

OA-1042-2 Belle Plaine
City Resolution No. 04-175
Town Resolution Signed 12-7-04

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF BELLE)
PLAINE AND THE TOWN OF BELLE PLAINE) ORDER
PURSUANT TO MINNESOTA STATUTES 414)

WHEREAS, a joint resolution for orderly annexation was adopted by the City of Belle Plaine and the Town of Belle Plaine; and

WHEREAS, a resolution was received from the City of Belle Plaine and the Town of Belle Plaine indicating their desire that certain property be annexed to the City of Belle Plaine pursuant to M.S. 414.0325;

WHEREAS, M.S. 414.0325 states that in certain circumstances the Director of Strategic and Long Range Planning may review and comment, but shall within 30 days order the annexation of land pursuant to said subdivisions; and

WHEREAS, Reorganization Order No. 192, effective March 8, 2005, has transferred the duties of the Director to the Chief Administrative Law Judge; and

WHEREAS, on March 10, 2005, the Chief Administrative Law Judge has reviewed and accepted the resolution for orderly annexation;

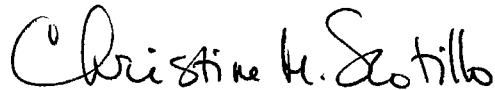
IT IS HEREBY ORDERED: That the following described property is hereby annexed in accordance with the terms of the joint resolution to the City of Belle Plaine, Minnesota, the same

as if it had originally been made a part thereof:

The Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section 5, Township 113, Range 24, Scott County, Minnesota, EXCEPTING therefrom the following: commencing at a point 208 feet East and 33 feet South of the Northwest corner of the Northwest Quarter of the Southwest Quarter; thence East along the south right of way line of the County Road a distance of 50 feet; thence South a distance of 30 feet; thence West a distance of 50 feet; thence North a distance of 30 feet to the point of beginning.

Dated this 10th day of March, 2005.

For the Chief Administrative Law Judge
658 Cedar Street, Room 300
St. Paul, Minnesota 55155

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive style with a large initial "C" and a stylized "S".

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1042-2, the Chief Administrative Law Judge finds and makes the following comment:

The authority to impose the type of charge identified in Paragraph No. 6 of the agreement, is questionable. Reimbursement for taxable property annexed by order pursuant to Minnesota Statute Section 414.0325 is an optional provision authorized by the statute. However, such reimbursement is to be "from the municipality to the town..." Minnesota Statute Section 414.036. The issuance of this order makes no determination as to the legality or validity of these provisions of the agreement. Any issue that may arise relative to the application or interpretation of these sections will be the sole responsibility of the signatories to the agreement.

Paragraph No. 16 states the agreement shall expire on December 31, 2023 unless an extension is requested by the parties. End dates or ending mechanisms are problematic in that they appear to run afoul of the act of conferring jurisdiction to the Director. Once jurisdiction is conferred by submission of this agreement to this office, it cannot be taken away by written consent of the parties. Jurisdiction ends when all the designated area is annexed. The issue whether jurisdiction could be "given back" by the Director upon written request of the parties to the agreement to mutually end their agreement has not been addressed.

The parties are encouraged to consider this comment in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

CWS