

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

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

WHEREAS, as a result of local negotiations during contested case proceedings, a joint resolution for orderly annexation was adopted by the City of Winona and the Town of Wilson representing among other things, a resolution of contested issues contained in Municipal Boundary Adjustment (hereinafter "MBA") Dockets A-7214 and A-7215; and

WHEREAS, said joint resolution designates approximately 2,062.74 acres for orderly annexation; and requests that a portion of the designated area be immediately annexed to the City of Winona pursuant to M.S. 414.0325, Subd. 1; and

WHEREAS, a majority of the area proposed for immediate annexation contains land which was previously the subject of MBA Dockets A-7214 and A-7215; 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, Reorganization Order No. 192, effective March 8, 2005, has transferred the duties of the Director to the Chief Administrative Law Judge; and

WHEREAS, on June 9, 2005, the Chief Administrative Law Judge 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 Winona, Minnesota, the same as if it had originally been made a part thereof:

PHILLIPS PROPERTY

Parcel A

Outlot L; Spring Brook Subdivision Number 2, according to the recorded plat thereof, Winona County, Minnesota.

Also that part of the Southeast Quarter of the Southeast Quarter of Section 12, and that part of the North Half of the Northeast Quarter of Section 13, all in Township 106, Range 7, Winona County, Minnesota, described as follows:

Beginning at the northeasterly corner of said Outlot L; thence North 63 degrees 00 minutes 00 seconds East, along the southerly line of Block 1, Spring Brook Subdivision, according to the recorded plat thereof, said Winona County, 380.00 feet to the southeasterly corner of Lot 4, said Block 1; thence North 73 degrees 30 minutes 00 seconds East, along said southerly line of Block 1, a distance of 255.00 feet to the southeasterly corner of Lot 2, said Block 1; thence continue North 73 degrees 30 minutes 00 seconds East, 71.23 feet, more or less, to the westerly line of the property described in Book 163 of Deeds, Page 533, said Winona County; thence southerly along said westerly line of the property described in Book 163 of Deeds, Page 533 to the southwesterly corner thereof; thence easterly along the southerly line of said property described in Book 163 of Deeds, Page 533 and its easterly extension, 379.50 feet, more or less, to the east line of said Southeast Quarter of the Southeast Quarter of Section 12; thence southerly along said east line of the Southeast Quarter of the Southeast Quarter, 33.00 feet, more or less, to the southeast corner thereof; thence southerly along the east line of said North Half of the Northeast Quarter of Section 13, a distance of 221.49 feet to the center line of Wilson Township Road No. 1; thence southwesterly along said center line to the south line of said North Half of the Northeast Quarter of Section 13; thence westerly along said south line of the North Half of the Northeast Quarter to the intersection of the southerly extension of the easterly Line of Block 4, said Spring Brook Subdivision Number 2; thence North 14 degrees 22 minutes 53 seconds East, along Said southerly extension and along said easterly line of Block 4 to the northeasterly corner of Lot 5, said Block 4; thence North 53 degrees 01 minutes 59 seconds East, along said easterly line of Block 4, a distance of 456.82 feet to the northeasterly corner of Lot 3, said Block 4; thence North 04 degrees 02 minutes 52 seconds East, along said easterly line of Block 4, a distance of 310.63 feet to the southeasterly corner of said Outlot L; thence North 10 degrees 53 minutes 51 seconds East, along the easterly line of said Outlot L, 399.51 feet to the point of beginning.

Subject to the right of way of Winona County State Aid Highway No. 17, and subject to the right of way of said Wilson Township Road No. 1

And Also Parcel B

The South Half of the Northeast Quarter ($S \frac{1}{2}$ of $NE \frac{1}{4}$), the North Half of the Southeast Quarter ($N \frac{1}{2}$ of $SE \frac{1}{4}$), the Northeast Quarter of the Southwest Quarter ($NE \frac{1}{4}$ of $SW \frac{1}{4}$), the Southwest Quarter of the Southeast Quarter ($SW \frac{1}{4}$ of $SE \frac{1}{4}$) of Section Thirteen (13), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota.

SWEETWATER PROPERTY

The South Half of the Southeast Quarter of the Northwest Quarter ($S \frac{1}{2}$ of $SE \frac{1}{4}$ of $NW \frac{1}{4}$) of Section Five (5), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota.

Also, the South Half of the South Half of the Northeast Quarter ($S \frac{1}{2}$ of $S \frac{1}{2}$ of $NE \frac{1}{4}$) of Section Five (5), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, lying Westerly of the centerline of County State Aid Highway 44.

Also, That part of the North Half of the Southeast quarter ($N \frac{1}{2}$ of $SE \frac{1}{4}$) and that part of the Northeast Quarter of the Southwest Quarter ($NE \frac{1}{4}$ of $SW \frac{1}{4}$) of Section Five (5), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, described as follows:

Commencing at the Northeast corner of said $N \frac{1}{2}$ of the $SE \frac{1}{4}$; thence South $01^{\circ} 26' 34''$ East, assumed bearing along the East line of said $N \frac{1}{2}$ of the $SE \frac{1}{4}$ 156.00 feet; thence North $87^{\circ} 20' 31''$ West 1265.41 feet to the point of beginning of the land to be described; thence continue North $87^{\circ} 20' 31''$ West 2725.32 feet to the West line of said $NE \frac{1}{4}$ of the $SW \frac{1}{4}$; thence North $01^{\circ} 04' 33''$ West 4.80 feet to the Northwest corner of said $NE \frac{1}{4}$ of the $SW \frac{1}{4}$; thence South $89^{\circ} 30' 44''$ East along the North line of said $NE \frac{1}{4}$ of the $SW \frac{1}{4}$ and the North line of said $N \frac{1}{2}$ of $SE \frac{1}{4}$ 2736.88 feet; thence South $07^{\circ} 33' 04''$ West 108.82 feet to the point of beginning.

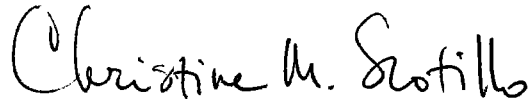
Excepting therefrom, that part of the North Half of the Southeast Quarter ($N \frac{1}{2}$ of $SE \frac{1}{4}$) and that part of the South Half of the South Half of the Northeast Quarter ($S \frac{1}{2}$ of $S \frac{1}{2}$ of $NE \frac{1}{4}$) of Section Five (5), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, described as follows:

Commencing at the Northeast corner of said $N \frac{1}{2}$ of the $SE \frac{1}{4}$; thence South $01^{\circ} 26' 34''$ East, assumed bearing along the East line of said $N \frac{1}{2}$ of the $SE \frac{1}{4}$ 156.00 feet; thence North $87^{\circ} 20' 31''$ West 1265.41 feet to the point of beginning of the land to be described; thence continue North $87^{\circ} 20' 31''$ West 486.00 feet; thence North $07^{\circ} 33'$

04" East 200.00 feet; thence South 87° 20' 31" East 486.00 feet; thence South 07° 33' 04" West 200.00 feet to the point of beginning.

Dated this 9th day of June, 2005.

For the Chief Administrative Law Judge
658 Cedar Street - Room 300
St. Paul, Minnesota 55155

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive, flowing style.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-1, the Director finds and makes the following comment:

The authority to impose the type of charge identified in paragraph 8 of the agreement, is unclear. Reimbursement for taxable property annexed by order pursuant to Minnesota Statute Section 414.0325 is an optional provision authorized by the statute. The issuance of this order makes no determination as to the legality or validity of these provisions of the agreement. Any issue that may arise relative to the application or interpretation of these sections will be the sole responsibility the signatories to the agreement.

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 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 this comment in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

CWS