

OA-1073-3 Byron  
City Resolution No. 2004-28  
Town Resolution No. 2004-02

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, 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 November 10, 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:

That part of the Southwest Quarter of Section 29, Township 107 North, Range 15 West, Olmsted County, described as follows:

Commencing at the northwest corner of said Southwest Quarter; Thence North 89

degrees 55 minutes 45 seconds East (Note: All Bearings are in relationship with the Olmsted County Coordinate System NAD 83, Adjusted 1996) along the north line of said Southwest Quarter 647.93 feet to the POINT OF BEGINNING; thence continue North 89 degrees 55 minutes 45 seconds East along said north line, 1133.14 feet to the northwest corner of WYNNSONG FIRST; thence South 00 degrees 04 minutes 15 seconds East along the west line of said WYNNSONG FIRST, 40.00 feet; thence South 17 degrees 23 minutes 59 seconds West along said west line, 140.90 feet; thence South 29 degrees 55 minutes 45 seconds West along said west line, 214.16 feet; thence South 00 degrees 04 minutes 15 seconds East along said west line 298.39 feet to the southwest corner of said WYNNSONG FIRST and the south line of the North Half of the North Half of said Southwest Quarter; thence South 89 degrees 57 minutes 24 seconds West along said north line, 1305.22 feet; thence North 00 degrees 01 minutes 59 seconds West, 16.81 feet; thence North 86 degrees 17 minutes 59 seconds East, 149.12 feet; thence North 14 degrees 58 minutes 01 seconds East, 72.51 feet; thence North 22 degrees 41 minutes 45 seconds West, 319.24 feet; thence North 31 degrees 44 minutes 50 seconds East, 121.94 feet; thence North 61 degrees 53 minutes 47 seconds East, 240.68 feet to the southern right of way line of 13<sup>th</sup> Street NW; thence North 00 degrees 04 minutes 15 seconds West, 50.00 feet to the POINT OF BEGINNING.

Said Parcel contains 18.38 acres, more or less.

Said Parcel is Subject to an existing 70 foot gas easement.

Said Parcel is Subject to any other easements or encumbrances of record.

Dated this 10<sup>th</sup> day of November, 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-1073-3 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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