

OA-1073-1 Byron  
Joint Resolution No. 2004-09

DEPARTMENT OF ADMINISTRATION

STATE OF MINNESOTA

BEFORE THE DIRECTOR OF

STRATEGIC AND LONG RANGE PLANNING

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IN THE MATTER OF THE ORDERLY ANNEXATION )  
AGREEMENT BETWEEN THE CITY OF BYRON AND ) ORDER  
THE TOWN OF KALMAR PURSUANT TO MINNESOTA )  
STATUTES 414 )  
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WHEREAS, a joint resolution for orderly annexation was adopted by the City of Byron  
and the Town of Kalmar; and

WHEREAS, said joint resolution requests that certain property be annexed to the  
City of Byron pursuant to M.S. 414.0325; and

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, on August 12, 2004, the Director 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 Byron, Minnesota, the same as if  
it had originally been made a part thereof:

The Northwest Quarter of Section 34, Township 107 North, Range 15 West, north  
of the railroad, less the following described parcel:

That part of the Northwest Quarter of the Northwest Quarter of Section 34,

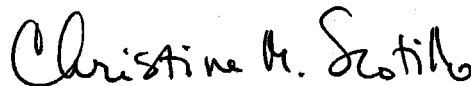
Township 107 North, Range 15 West, Olmsted County, Minnesota described as follows:

Beginning at the northwest corner of the Northwest Quarter of said Section 34; thence East, assumed bearing along the north line of said Northwest Quarter 389.00 feet; thence South 00°27'15" East, parallel with the west line of said Northwest Quarter 280.00 feet; thence West parallel with the north line of said Northwest Quarter 389.00 feet to the west line of said Northwest Quarter; thence North 00°27'15" West along said west line, 280.00 feet to the point of beginning. Containing 2.50 acres, more or less.

Being subject to an easement for the County Road No. 134 right of way over the northerly boundary and to an easement for the County Road No. 3 right of way over the easterly boundary thereof.

Dated this 12<sup>th</sup> day of August, 2004.

For the Director  
658 Cedar Street - Room 300  
St. Paul, Minnesota 55155



Christine M. Scotillo  
Executive Director  
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1073-1 Byron, the Director finds and makes the following comment:

Planning in the area designated for orderly annexation must be provided for by one of three provisions set forth in Minnesota Statutes Section 414.0325, Subd. 5. The joint resolution does not make reference to which of the three statutory provisions the parties have agreed on to govern planning in the designated area.

Paragraph 9 of the agreement provides for a reimbursement of tax revenue from an annexed area, based upon a ten year schedule. By making this order, no determination is made as to the effectiveness of such a schedule. Minnesota Statutes Section 414.036 allows for a reimbursement to the township of property taxes of substantially equal payments over a period of not less than two nor more than six years. Including such a provision in an order under Minnesota Statutes Section 414.0325 is discretionary with the Director.

Additionally, paragraph 26 states the agreement shall expire on January 1, 2029. 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, 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 these comments in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

*Cms*