewer service can be extended into the subject area once a sewer main is constructed on Woida Road. The City is prepared to do that soon in connection with the major repair it plans to do of Woida Road once this annexation is accomplished.⁴⁴

Whether Services are Best Provided through Petition or Alternative

51. Baxter and Crow Wing County have cooperated in planning for the area that includes the subject area and agreed that this annexation would be part of the development of that area.

52. Although there is no orderly annexation agreement, Crow Wing County did not object to the petition for annexation.

⁴¹ Factual Information Report, page 4.

⁴² Test. of T. Walter; Ex. 5.

⁴³ Test. of T. Walter, Ex. 4.

⁴⁴ Test. of T. Walter.

53. The residents of the subject area did not participate in the public hearing or otherwise comment on the petition for annexation.

54. Special assessments for water and sewage services in the subject area will assist the City in being able to finance development that will benefit not only the subject area but the City as a whole.⁴⁵

55. Bringing the subject area into the City's tax structure will contribute to the City's budget for its parks and trails and other services, many of which are already being used by the residents of the subject area.⁴⁶

56. A single zoning authority will promote better planning for the area including the subject area.⁴⁷

Information Gained Through Tour

57. The subject area is less than one half mile from (and in sight of) significant commercial development at the intersection of Highway 371 and Woida Road.

58. Commercial development appears to be continuing to grow nearer to the subject area on Woida Road.

59. Traffic congestion prevents easy through traffic to and from other residential areas in the vicinity. Additional frontage and backage roads would be a significant relief to the current congestion.

CONCLUSIONS

1. The Administrative Law Judge has jurisdiction in this matter through the MBA under Minn. Stat. §§ 414.09 and 414.031.

2. The proper notice of the hearing in this matter has been given.

3. The subject area described in Petition A-7626 is about to become urban or suburban in character.

4. Annexation of the subject area by the City of Baxter is in the best interests of the subject area.

5. Annexation by the City of Baxter is not required to protect the public health, safety, and welfare.

⁴⁵ Test. of T. Walter; Ex. 4 and 5.

⁴⁶ Test. of T. Walter.

⁴⁷ Test. of W. Deblon.

ORDER

1. IT IS HEREBY ORDERED that the Petition for Annexation be GRANTED.

Dated: September 17, 2008



RAYMOND R. KRAUSE
Chief Administrative Law Judge

NOTICE

This is the final administrative decision in this case under Minn. Stat. §§ 414.031, 414.09. Any person aggrieved by this Order may appeal to Crow Wing County District Court by filing an Application for Review with the Court Administrator within 30 days of the date of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions of Law and Order within 7 days from the date of the mailing of the Order.⁴⁸ However, no request for amendment shall extend the time of appeal from these Findings of Fact, Conclusions of Law, and Order.

MEMORANDUM

This is a petition for annexation of an unorganized territory in Crow Wing County into the City of Baxter. The Administrative Law Judge grants the petition because annexation recognizes the growing urban character of this area; and because it is in the best interest of the subject area.

Analysis of Statutory Factors

Annexation of township property by a city is governed by Minn. Stat. § 414.031. In arriving at a determination in such a case, sixteen factors are to be considered. The following discussion relates these factors to the evidence in this hearing record.

⁴⁸ Minn. Stat. § 414.07, subd. 2.

A. Present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government.

The population of Baxter is over 7,500. The City has been growing for many years and is projected to increase to a population as large as 12,000 by 2030. Construction of the Highway 371 bypass has brought not only traffic, but a leading role in retail, housing and resort amenities to Baxter, making the growth projections credible.

B. Quantity of land within the subject area and adjacent units of local government; and natural terrain.

The petition delineates a subject area of 66 acres, almost entirely surrounded by City land. The land within the subject area, like the land surrounding it, is flat to gently rolling with sandy soil. Some of the land is suitable for residential and commercial building; however, there are significant portions of the larger area containing wetlands. The water table is high, and, combined with the sandy soil, the risk of groundwater contamination is noteworthy.

C. Degree of continuity of the boundaries between the annexing municipality and the subject area.

The subject area is contiguous with, and almost completely surrounded by, the City.

D. Present pattern of physical development, planning, and intended land uses in the subject area.

The City is developing and growing in a manner that attempts to incorporate values of sustainability, open space and economic development. For example, the plan to build frontage and backage roads and to limit access to Highway 371 is meant to encourage an environment that is friendly to pedestrians and bicyclists as well as to making the highway an efficient bypass. Unless the subject area is annexed, the City will face limitations in developing Woida Road and other needed frontage and backage roads to support Highway 371 as a limited access road.

In addition, the City's development requires more sewer and water lines, some of which will cross land within the area of the subject area. The City is planning for growth based on stepped zoning which will permit land use to change gradually over a distance, enhancing compatibility of neighboring uses.

E. The present transportation network and potential transportation issues.

Highway 371 is a major arterial route in the area. To best utilize the highway and still maintain the character of the City, it is important to both limit access in the form of intersections and build supporting arteries which are more accessible. This will require routing some roads through the subject area. Woida Road is an increasingly important

road and is in fairly pressing need of renovation. State funding to support this construction would be significantly increased with the annexation of the subject area. In addition, the reconstruction of Woida Road would provide a perfect opportunity for addition of needed sewer lines in that corridor.

F. Land use controls and planning presently being utilized in the annexing municipality.

Baxter has a history of utilizing a Comprehensive Plan and continues to do so. In addition, the City has worked with Crow Wing County on an AUAR to help insure that planning for the subject area and the surrounding area to the north of the subject area takes into account a variety of environmental and related concerns. Baxter has provided for appropriate public input through public hearings in its planning processes and has at least the quiet acquiescence, if not the open support, of the County and the residents of the subject area. It is clear that the annexation process is an important step in a larger plan for Baxter's development.

G. The impact of the proposed annexation on the delivery of government services.

The proposed annexation is likely to have a positive impact on the delivery of government services. Neither the population nor the area of the subject area is large enough to drain already-existing resources. Annexation will make it more feasible to expand water and sewer services; and will ease the City's financial burden in renovating Woida Road.

H. The implementation of previous annexation orders.

There are no other previous annexation orders that impact this matter.

I. Existing or potential environmental problems.

The environmental issue of most concern is potential groundwater contamination in Baxter and the surrounding areas. Between the numerous lake and wetlands, the high water table and the sandy soil, the lakes are at risk from groundwater contaminants. An up-to-date municipal sewage system which eliminates the need for private septic systems is one good method of safeguarding the groundwater in the area.

J. Plans and programs by the annexing municipality for providing needed and enhanced governmental services to the subject area.

The subject area will receive both water and sewer service if the annexation occurs.

K. Analysis of the fiscal impact.

Annexation will have a fairly significant fiscal impact on the residents of the subject area because area taxes will increase, in the most costly case, about \$618,

utilizing 2008 values. In addition, there will be assessments for water and sewer connections. These residents have had the opportunity to avail themselves of many City resources such as parks, libraries and local transportation planning over the years without paying for them. The fiscal impact on the City will be positive, both as a result of increased taxes and assessments; and the increased state payments for the maintenance and construction on Woida Road.

L. Effect on School District

Both the subject area and Baxter are in the same school district. No impact on the district is anticipated due to annexation.

M. Adequacy of town government to deliver services to the subject area.

The City is well equipped to deliver services to the subject area. Connection of water lines to the nearby water main is fairly simply accomplished; and annexation will make installation of a nearby sewer main affordable for the City. While the sewer in particular will take some time, the City is enthusiastic and ready to proceed.

N. Analysis of whether necessary government services can best be provided through the proposed action or another type of boundary adjustment.

The City and Crow Wing County chose not to enter into an orderly annexation agreement in this case. Similarly, although the City typically prefers to annex property through a petition of the property owners, the residents apparently chose not to file their own petition in this case. Because neither Crow Wing County nor the residents have opposed this petition, the proposed action can best achieve the goals for the subject area.

O. If only a part of a township is annexed, the ability of the remainder to continue or the feasibility of it being incorporated or annexed to a different municipality.

The subject area is not part of an organized township. Annexation of the area into the City will not have any impact on the functioning of Crow Wing County.

P. Information received by Administrative Law Judge from tour.

A brief tour of the subject area is sufficient to reinforce the rationale for annexation. The subject area is bordered by Baxter on almost all sides. Commercial development is creeping toward the subject area. Big box retailers, fast food restaurants and gas stations are within walking distance. The area has already become urban in nature and the traffic issues require that coordinated planning be done, as Baxter is attempting to do. Furthermore, Woida Road is in poor shape and the additional state road repair funding that would come from annexation would be of benefit to all.

Annexation Standard

Based upon an analysis of the factors, Minn. Stat. § 414.031 allows annexation upon a finding;

That the subject area is now, or is about to become, urban or suburban in character;

That municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

That annexation would be in the best interest of the subject area.

The subject area meets the first and third of these criteria. The public health reasons which would support annexation – better ground water protection due to more comprehensive sewer systems; and better water pressure due to construction of a water loop – are certainly important goals. There was no evidence that annexation is required to achieve these goals, so the Administrative Law Judge finds that that standard is not met.

The subject area has become urban in character. As the City grows all around it, the subject area will be surrounded by increasing residential population, commercial activity and traffic. The subject area is nearly completely surrounded by a part of the City in which growth is planned. There is no buffer zone between the City and the subject area. All of the evidence points to continued growth in the City. To the extent that the subject area has maintained a non-urban character up to this point, that is not likely to last long.

Finally, the subject area would be better served if it shared in the City's water and sewer facilities; and if it were more fully integrated into the life of the City. To permit residents of the subject area to continue to use City amenities without contributing financially to them; and to hamper development by maintaining an artificial separation between the City and the subject area, will foster division and resentment that will benefit neither the residents of the subject area nor the City itself.

Conclusion

Baxter has clearly engaged in long-term planning for its growth and development. It has included community members and the larger Crow Wing County perspective. The subject area is a natural part of the City of Baxter and the annexation should go forward to reflect the reality of this connection and to permit what appears to be a well-conceived process to move forward.

R. R. K.

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Petition of the City of Baxter for the Annexation of Certain Land pursuant to Minnesota Statutes 414.031	OAH Docket No.: 2-0330-19762-BA
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Denise Collins, certifies that on the 17th day of September, 2008, she served a true and correct copy of the attached **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** by personally handing to and leaving with Star Holman on behalf of Christine Scotillo at 600 North Robert Street, St. Paul, Minnesota.

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MN 55164-0620

CERTIFICATE OF SERVICE

In the Matter of the Petition of the City of Baxter for the Annexation of Certain Land pursuant to Minnesota Statutes 414.031	OAH Docket No.: 2-0330-19762-BA
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Denise Collins, certifies that on the 17th day of September, 2008, she served a true and correct copy of the attached **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** by placing it in the United States mail with postage prepaid, addressed to the following individuals:

J. Brad Person
Breen & Person, Ltd.
P.O. Box 472
Brainerd, MN 56401

The Honorable Darrel Olson
Mayor of the City of Baxter
Baxter City Hall
P.O. Box 2626
Baxter, MN 56425-2626

Beva Olson
Baxter City Clerk
Baxter City Hall
P.O. Box 2626
Baxter, MN 56425-2626