

May 26, 2009

OA-1288 Park Rapids/Henrietta Township Joint Agreement**CITY OF PARK RAPIDS RESOLUTION NO. 2009-108**

**ANNEXATION RESOLUTION OF THE CITY OF PARK RAPIDS
IN ACCORDANCE WITH THE ABOVE-REFERENCED JOINT AGREEMENT
BETWEEN THE CITY OF PARK RAPIDS AND HENRIETTA TOWNSHIP, DATED
07/27/06, AND AS AMENDED 06/14/07, DESIGNATING CERTAIN PROPERTY, THE
PHASE II AREA, LOCATED IN THE ORDERLY ANNEXATION AREA (OAA) OF
HENRIETTA TOWNSHIP, AS IN NEED OF IMMEDIATE ORDERLY ANNEXATION
PURSUANT TO MINNESOTA STATUTES, SECTION 414.0325**

WHEREAS, the City of Park Rapids (hereinafter the "City") and Henrietta Township (hereinafter the "Township") entered into a Joint Resolution for Orderly Annexation, dated July 27, 2006, describing the procedures and process for immediate and future orderly annexations of certain designated areas of the Township, referred to as the "Orderly Annexation Area" (OAA), for the purpose of orderly, planned growth and annexation, pursuant to Minnesota Statutes, Section 414.0325; and

WHEREAS, the above-referenced Joint Resolution for Orderly Annexation between the City and Township, dated July 27, 2006, and amendment thereto, dated June 14, 2007, have been previously filed with the Office of Administrative Hearings Municipal Boundary Adjustments Unit (OAH-MBAU) and are referenced as Office of Administrative Hearings File No. OA-1288 Park Rapids/Henrietta Township Joint Agreement (hereinafter collectively referred to as the "Joint Agreement"); and

WHEREAS, the above-referenced Joint Agreement as amended is attached hereto as Appendix C; and

WHEREAS, the above-referenced Joint Agreement provides that the land within the Phase II area of the OAA designated therein may be annexed by the City at any time after January 1, 2009 during the term of the Joint Agreement (See Appendix C, at Paragraphs 2 and 4); and

WHEREAS, in accordance with Paragraph 4 of the Joint Agreement, and as of the date of this resolution, it is now past January 1, 2009 thereby meeting the stated triggering event for annexation by the City of the Phase II area designated and legally described in the Joint Agreement (See Appendix C at Paragraphs 2 and 4 and Exhibits (Exh.) A and B), which area shall be hereinafter referred to as the "Phase II Property"; and

WHEREAS, the Phase II Property legally described in the Joint Agreement and designated hereby for immediate orderly annexation is located within the OAA described in the Joint Agreement (Appendix C, at Paragraph 2 and Exh. A); and

WHEREAS, the City has the capacity to provide municipal services to the Phase II Property designated herein for orderly annexation following annexation thereof; and

WHEREAS, annexation of the Phase II Property, designated and legally described herein for immediate orderly annexation is in the best interests of the City and property owners, and would benefit the public health, safety and welfare of the community; and

WHEREAS, having met all of the stated conditions for orderly annexation of the Phase II Property as provided in the Joint Agreement (Appendix C), the City may now adopt, execute and file this annexation resolution providing for the immediate annexation of the Phase II Property (See Appendix C, at Paragraphs 2 and 4); and

WHEREAS, in accordance with Paragraphs 2 and 4 of the Joint Agreement, Appendix C, and Minnesota Statutes, section 414.0325, annexation of the Phase II Property does not require a hearing or any consideration by the Office of Administrative Hearings (OAH), and the OAH may review and comment thereon, but shall order annexation of the Phase II Property within 30 days of receipt of this annexation resolution.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Park Rapids, Hubbard County, Minnesota, as follows:

1. This resolution hereby constitutes and shall be referred to as the "Annexation Resolution" as provided in Paragraph 4 of the Joint Agreement. See Appendix C.
2. As of the date of this Annexation Resolution, the calendar date is now after January 1, 2009, and the City may hereby annex the Phase II Property, as provided in Appendix C at Paragraph 4 and as legally described in the Joint Agreement. See Appendix C at Exh. A.
3. The Phase II Property is located within the designated OAA legally described in the Joint Agreement, and the City has met all of the stated conditions for the immediate annexation thereof contained in the Joint Agreement. See Appendix C at Paragraphs 2 and 4, and Exhs. A and B.
4. This Annexation Resolution hereby designates for immediate annexation by the City, the Phase II Property, which for ease of reference is again legally described in Appendix A, attached hereto and incorporated herein by reference. See also identical legal description of the Phase II Property in Appendix C at Exh. A.
5. A boundary map showing the Phase II Property designated herein for immediate orderly annexation, legally described in Appendix A and Appendix C at Exh. A, is attached hereto and incorporated herein by reference as Appendix B. See also map of the Phase II Property in Appendix C at Exh. B.
6. The Phase II Property legally described in Appendix A and designated as in need of immediate orderly annexation is approximately 111.34 acres.

7. The population of the Phase II Property legally described in Appendix A and designated as in need of immediate orderly annexation is approximately ten (10).
8. In accordance with Paragraph 4 of the Joint Agreement, Appendix C, the Office of Administrative Hearings may review and comment on this Annexation Resolution, but shall within thirty (30) days of receipt of this Annexation Resolution and a copy of the above-referenced Joint Agreement (attached as Appendix C), order the annexation of the Phase II Property designated in this Annexation Resolution and legally described in Appendix A in accordance with the terms and conditions of the above-referenced Joint Agreement, Appendix C. No alteration of the stated boundaries as described in this Annexation Resolution is appropriate, no consideration by the OAH is necessary, and all terms and conditions for annexation of the Phase II Property have been met and are contained in the Joint Agreement, Appendix C.
9. Upon the annexation of the Phase II Property designated herein for immediate orderly annexation and legally described in Appendix A, the City shall reimburse the Township for the loss of taxes from the property so annexed in accordance with Paragraph 6 of the Joint Agreement. All conditions for tax reimbursement or any other reimbursement arrangement as provided in Minnesota Statutes, section 414.036 are contained in the Joint Agreement. See Appendix C at Paragraphs 6 and 7.
10. This Annexation Resolution is not subject to the notice, publication and informational meeting requirements of Minnesota Statutes, sections 414.0325, subd. 1b or 414.0333, as the Joint Agreement, Appendix C, previously designated the OAA and the subject area annexed by this Annexation Resolution, and the Joint Agreement was filed with OAH prior to the effective date of Minnesota Statutes, sections 414.0325, subd. 1b and 414.0333 and cannot be applied retroactively hereto. Further, section 414.0325, subd. 1b, even if it could be construed to apply to the Joint Agreement, which it cannot, remains inoperative as it can only apply to the initial designation to include property in an orderly annexation area, which occurred July 27, 2006, and not to any subsequent annexation of property from within the designated area, which is the case here. See Appendix C.
11. Following annexation of the Phase II Property designated herein for orderly annexation, the City shall be responsible for providing municipal governmental services to the annexed area in accordance with Paragraph 8 of the Joint Agreement. See Appendix C at Paragraph 8.
12. This Annexation Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota and the above-referenced Joint Agreement. See Appendix C.
13. Upon adoption and execution of this Annexation Resolution by the City, the City shall file the same with the Township and the OAH-MBAU along with the required filing fee.
14. In the event there are errors, omissions or any other problems with the legal descriptions or mapping provided in Appendix A or Appendix B of this Annexation Resolution, in the

judgment of the OAH-MBAU, the City shall make such corrections and file such additional documentation, including a new Appendix A or Appendix B, making the corrections requested or required by the Office of Administrative Hearings as necessary to make effective the annexation of said subject area in accordance with the Joint Agreement, Appendix C, and this Annexation Resolution.

Passed, adopted, and approved by the City Council of the City of Park Rapids, Hubbard County, Minnesota, this 26th day of May 2009.

CITY OF PARK RAPIDS

By: Nancy J. Carroll
Nancy J. Carroll, Mayor

ATTEST:

By: Margie M. Vik
Margie M. Vik, City Clerk

APPENDIX A

The Phase II Property designated for immediate orderly annexation in this Annexation Resolution and in the Joint Agreement (See also Appendix C at Exh. A) and shown on Appendix B (See also Appendix C at Exh. B) is legally described as follows:

Phase II

(2009) All that part of the South Half of Section Nineteen (19), Township One Hundred Forty (140), Range Thirty-four (34) lying south of State Highway 34,

AND

The Southeast Quarter (SE $\frac{1}{4}$) of Section Nineteen (19), Township One Hundred Forty (140), Range Thirty-four (34), EXCEPT the West 525 feet thereof lying North of State Highway 34 and EXCEPT the North Half of the Northeast Quarter of the Southeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) thereof.

APPENDIX B

The boundary map referenced in this Annexation Resolution showing the Phase II Property designated for immediate orderly annexation and legally described in Appendix A, is attached hereto. (See also Appendix C at Exh. B).

