

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of OA-1159-20
Winona/Wilson Township
Pursuant to Minnesota Statutes 414

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

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 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 Adjustment Unit.
2. A resolution adopted and submitted by the City of Winona, requests annexation of part of the designated area described as follows:

Lot Six (6) and that part of Lot Seven (7), Pleasant Valley Terrace Subdivision No. 1, described as follows:

Beginning a point on the South line of said Lot 7, 78.75 feet Easterly from the Southwest corner of said Lot 7; thence South 71° 46' West and along the South line of said Lot 7, a distance of 78.75 feet to the Southwest corner of said Lot 7; thence North 55° 40' West and along the South line of said Lot 6, a distance of 100 feet; thence North 89° 40' West and along the South line of said Lot 6, a distance of 25 feet to the Southwest corner of said Lot 6; thence North 1° 02' East and along the West line of said Lot 6, a distance of 102.0 feet to the South line of Briarcombe Place; thence Easterly along the South line of Briarcombe Place, a distance of 97.14 feet to the Northeast corner of said Lot 6; thence continuing Easterly along the South line of Briarcombe Place, a distance of 20.21 feet; thence South 30° 55' East, a distance of 138 feet to the point of beginning.

Excepting that part of Lot 6, Pleasant Valley Terrace Subdivision No. 1, described as follows: Beginning at the Northwest corner of said Lot 6; thence

Southerly along the West line of said Lot 6, a distance of 102 feet to the Southwest corner of said Lot 6; thence Easterly along the South line of said Lot 6, a distance of 16.08 feet; thence Northwesterly at a deflection angle to the left of 98° 03', a distance of 103.11 feet to the Northwest corner of said Lot 6 and the point of beginning.

Also, That part of Lots Seven (7) and Eight (8), Pleasant Valley Terrace Subdivision No. 1, described follows:

Commencing at the Southwest corner of said Lot 7; thence East along the South line of said Lot 7, a distance of 78.75 feet to the point of beginning of the parcel to be described; thence continuing along the South line of said Lot 7 on a bearing of North 71° 46' East, a distance of 125.15 feet to the Southeast corner of said Lot 7; thence North 7° 32' West, a distance of 88.25 feet; thence North 31° 19' West, a distance of 80.02 feet; thence North 47° 44' 38" West, a distance of 73 feet; thence South 40° 16' 22" West, a distance of 99.70 feet to the Easterly line of Briarcombe Place; thence Southerly along the Easterly line of Briarcombe Place, a distance of 57.71 feet; thence South 30° 55' East, a distance of 138 feet to the point of beginning.

being located and forming a part of the Southwest Quarter of the Northeast Quarter (SW ¼ of NE¼) and the Southeast Quarter of the Northwest Quarter (SE¼ of NW¼) and of the Northeast Quarter of the Southwest Quarter (NE¼ of SW¼) and of the Northwest Quarter of the Southeast Quarter (NW¼ of SE¼) of Section One (1), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota.

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 or authorized designee 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. 2012-75.

Dated: January 15, 2013



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

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-20, 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.

T.J.O.