

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Annexation of Certain
Real Property to the City of Lindstrom
from Chisago Lake Township
(MBAU A-8100)

**ORDER DISMISSING
NOTICE OF INTENT TO ANNEX**

This matter came before Chief Administrative Law Judge Tammy L. Pust upon the Notice of Intent to Annex filed by the City of Lindstrom pursuant to Minn. Stat. § 414.033, subd. 3 (2016).

Amy Schutt, Campbell Knutson, P.A., appears on behalf of the Petitioner City of Lindstrom (City). No appearance has been made by the Chisago Lake Town Board (Township).

Based upon a review of the file and proceeding herein, the Chief Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 20, 2017, a Notice of Intent to Annex (Notice of Intent) was received by the Office of Administrative Hearings from the City pursuant to Minn. Stat. § 414.033, subd. 3 (2016).
2. The Notice of Intent was served upon the Township on November 17, 2017.¹
3. In this proceeding, the City seeks to annex 17 parcels of land, totaling approximately 12.3 acres, to the City from the Township.
4. Minn. Stat. § 414.033, subd. 3, states in part:

If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality and if the area to be annexed is 40 acres or less, the municipality shall serve notice of intent to annex upon the town board and the chief administrative law judge, unless the area is appropriate for annexation by ordinance under subdivision 2, clause (3). The town board shall have 90 days from the date of service to serve

¹ Notice of Intent to Annex at 4 (Nov. 17, 2017).

objections with the chief administrative law judge. If no objections are forthcoming within the said 90-day period, such land may be annexed by ordinance. If objections are filed with the chief administrative law judge, the chief administrative law judge shall conduct hearings and issue an order as in the case of annexations under section 414.031, subdivisions 3 and 4.

5. As shown on the maps attached to the Notice of Intent, the 17 parcels described are not all contiguous to each other:

- a. Parcels 02-00067-00, 02-01785-01, 02-01785-02, and 02-00063-10 are contiguous to each other;
- b. Parcel 02-00092-00 consists of two non-contiguous parcels;
- c. Parcels 02-01232-00 and 02-01231-00 are contiguous to each other;
- d. Parcels 02-01225-00, 02-01224-00, and 02-01221-00 are contiguous to each other; and
- e. Parcels 02-00085-00, 02-01236-00, 02-01229-00, 02-01394-00, 02-01403-00, 02-01411-00, 02-01413-00 are not contiguous to any other parcel described in the Notice of Intent.

6. Review of the maps submitted with the Notice of Intent indicates that not all of the parcels or groups of contiguous parcels are 60% or more bordered by the City as required by Minn. Stat. § 414.033, subd. 3.

Based upon these Findings of Fact, the Chief Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Chief Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. §§ 414.01, .033, .12 (2016).

2. Minn. Stat. § 414.033, subd. 3, requires that the perimeter of the area to be annexed is 60% or more bordered by the municipality.

3. Not all of the individual or groups of parcels are 60% or more bordered by the municipality.

Based upon these Conclusions of Law, the Chief Administrative Law Judge makes the following:

ORDER

1. The Notice of Intent to Annex filed with the Office of Administrative Hearings is **DISMISSED**.

Dated: January 9, 2018



TAMMY L. PUST
Chief Administrative Law Judge

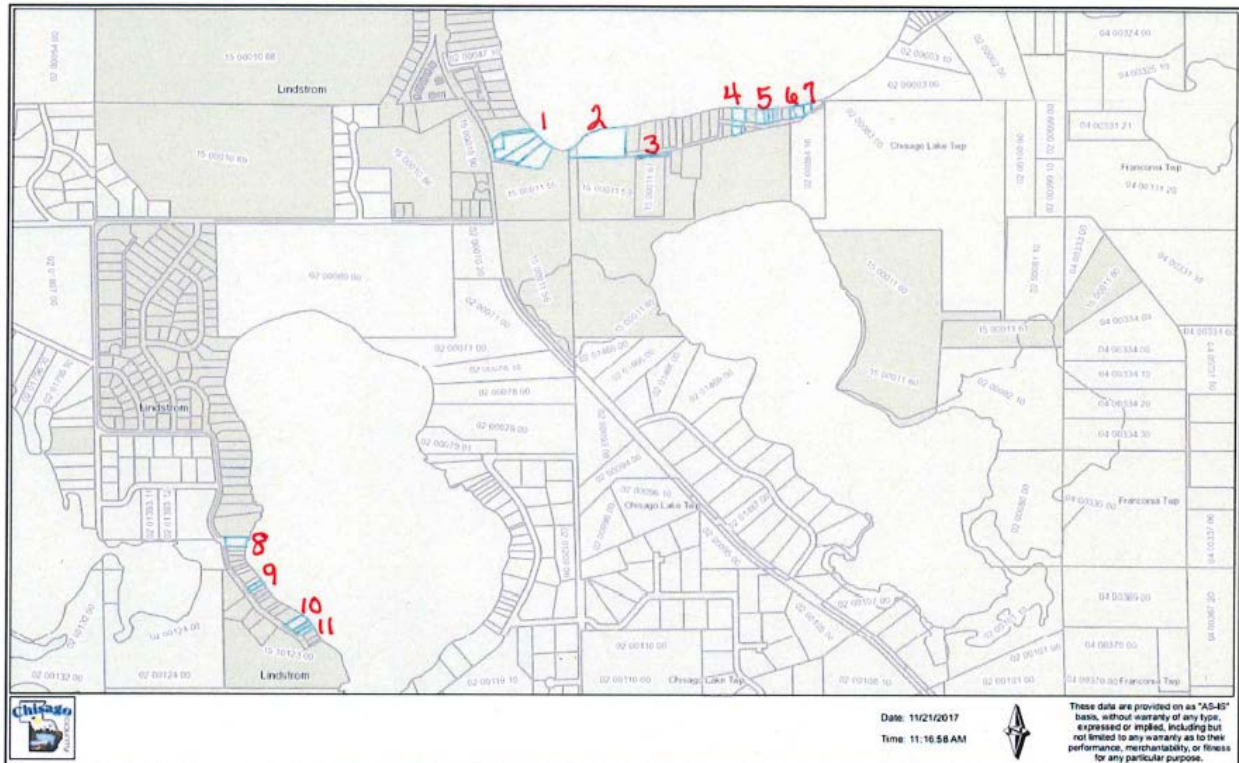
NOTICE

This Order is the final administrative order in this case under Minn. Stat. § 414.033. Pursuant to Minn. Stat. § 414.07, subd. 2 (2016), any person aggrieved by this Order may appeal to Chisago County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2017). A request for amendment shall not extend the time of appeal from this Order.

MEMORANDUM

In this matter, the City seeks to annex 17 separate parcels of property located on the shores of two different lakes within the City's boundaries. As illustrated below, the 17 properties do not make up a contiguous area. Some of the parcels are contiguous to each other; others are not.



The City is clearly aware of this fact. Nevertheless, it has filed this proceeding pursuant to Minn. Stat. § 414.033, subd. 3, which allows a municipality to annex property “[i]f the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality.”

The City's attempt fails on two grounds. First, the identified 17 properties do not constitute an “area.” At best, and as numbered in red above, the properties constitute 11 “areas,” defining that term to mean an identified portion of property to be annexed that is surrounded by other property within the City's current boundaries that is not intended to be annexed. While the City may have the authority to bring 11 different actions to annex each of these areas, it has not yet attempted to do so.

If it chooses to attempt such, the City would need to address the second ground upon which the current proceeding fails: it does not propose annexation of an area that is “60 percent or more bordered by the municipality” as Minn. Stat. § 414.033, subd. 3 requires. To meet this statutory criteria, the City must present record evidence of the measured boundaries of each “area” and establish that each is bordered by the

municipality in an amount of 60 percent or more. The City has not attempted to do so in this proceeding.

T.L.P.