

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF BEMIDJI,) FINDINGS OF FACT
BEMIDJI TOWNSHIP, AND NORTHERN TOWNSHIP) CONCLUSIONS OF LAW
PURSUANT TO MINNESOTA STATUTES 414) AND ORDER

The city resolution for orderly annexation submitted by the City of Bemidji was reviewed for conformity with applicable law. By delegation, the Chief Administrative Law Judge hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. A joint resolution for orderly annexation was adopted by the City of Bemidji, Northern Township, and Bemidji Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustment Unit.
2. A resolution adopted and submitted by the City of Bemidji, requests annexation of part of the designated area described as follows:

South one-half (S 1/2) of Section 33, Township 147N, Range 33W, less previously annexed tracts.

AND,

Southeast Quarter (SE 1/4), Section 7, Township 146N, Range 33W, less previously annexed tracts.

Southwest Quarter (SW 1/4), Section 14, Township 146N, Range 33W.

Northeast Quarter (NE 1/4), Section 18, Township 146N, Range 33W, less previously annexed tracts.

That part of the Southeast Quarter (SE 1/4), Section 18, Township 146N, Range

33W, lying northeasterly of Trunk Highway 2 and 71.

That part of Section 20, Township 146N, Range 33W, lying northeasterly of US Trunk Highway 2 and 71.

Northwest Quarter (NW 1/4), Section 21, Township 146N, Range 33W.

North one-half of the North one-half of the Southwest Quarter (N 1/2 of N 1/2 of SW 1/4), Section 21, Township 146N, Range 33W, less previously annexed tracts.

South one-half of the Northeast Quarter (S 1/2 of NE 1/4), Section 22, Township 146N, Range 33W.

That part of the Southeast Quarter (SE 1/4), Section 22, Township 146N, Range 33W, lying northeasterly of the BNSF Railroad right-of-way.

That part of the Northeast Quarter (NE 1/4), Section 27, Township 146N, Range 33W, lying northeasterly of the abandoned former M&I Railroad right-of-way.

3. Minnesota Statutes §414.0325, subd. 1(h) states that in certain circumstances the Chief Administrative Law Judge may review and comment, but shall within 30 days order the annexation pursuant to the terms of a joint resolution for orderly annexation.

4. The joint resolution contains all the information required by Minnesota Statutes §414.0325, subd. 1(h).

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

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has duly acquired and now has jurisdiction of the within proceeding.

2. An order must be issued by the Chief Administrative Law Judge or authorized designee annexing the area described herein.

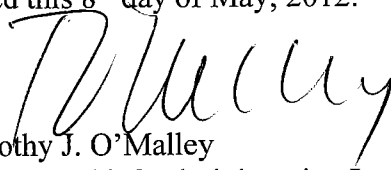
Based upon these Conclusions of Law, and for the reasons explained in the attached Memorandum, which is incorporated herein by reference, the Administrative Law Judge makes

the following:

ORDER

1. The property described in the Findings of Fact 2 is annexed to the City of Bemidji, the same as if it had originally been made a part thereof.
2. Pursuant to Minnesota Statutes §414.036, Bemidji and Northern Township will be reimbursed by the City of Bemidji in accordance with the terms of Joint Resolution No. 5655/2010-7/2010-8 signed by the City of Bemidji on December 21, 2010, Bemidji Township on March 16, 2011, and Northern Township on December 13, 2010; and City Resolution No. 5758.
3. Pursuant to Minnesota Statutes §414.035, the tax rate of the City of Bemidji on the property herein ordered annexed shall be increased in substantially equal proportions over a period of four years to equality with the tax rate of the property already within the city.

Dated this 8th day of May, 2012.


Timothy J. O'Malley
Assistant Chief Administrative Law Judge
Municipal Boundary Adjustment Unit

MEMORANDUM

In November 2004, the City of Bemidji and the Townships of Northern and Bemidji entered into a Joint Resolution for Orderly Annexation (Bemidji Township Resolution No. 04-29; Northern Township Resolution No. 04-04; City of Bemidji Resolution No. 04-5189) pursuant to Minn. Stat. § 414.0325.

The Joint Resolution states, in part, that:

“4.C. ... Upon receipt of an annexation Resolution as provided herein, Minnesota Planning may review and comment, but shall within thirty (30) days of receipt of said resolution and copy of this Joint Resolution, order the annexation of the area designated in the Annexation Resolution in accordance with the terms and conditions of this Joint Resolution. The City and Townships agree that no alteration of the stated boundaries as described in the Joint Resolution is appropriate, that no consideration by the Minnesota Planning is necessary and that all terms and conditions for annexation are provided for in this Joint Resolution. Upon receipt of the Annexation Order, the City shall provide a copy to the Beltrami County Auditor.”

and

“10. **Term of Joint Resolution/Amendment:** This Joint Resolution shall be in full force and effect immediately upon the document being fully executed by all parties hereto, and shall terminate upon annexation of Phase III properties in the OAA. ... The orderly annexation agreement memorialized in this Joint Resolution may be terminated earlier by mutual, written joint resolution of the City and Townships. Similarly, this Joint Resolution also may be amended or changed upon mutual, written agreement of all the parties. City and Township representatives agree to meet from time to time and no less than at least once annually, to discuss requested or necessary modifications and amendments to this Joint Resolution. Participation of other townships within the Greater Bemidji Area, may be joined under this Joint Resolution upon mutual written agreement by all the parties.”

and

“15. **Resolution of Disputes:** If there is a disagreement as to the interpretations or implementation of the Joint Resolution, the City and Townships shall implement the below-outlined dispute resolution procedures in the following sequence:

A. **Negotiation:** Representatives of the City and Townships will meet a minimum of one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.

B. **Mediation:** If negotiation is not successful, parties shall participate in a minimum of one (1) mediation session with a mutually agreed upon mediator to resolve the dispute.

C. Binding Arbitration/Adjudication: If mediation is not successful, the parties may agree to submit their respective grievances to binding arbitration or may seek relief through initiation of an action in a court of competent jurisdiction, which may include, but not be limited to specific performance to compel the performance as outlined in this Joint Resolution. In addition to the remedies afforded to the parties through law and equity, the Court shall have the authority to award reasonable attorney fees, costs and expenses to a party found to be in violation of the terms of this agreement.”

On April 9, 2012, the Municipal Boundary Adjustment Unit (MBAU) of the Office of Administrative Hearings (OAH) received City Resolution No. 5758. Additionally, the MBAU has received the following correspondence regarding this matter.

- Counselor John J. Steffenhagen’s letter dated April 13, 2012;
- Counselor Alan R. Felix’s letter dated April 28, 2012;
- Counselor John J. Steffenhagen’s letter dated May 1, 2012; and
- Counselor Alan R. Felix’s letter dated May 3, 2012.

The Administrative Law Judge has considered the above correspondence and all documents attached thereto prior to the issuance of the attached Order.

Minn. Stat. § 414.0325, Subd. 1(h) states:

“If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the chief administrative law judge is necessary, the chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.”

The Joint Resolution contains language in Paragraph 4.C. that satisfies the requirements of Minn. Stat. § 414.0325, Subd. 1(h). Therefore, the OAH has a duty imposed by law to order the annexation.¹

In the correspondence considered by the undersigned, the parties indicated that they have met regarding the annexation at issue. Bemidji Township characterizes those meetings as being held in accordance with Paragraph 15 of the Joint Resolution.² The City of Bemidji characterizes those meetings as being held in accordance with Paragraph 10 of the Joint Resolution.³ Under the facts of this case, the OAH is statutorily required to order the annexation for the reasons set forth above. Therefore, the nature of the meetings between the parties is not an issue to be decided by the OAH. Further, any disputes regarding the Joint Resolution should be addressed under the terms of that agreement, which does not provide for any role by the OAH.

T.J.O.

¹ See *City of Waite Park v. Minnesota Office of Administrative Hearings*, A05-1888 (Minn. App., July 18, 2006).

² John J. Steffenhagen’s letter dated May 1, 2012.

³ Alan R. Felix’s letter dated May 3, 2012.