

DEPARTMENT OF ADMINISTRATION
STATE OF MINNESOTA
BEFORE THE DIRECTOR OF
STRATEGIC AND LONG RANGE PLANNING

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

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

WHEREAS, a resolution was received from the City of Byron indicating their desire that certain property be annexed to the City of Byron 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, on September 9, 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:

All of the Olmsted County Road No. 5 right of way as defined on OLMSTED COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16 which lies in the Northwest Quarter of

Section 29, Township 107 North, Range 15 West, Olmsted County, Minnesota.

ALSO:

All of the Olmsted County Road No. 5 right of way as defined on OLMSTED COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 16 which lies in the North Half of the Northeast Quarter of Section 29, Township 107 North, Range 15 West, Olmsted County, Minnesota.

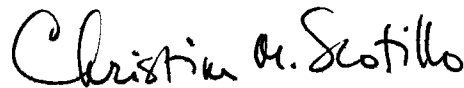
ALSO:

The South Half of the Southwest Quarter of Section 20, Township 107 North, Range 15 West, Olmsted County, Minnesota.

Containing in all, 84.93 acres more or less.

Dated this 9th day of September, 2004.

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



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

OA-1073-2 Byron

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1073-2 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.

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