

**In the Matter of A-7905 - the City of
La Crescent/La Crescent Township**

REC'D BY
MBA

APR 15 2015

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS**

IN THE MATTER OF THE PETITION FOR)
THE ANNEXATION OF CERTAIN LAND)
TO THE CITY OF LA CRESCENT PURSUANT)
TO MINNESOTA STATUTES § 414)

JOINT RESOLUTION

**JOINT RESOLUTION FOR ORDERLY ANNEXATION BY AND BETWEEN
LA CRESCENT TOWNSHIP AND THE CITY OF LA CRESCENT IN SETTLEMENT OF
MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS FILE NO.
A-7905 LA CRESCENT/ LA CRESCENT TOWNSHIP**

WHEREAS, the City of La Crescent (the "City") filed an annexation petition - Notice of Intent for Annexation, dated October 13, 2014, and filed on October 24, 2014, with the Minnesota Office of Administrative Hearings Municipal Boundary Adjustments Unit (File No. A-7905 La Crescent/La Crescent Township) seeking annexation of certain areas located within La Crescent Township (the "Township") pursuant to Minnesota Statutes, Section 414.033, subd. 3; and

WHEREAS, pursuant to Minnesota Statutes, Section 414.033, subd. 3, the Township adopted a resolution dated October 28, 2014 objecting to the City's above-referenced annexation petition and filed the same with the Minnesota Office of Administrative Hearings Municipal Boundary Adjustments Unit (the "OAH-MBAU") on November 4, 2014; and

WHEREAS, pursuant to Minnesota Statutes, Sections 414.031, 414.033, subd. 3, and 414.09, the OAH-MBAU, following proper published notice thereof, set the matter on for a contested case hearing and opened the hearing record in the above-referenced matter where the matter was continued indefinitely pending mediation of the matter; and

WHEREAS, the Township and the City entered into mediation of the above-referenced matter on February 24, 2015 and worked toward settlement of their boundary dispute; and

WHEREAS, the Township and City have now reached a settlement agreement believed to be in their mutual best interests; and

WHEREAS, the Township and City desire to enter into an agreement allowing for the orderly annexation of certain property, pursuant to Minnesota Statutes, Section 414.0325; and

WHEREAS, the parties hereto desire to set forth the terms and conditions of such orderly annexation by means of this Joint Resolution in settlement of the above-referenced contested case matter; and

WHEREAS, for ease of reference, the area of the Township proposed for immediate orderly annexation in accordance with this Joint Resolution (hereinafter referred to as the "Subject Area") is legally described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, the City has available capacity to provide needed services to the Subject Area; and

WHEREAS, the Township and City agree that orderly annexation of the Subject Area is in the best interest of the property owner and would benefit the public health, safety, and welfare of the community; and

WHEREAS, the Township and City desire to accomplish the immediate orderly annexation of the Subject Area without the need for any further hearings before the Office of Administrative Hearings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of La Crescent and the Township Board of Supervisors of the Township of La Crescent as follows:

1. Designation of Subject Area. The Township and City hereby designate the Subject Area legally described in Exhibit A for immediate orderly annexation pursuant to Minnesota Statutes, Section 414.0325:
2. Acreage of Subject Area. The Township and City agree that the Subject Area is approximately 7.21 acres.
3. Map of Subject Area. A boundary map showing the Subject Area legally described in Exhibit A is attached hereto as Exhibit B and is hereby incorporated herein by reference.
4. No Hearing Required/Review and Comment Jurisdiction Only. Pursuant to Minnesota Statutes, Section 414.0325, the Township and City agree that no alteration of the boundaries stated herein is appropriate, that all conditions for annexation of the Subject Area legally described in Exhibit A are contained in this Joint Resolution, and that no consideration by the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit is necessary. Upon the execution and filing of this Joint Resolution, the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit may review and comment hereon, but shall, within 30 days of receipt of this Joint Resolution, order the annexation of the Subject Area legally described in Exhibit A in accordance with the terms and conditions contained in this Joint Resolution.
5. Tax Reimbursement. Pursuant to Minnesota Statutes, Section 414.036, the Township and City agree that upon annexation of the Subject Area, the City shall reimburse the Township for the loss of taxes from the property so annexed for the period and in accordance with the following schedule:

- (a) In the first year following the year the city could first levy on the annexed area, an amount equal to \$6,159.89; (b) In the second year an amount equal to \$6,159.89; and (c) In the third and final year, an amount equal to \$6,159.89.
6. Tax Rate Phase-in. Following annexation of the area legally described in Exhibit A, the tax rate of the City applied to the area of the Township hereby annexed shall be increased in substantially equal proportions over three (3) years to equality with the City's tax rate applicable to other property already in the City.
7. Withdraw Contested Case Petition. The City agrees to withdraw its pending contested case annexation petition, File No. A-7905, as soon as practicable after execution and filing of this Joint Resolution with the OAH-MBAU.
8. Municipal Services.
- a. After annexation of the Subject Area, the City shall be responsible for providing municipal governmental services within the Subject Area. In the event that property owners within the Subject Area desire to receive certain municipal service that the property owner is not currently receiving, property owners may file a petition with the City for such service and receive consideration from the City Council. The City Council will endeavor to provide property owner petitioned services to the requesting properties in a timely manner to the extent practicable in the judgment of the City Council based on factors, including but not limited to the following: cost, timing and feasibility of the service project; cost, timing and feasibility of other City improvement projects; demonstrated service need; location of the petitioning property; distance of petitioning property from the petitioned service; type of service; capital improvement plan; comprehensive plan and other City land use controls; new or existing development; environmental review; number of property owners seeking services; and financial considerations including but not limited to assess ability of the service to the petitioning property and other likely situated properties, and the extent of property owner provided financing for the requested service.
 - b. The City will not require a mandatory connection to municipal services for a period of six (6) years after the approval of this Agreement, unless a public safety threat exists or the property is sold or otherwise conveyed. In said event, the property owner will need to connect to municipal services within one (1) year.
 - c. The City of La Crescent agrees not to annex any property that is in La Crescent Township that is contiguous to the area included in this Joint Resolution, unless initiated by property owner petition. This provision will remain in effect for six (6) years from the date that the orderly annexation is agreed upon between the City and the Township.
9. Termination. This Joint Resolution shall remain in full force and effect until one of the following conditions takes place, whichever comes first:

- a. Termination by mutual written joint resolution of the City and Township; or
 - b. Upon completion of tax reimbursement to the Township in accordance with paragraph 6 of this Joint Resolution.
10. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.
11. Disputes and Remedies. The Townships and City agree as follows:
- a. Negotiation. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and Township will direct staff members, as they deem appropriate, to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
 - b. Mediation/Arbitration. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties hereto may mutually agree in writing to seek relief by submitting their respective grievances to mediation and/or binding arbitration.
 - c. Adjudication. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to mediation or binding arbitration, or such action has not otherwise resolved the matter in dispute, either party to the dispute may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default, or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.
12. Modification/Amendment. This Joint Resolution shall not be modified, amended, or altered except upon the written joint resolution of the City and the Township duly executed and adopted by the City Council and the Township Board of Supervisors and filed with the OAH-MBAU, or its successor agency.
13. Severability. In the event that any provision of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties hereto.
14. Headings and Captions. Headings and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.
15. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution shall constitute the entire agreement between the parties hereto superseding

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all prior agreements and negotiations. This Joint Resolution shall be binding upon and inure to the benefit of the respective successors and assigns of the Township and City.

16. Legal Description and Mapping. The Township and City agree, in the event there are errors, omissions or any other problems with the legal description provided in Exhibit A or mapping provided in Exhibit B, in the judgment of the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit, to make such corrections and file any additional documentation, including a new Exhibit A or Exhibit B making the corrections requested or required by the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustment Unit as necessary to make effective the annexation of the Subject Area in accordance with the terms of this Joint Resolution.

17. Notice. Any notices required under the provisions of this Joint Resolution shall be in writing and sufficiently given if delivered in person or sent by U.S. mail, postage prepaid, as follows:

If to the City:

City Administrator
La Crescent City Hall
315 Main Street
La Crescent, MN 55947

If to the Township:

Township Clerk
La Crescent Township
4610 CTH 6
La Crescent, MN 55947

18. Effective Date. This Joint Resolution shall be effective on the date that the last party hereto signs and dates said document.

19. Filing. The Township and City agree that upon adoption and execution of this Joint Resolution, the City shall file the same with the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit and pay the required filing fee.

20. Joint Participation. The parties have participated jointly in the negotiation and preparation of all agreements between the parties. Each party has had an opportunity to obtain the advice of legal counsel and to review and comment upon this instrument. Accordingly, no rule of construction shall apply against any party or in favor of any party. This instrument shall be construed as if the parties jointly prepared it and uncertainty or ambiguity shall not be interpreted against one party and in favor of another.

Passed, adopted, and approved by the Township Board of Supervisors of the Township of La Crescent, Houston County, Minnesota, this 13 day of APRIL, 2015.

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ATTEST:

TOWNSHIP OF LA CRESCENT

By: Karen Schuldt
Karen Schuldt, Township Clerk

By: DeWayne Severson
DeWayne Severson, Chair

Passed, adopted, and approved by the City Council of the City of La Crescent, Houston County, Minnesota, this 13 day of April, 2015.

ATTEST:

TOWNSHIP OF LA CRESCENT

By: Bill Waller
Bill Waller, City Administrator

By: Mikel Poellinger
Mikel Poellinger, Mayor

EXHIBIT A**(Revised 2-2-2015)****Parcel 08.0725.000:**

LOT ONE (1), BLOCK ONE (1), AND THE NORTH TEN (10) FEET OF LOT SEVEN (7), BLOCK ONE (1), OF THE PLAT OF CRESCENT HILLS THIRD ADDITION TO THE TOWNSHIP OF LA CRESCENT, HOUSTON COUNTY, MINNESOTA.

Parcel 08.0726.000:

LOT TWO (2), BLOCK ONE (1), CRESCENT HILLS THIRD ADDITION, ACCORDING TO THE RECORDED PLAT THEREOF, HOUSTON COUNTY, MINNESOTA.

AND

AN EASEMENT FOR RECREATIONAL USE, INCLUDING THE USE OF A SWIMMING POOL, OVER THAT PART OF LOT ONE (1), BLOCK ONE (1), DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT TWO (2), BLOCK ONE (1); THENCE SOUTHERLY ON AND ALONG THE WEST LINES OF LOT TWO (2), AND LOT THREE (3), BLOCK ONE (1), FOR A DISTANCE OF 132.93 FEET; THENCE NORTH 14°22'30" WEST TO THE INTERSECTION OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT TWO (2), BLOCK ONE (1); THENCE EASTERLY ON THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT TWO (2), BLOCK ONE (1), TO THE NORTHWEST CORNER OF LOT TWO (2), BLOCK ONE (1), ALL IN THE PLAT OF CRESCENT HILLS THIRD ADDITION TO THE TOWNSHIP OF LA CRESCENT, HOUSTON COUNTY, MINNESOTA.

Parcel 08.0727.000:

LOT THREE (3), IN BLOCK ONE (1), OF CRESCENT HILLS THIRD ADDITION TO THE TOWNSHIP OF LA CRESCENT, HOUSTON COUNTY, MINNESOTA.

Parcel 08.0728.000:

LOT FOUR (4), BLOCK ONE (1), CRESCENT HILLS THIRD ADDITION, ACCORDING TO THE RECORDED PLAT THEREOF, HOUSTON COUNTY, MINNESOTA.

Parcel 08.0729.000:

LOT FIVE (5), BLOCK ONE (1), CRESCENT HILLS THIRD ADDITION TO THE TOWN OF LA CRESCENT, ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR HOUSTON COUNTY, MINNESOTA.

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Parcel 08.0730.000:

LOT SIX (6), BLOCK ONE (1), CRESCENT HILLS THIRD ADDITION TO THE CITY OF LA CRESCENT AND TOWNSHIP OF LA CRESCENT ACCORDING TO THE RECORDED PLAT THEREOF, HOUSTON COUNTY, MINNESOTA.

TOGETHER WITH ALL RIGHTS AND RESPONSIBILITIES OF THE WATER SERVICE AGREEMENT RECORDED SEPTEMBER 1, 1998 AS DOCUMENT NO. 196337.

Parcel 08.0731.000:

LOT SEVEN (7), IN BLOCK ONE (1), CRESCENT HILLS 3RD ADDITION TO THE TOWNSHIP OF LA CRESCENT, EXCEPT THE NORTH 10 FEET THEREOF, HOUSTON COUNTY, MINNESOTA.

AND

ALSO INCLUDING THAT PART OF NORTH 4TH STREET LYING ADJACENT TO THE ABOVE DESCRIBED PARCELS.

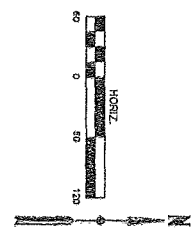
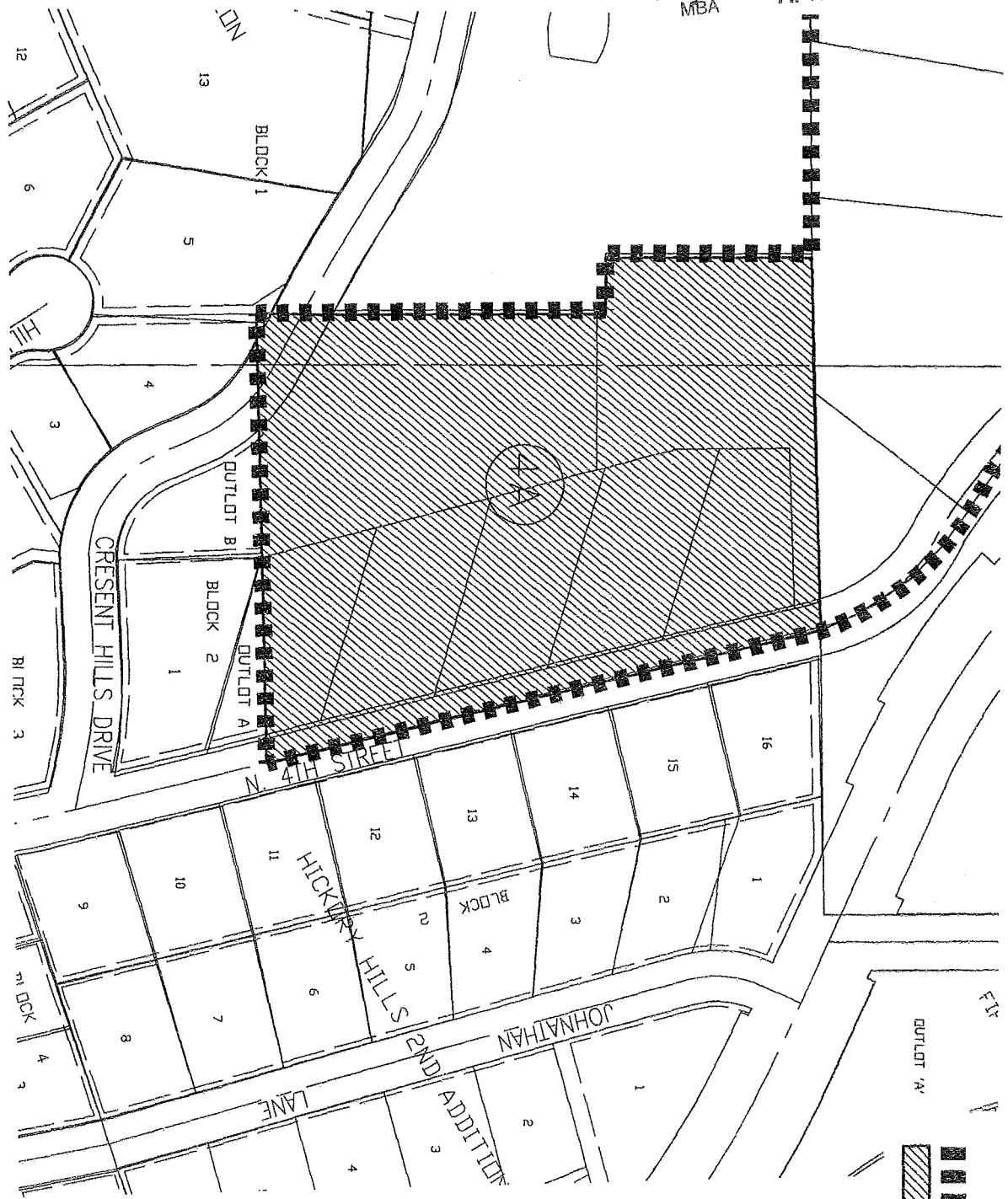
AND

ALSO INCLUDING THAT PART OF CRESCENT HILLS DRIVE LYING ADJACENT TO THE ABOVE DESCRIBED PARCELS.

EXHIBIT B
Boundary Map

The municipal boundary map referenced in the attached Joint Resolution, showing the current City of La Crescent and its relation to the Subject Area to be annexed, legally described in Exhibit A, is attached hereto.

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MBA
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LEGEND

EXISTING CITY LIMITS

PROPOSED ANNEXATION

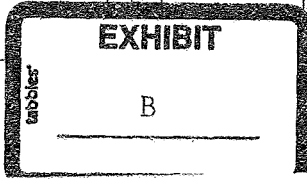
SCALE: AS SHOWN
PROJECT NO.: 7319.14
DRAWN BY: JMS
CHECKED BY: JMS
SHEET: 1 OF 1

PROPOSED ANNEXATION BOUNDARIES
LA CRESCENT, MN
7319.14

REVISIONS	
NO.	DATE

I hereby certify that this plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Date
License No. 44030



whks
engineers • planners • land surveyors