

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	
AGREEMENT BETWEEN THE CITY OF PINE ISLAND)	<u>FINDINGS OF FACT</u>
AND NEW HAVEN 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 Pine Island was reviewed for conformity with applicable law. The undersigned Assistant Chief Administrative Law Judge, acting under a delegation from 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 Pine Island and New Haven 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 Pine Island, requests annexation of part of the designated area described as follows:

That part of the East Half of the Southwest Quarter of Section 2, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said East Half of the Southwest Quarter; thence on an assumed bearing of North 00°50'18" West along the east line of said East Half of the Southwest Quarter 1322.98 feet to the northeast corner of the Southeast Quarter of said Southwest Quarter of Section 2; thence South 89°01'25" West along the north line of said Southeast Quarter of the Southwest Quarter 661.17 feet to the west line of the East Half of said Southeast Quarter of the Southwest Quarter; thence South 00°49'09" East along said west line 611.29 feet; thence South 89°10'51" West 347.77 feet; thence North 19°48'24" East 347.49 feet; thence North 19°19'41" West 48.01 feet; thence South 89°01'25" West

410.64 feet to a point 10.00' easterly of the west line of said East Half of the Southwest Quarter and the point of beginning; thence North 00°48'00" West parallel with said west line 710.16 feet; thence North 79°08'53" West 10.21 feet to said west line of the East Half of the Southwest Quarter; thence South 00°48'00" East along said west line 712.25 feet; thence North 89°01'25" East 10.00 feet to the point of beginning, containing 0.16 acres and is subject to any easements, covenants, and restrictions of record.

ALSO

That part of the Southeast Quarter of the Southwest Quarter of Section 2, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter; thence on an assumed bearing of North 00°50'18" West along the east line of said Southeast Quarter of the Southwest Quarter 1322.98 feet to the northeast corner of said Southeast Quarter of the Southwest Quarter; thence South 89°01'25" West along the north line of said Southeast Quarter of the Southwest Quarter 661.17 feet to the west line of the East Half of said Southeast Quarter of the Southwest Quarter; thence South 00°49'09" East along said west line 611.29 feet; thence South 89°10'51" West 347.77 feet to the point of beginning; thence North 19°48'24" East 347.49 feet; thence North 19°19'41" West 48.01 feet; thence South 89°01'25" West 155.78 feet; thence South 22°39'00" West 403.71 feet; thence North 89°10'51" East 209.39 feet to the point of beginning, containing 1.67 acres and is subject to any easements, covenants, and restrictions of record.

ALSO

That part of the Northeast Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Northwest Quarter all in Section 2, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Southwest Quarter of Section 2; thence on an assumed bearing of North 00°50'18" West along the east line of said Southwest Quarter 1558.65 feet to the point of beginning; thence continuing North 00°50'18" West along said east line 1087.31 feet to the northeast corner of said Northeast Quarter of the Southwest Quarter; thence continuing North 00°50'18" West along the east line of said Southeast Quarter of the Northwest Quarter 124.92 feet to the southwesterly right of way of Trunk Highway Number 52; thence South 89°09'30" West along said southwesterly right of way 33.01 feet; thence North 00°50'17" West along said southwesterly right of way 84.38 feet;

thence North 30°04'13" West along said southwesterly right of way 174.53 feet; thence South 59°18'11" East 138.73 feet to said east line of the Southeast Quarter of the Northwest Quarter; thence North 00°50'18" West along said east line of the Southeast Quarter of the Northwest Quarter 333.21 feet; thence North 59°18'11" West 88.58 feet to a point on the northeasterly right of way of said Trunk Highway Number 52; thence continuing North 59°18'11" West along said northeasterly right of way 1.00 feet; thence South 30°41'49" West 1.00 feet; thence South 59°18'11" East 89.02 feet; thence South 00°50'18" East 330.86 feet; thence North 59°18'11" West 140.78 feet; thence South 30°04'13" East 178.11 feet; thence South 00°50'17" East 85.12 feet; thence North 89°09'30" East 33.01 feet; thence South 00°50'18" East 860.70 feet; thence South 89°12'03" West 1009.77 feet; thence South 00°48'00" East 196.34 feet; thence South 71°52'34" East 74.00 feet; thence South 62°44'18" East 169.06 feet; thence South 58°03'17" East 97.73 feet; thence North 89°01'25" East 709.63 feet to the point of beginning, containing 7.61 acres and is subject to any easements, covenants, and restrictions of record.

ALSO

That part of the North Half of the Southeast Quarter of Section 2, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the southwest corner of said Southeast Quarter of Section 2; thence on an assumed bearing of North 00°50'18" West along the west line of said Southeast Quarter 1334.35 feet to the point of beginning; thence continuing North 00°50'18" West along said west line 50.00 feet; thence North 89°01'22" East 274.29 feet; thence North 68°54'11" East 1271.21 feet; thence North 30°41'49" East 155.33 feet to the southwesterly right of way of Trunk Highway Number 52; thence South 45°15'59" East along said southwesterly right of way 51.54 feet; thence South 30°41'49" West 160.15 feet; thence South 68°54'11" West 1297.39 feet; thence South 89°01'22" West 283.29 feet to the point of beginning, containing 1.98 acres and is subject to any easements, covenants, and restrictions of record.

ALSO

That part of the East Half of the Southwest Quarter of Section 2, Township 108 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said East Half of the Southwest Quarter; thence on an assumed bearing of North 00°50'18" West along the east line of said East Half of the Southwest Quarter 1322.98 feet to the northeast corner of the Southeast Quarter of said Southwest Quarter of said Section 2 and the point of beginning; thence South 89°01'25" West

along the north line of said Southeast Quarter of the Southwest Quarter 661.17 feet to the west line of the East Half of said Southeast Quarter of the Southwest Quarter; thence South 00°49'09" East along said west line 611.29 feet; thence South 89°10'51" West 347.77 feet; thence North 19°48'24" East 347.49 feet; thence North 19°19'41" West 48.01 feet; thence South 89°01'25" West 410.64 feet to a point 10.00' easterly of the west line of said East Half of the Southwest Quarter; thence North 00°48'00" West parallel with said west line 710.16 feet; thence South 79°08'53" East 201.06 feet; thence South 71°52'34" East 184.20 feet; thence South 62°44'18" East 169.06 feet; thence South 58°03'17" East 97.73 feet; thence North 89°01'25" East 709.63 feet to the east line of said East Half of the Southwest Quarter; thence South 00°50'18" East 235.67 feet to the point of beginning, containing 15.06 acres and is subject to any easements, covenants, and restrictions of record.

The above described conveyance contains 26.48 acres and is subject to any easements, covenants, and restrictions of record.

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 Assistant Chief Administrative Law Judge annexing the area described herein.

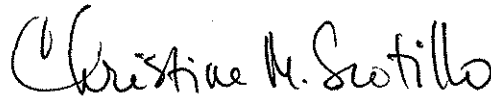
ORDER

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

2. Pursuant to Minnesota Statutes §414.036, New Haven Township will be reimbursed by the City of Pine Island in accordance with the terms of the Joint Resolution No. 08-005/08-01 signed by the City of Pine Island on February 6, 2008 and New Haven Township on February 19, 2008; and City Resolution No. 09-006.

Dated this 12th day of February, 2009.

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

A handwritten signature in black ink, reading "Christine M. Scotillo". The signature is written in a cursive style with a large initial "C".

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1396-1, the Chief Administrative Law Judge finds and makes the following comment:

Paragraph 5 of Joint Resolution No. 08-005/08-01 outlines the conditions for annexation.

While not expressly stating that the City may unilaterally initiate an annexation from the designated area, Paragraph 5 read together with Paragraph 9, seems to represent agreement between the Township and the City that the parties intend that the City proceed on its own resolution. The terms and conditions of the Joint Resolution state that a petition to the City for annexation is not complete until reimbursement is made to the Township. The Township's acceptance of such reimbursement can be interpreted as agreement to the proposed annexation, or a contemporaneous meeting of the minds as between the Township and the City. Further, the Joint Resolution contains no procedures or terms and conditions for a Township initiation. *This* is basis for the City's authority to proceed on its own resolution, *not* the citation of Minn. Stat. §414.0325 Subd.1 (e)(1). Relying on that section of the statute will require this office to treat a unilateral resolution of either the City or the Township as a hearing file.

For future filings, we suggest that documents submitted with an annexation filing from this agreement specifically state that the Township has accepted the reimbursement and is in agreement with the proposed annexation.

Paragraph 10 of Joint Resolution No. 08-005/08-01 states the agreement shall expire within 20 years. End dates or ending mechanisms are problematic in that they appear contrary to 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.