

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	<u>AMENDED</u>
AGREEMENT BETWEEN THE CITY OF WINONA)	<u>FINDINGS OF FACT</u>
AND WILSON TOWNSHIP PURSUANT TO)	<u>CONCLUSIONS OF LAW</u>
MINNESOTA STATUTES 414)	<u>AND ORDER</u>

The city resolution for orderly annexation submitted by the City of Winona was reviewed for conformity with applicable law. By delegation, the Chief Administrative Law Judge's designee 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 Winona and Wilson Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustments.
2. A resolution adopted and submitted by the City of Winona, requests annexation of part of the designated area described as follows:

That part of the NE ¼ of the NE ¼, Section 1, Tp. 106, Rg. 7, Winona County, Minnesota, described as follows:

Commencing at the northeast corner of said NE ¼ of the NE ¼; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the north line of said NE ¼ of the NE ¼ 567.70 feet; thence South 38 degrees 31 minutes 00 seconds West 335.51 feet to the point of beginning of the land to be described; thence continuing South 38 degrees 31 minutes 00 seconds West 205.45 feet; thence southwesterly 251.83 feet along a curve concave to the southeast having a radius of 741.20 feet and a central angle of 19 degrees 28 minutes 00 seconds; thence South 19 degrees 03 minutes 00 seconds West 75.58 feet; thence southwesterly 37.65 feet along a curve concave to the southeast having a radius of 127.31 feet and a central angle of 16 degrees, 56 minutes 34 seconds; thence

South 80 degrees 53 minutes 39 seconds West 182.19 feet; thence North 21 degrees 45 minutes 20 seconds East 342.74 feet; thence North 34 degrees 31 minutes 40 seconds East 364.15 feet; thence South 51 degrees 29 minutes 00 seconds East 161.84 feet to the point of beginning.

Also:

That part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 1, Tp. 106, Rg. 7, Winona County, Minnesota, described as follows:

Commencing at the northeast corner of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing along the north line of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ 89.83 feet to the centerline of Wilson Township Road Number 3 and the point of beginning of the land to be described; thence continuing North 90 degrees 00 minutes 00 seconds West along said north line 260.60 feet; thence South 38 degrees 31 minutes 00 seconds West 175.77 feet; thence North 51 degrees 29 minutes 00 seconds West 120.00 feet; thence South 38 degrees 31 minutes 00 seconds West 170 feet; thence South 51 degrees 29 minutes 00 seconds East 120.00 feet; thence South 38 degrees 31 minutes 00 seconds West 85.00 feet; thence North 51 degrees 29 minutes 00 seconds West 120.00 feet; thence South 38 degrees 31 minutes 00 seconds West 170.00 feet; thence South 51 degrees 29 minutes 00 seconds East 307.80 feet to the centerline of said Wilson Township Road Number 3; thence North 18 degrees 38 minutes 56 seconds East along said centerline 130.93 feet; thence North 29 degrees 00 minutes 00 seconds East along said centerline 204.10 feet; thence North 47 degrees 00 minutes 00 seconds East along said centerline 270.00 feet, thence North 61 degrees 48 minutes 00 seconds East along said centerline 123.60 feet; thence North 44 degrees 05 minutes 00 seconds East along said centerline 58.32 feet to the point of beginning. Subject to the right of way of said Wilson Township Road Number 3.

Also:

A 50 foot wide strip of land located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 1, Tp. 106, Rg. 7, Winona County, Minnesota, the centerline is described as follows:

Commencing at the northeast corner of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the north line of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ 535.75 feet to the point of beginning of said centerline; thence South 38 degrees 31 minutes 00 seconds West 560.85 feet; thence southwesterly 243.33 feet along a curve concave to the southeast having a radius of 716.20 feet and a central angle of 19 degrees 28 minutes 00 seconds; thence South 19 degrees 03 minutes 00 seconds West 75.58 feet; thence southwesterly and southeasterly 194.73 feet along a curve concave to the northeast having a radius of 102.31 feet and a central angle of 109 degrees 03 minutes 00 seconds; thence North 90 degrees 00 minutes 00 seconds East 134.43 feet and there terminating. Said point of termination being the center of a circle having a radius

~~of 40.00 feet, and all land within the limits of said circle is considered part of said strip of land and is to be used as a "turn around."~~

That part of the Northeast quarter of the Northeast quarter (NE ¼ of NE ¼) of Section One (1), Township One hundred six (106), Range Seven (7), Winona County, Minnesota, which is more particularly bounded and described as follows, to-wit:

Commencing at the Iron Monument which marks the Northeast corner of said Section One (1); thence in a Westerly direction along the North Line of said Section One (1) for a distance of 503.80 feet; thence deflect to the left 51 degrees 29', for a distance of 580.75 feet; thence deflect to the left on a 8 degrees 17'24" curve (delta angle 19 degrees 28', Radius 691.20 feet), for an "Arc" distance of 234.82 feet; thence on tangent to said curve for a distance of 44.69 feet to the point of beginning; thence deflect to the left 90 degrees 00', for a distance of 120.00' thence deflect to the left 88 degrees 59'30" for a distance of 86.26 feet; thence deflect to the left 86 degrees 50'14" for a distance of 120.00'; thence deflect to the left on a 8 degree 17'24" curve (delta angle 19 degrees 28', radius 691.20 feet), for an "ARC" distance of 50.31 feet; thence on tangent to said curve for a distance of 44.69 feet, more or less, to the point of beginning. Containing 0.25 acres, more or less.

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), including a provision that the Chief Administrative Law Judge may review and comment but shall order the annexation within 30 days in accordance with the terms of the joint resolution.

CONCLUSIONS OF LAW

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

2. An order should be issued by the Chief Administrative Law Judge annexing the

area described herein.

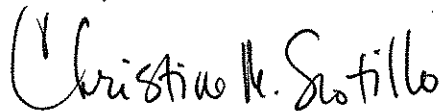
ORDER

1. The property described in Findings of Fact 2 is annexed to the City of Winona, the same as if it had originally been made a part thereof.

2. Pursuant to Minnesota Statutes §414.036, Wilson Township will be reimbursed by the City of Winona in accordance with the terms of the Joint Resolution signed by the City of Winona on May 23, 2005 and Wilson Township on May 18, 2005; and City Resolution No. 2010-59.

Dated this 17th day of August, 2010.


For the Chief Administrative Law Judge's designee
P. O. Box 64620
St. Paul, Minnesota 55164-0620



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

Amended this 8th day of September, 2010.

For the Chief Administrative Law Judge's designee
P. O. Box 64620
St. Paul, Minnesota 55164-0620



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

OA-1159-10 Winona

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-10, the Chief Administrative Law Judge finds and makes the following comment:

Paragraph 24 states the agreement shall remain in full force and effect until termination by joint agreement of the parties; the remainder of the OAA is annexed; or 10 years from the effective date. End dates or ending mechanisms are problematic in that they appear to run afoul of the act of conferring jurisdiction to the Chief Administrative Law Judge. 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 Chief Administrative Law Judge 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. 