

STATE OF MINNESOTA  
COURT OF ADMINISTRATIVE HEARINGS

In the Matter of the Orderly Annexation  
of Certain Real Property to the City of  
Foley from Gilmanton Township  
(MBAU Docket OA-1795-5)

**ORDER ON REVIEW OF  
ORDERLY ANNEXATION**

In March 2021, the City of Foley (City) and the Township of Gilmanton (Township) entered into an orderly annexation agreement reflected in a Joint Resolution for Orderly Annexation and Joint Planning Agreement, City Resolution No. 2021-9 and Township Resolution No. 2021-1 (Orderly Annexation Agreement).<sup>1</sup> The Orderly Annexation Agreement designated certain real property for orderly annexation (Orderly Annexation Area).<sup>2</sup>

The Orderly Annexation Agreement provides that property in the Orderly Annexation Area shall be annexed to the City when agreed to by two of the following three parties: the property owner, the City, and the Township.<sup>3</sup> The Agreement further provides that the City may initiate annexation by providing written notice to the Township and all property owners of record.<sup>4</sup>

The City and Township agreed to the annexation of four parcels in the Orderly Annexation Area: Parcel Nos. 020037100 (owned by Michael T. Henry); 020036600 (owned by John G. Herbst and Patricia L. Herbst); 020036800 (owned by Thomas L. Henry and Paige Ladue-Henry); and 020038500 (owned by Thomas L. Henry and Paige Ladue-Henry).<sup>5</sup>

The City and Township first attempted to complete the annexation of the four parcels in March 2025.<sup>6</sup> On April 1, 2025, the Township adopted Resolution No. 2025-3 (Township Resolution) approving the annexation of the four parcels by the

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<sup>1</sup> Joint Resolution for Orderly Annexation and Joint Planning Agreement Between Gilmanton Township and the City of Foley, City Resolution No. 2021-9 and Township Resolution No. 2021-1 (fully adopted Mar. 19, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Resolution Re-Approving Annexation of Land Located in Gilmanton Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025).

<sup>6</sup> See Court of Administrative Hearings Docket No. 71-0331-40834.

City.<sup>7</sup> Similarly, on May 6, 2025, the City adopted Resolution No. 2025-12 approving the annexation of the four parcels.<sup>8</sup> The City and Township also agreed to the City's annexation of a minimum maintenance road, legally described as follows:<sup>9</sup>

The Township Road (no number listed on County map) to the North of Highway 23 and West of Highway 25 from North of the Thomas Henry residence to North to Highway 25 shall be a Minimum Maintenance Road starting as soon as the road signs are in place.

On or about May 13, 2025, the City filed documents with the Court of Administrative Hearings requesting approval of the annexation.<sup>10</sup> Administrative Law Judge Jessica Palmer-Denig issued an Order Approving Annexation on June 17, 2025.<sup>11</sup> The Benton County Recorder, however, refused to record the Order due to an issue with the legal description for Parcel No. 020038500.<sup>12</sup>

The City requested that the Administrative Law Judge issue a corrected order, but the request was denied.<sup>13</sup> As a result, the City re-initiated the annexation process.<sup>14</sup>

As part of that process, on September 5, 2025, the City provided written notice to the Township and all affected property owners regarding its intent to annex the four parcels and minimum maintenance road, as required by the Orderly Annexation Agreement.<sup>15</sup>

More than 30 days later, on October 7, 2025, the City adopted a Resolution Re-Approving Annexation No. 2025-22 (City Resolution) for these four parcels.<sup>16</sup> The City Resolution approved the annexation of the four parcels and the minimum maintenance road.<sup>17</sup>

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<sup>7</sup> Gilman Township Resolution No. 2025-3 (Exhibit D to Resolution Re-Approving of Land Located in Gilman Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025)).

<sup>8</sup> Resolution Approving Annexation of Land Located in Gilman Township, Benton County Per Orderly Annexation Agreement, No. 2025-12), adopted May 6, 2025, on file in CAH Docket No. 71-0331-40834.

<sup>9</sup> Resolution Re-Approving Annexation of Land Located in Gilman Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025) at Exhibit C.

<sup>10</sup> See Initiating Documents in CAH Docket No. 71-0331-40834.

<sup>11</sup> Order Approving Annexation (Jun. 17, 2025), CAH Docket No. 71-0331-40834.

<sup>12</sup> See Resolution Re-Approving Annexation of Land Located in Gilman Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at Ex. D (Notice Letters).

<sup>16</sup> Resolution Re-Approving Annexation of Land Located in Gilman Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025)

<sup>17</sup> *Id.*

On October 10, 2025, the City filed City Resolution No. 2025-22 with the Court of Administrative Hearings, seeking review under Minn. Stat. § 414.0325 (2024). The legal descriptions of the four parcels contained in the City Resolution, as well as the legal description for the minimum maintenance road, were submitted to the Minnesota Department of Transportation (MnDOT) for approval.<sup>18</sup> MnDOT approved the legal descriptions as correct but recommended including the words “except land already within the city” to the end of the legal descriptions.<sup>19</sup>

Based upon MnDOT’s recommendation, the City re-filed City Resolution No. 2025-22, with the amended legal descriptions, as follows:<sup>20</sup>

PID No. 020037100 - .89 acres

All that part of the Northwest Quarter of the Southwest Quarter (NW1/4 of SW1/4), of Section Twenty-six (26), Township Thirty-seven (37) North, Range Twenty-nine (29) West, Fourth Principal Meridian, lying Northerly of Stony Brook Creek, and Westerly of Minnesota Trunk Highway No. 25 (formerly known as Minnesota Trunk Highway No. 218), Benton County, Minnesota, subject to existing highways and easements of record.

PID No. 020036600 – 8.51 acres

All that part of the West Half of the Southwest Quarter (W1/2 of SW1/4) of Section Twenty-six (26), Township Thirty-seven (37) North, Range Twenty-nine (29) West, Fourth Principal Meridian, Benton County, Minnesota, Lying westerly of the westerly right of way line of Minnesota Trunk Highway No. 25 and Lying northerly of the Northerly right of way of Minnesota Trunk Highway No. 23, and Lying Southerly of the following described line:

Commencing at a point on West line of the said Section 26, 1792.3 feet North of the Southwest corner thereof, said point being the center of the bridge; thence deflecting to the right a delta angle of 77°50’ for a distance of 208.2 feet to a point on the West right-of-way line of Trunk Highway No. 25; thence southeasterly along the highway right of way line for a distance of 773.2 feet to the point of beginning of the line to be described;

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<sup>18</sup> See email correspondence from Justin Roberts (MnDOT) to Jamie Smith (MBAU) (Oct. 24, 2025), on file and of record with the Court of Administrative Hearings.

<sup>19</sup> Email correspondence from Justin Roberts (MnDOT) to Jamie Smith (MBAU Administrator) (Sept. 29, Sept. 30, and Oct. 2, 2025), on file and of record with the Court of Administrative Hearings.

<sup>20</sup> Resolution Re-Approving Annexation of Land Located in Gilmanton Township, Benton County Per the Orderly Annexation Agreement, Resolution No. 2025-22 (Oct. 7, 2025), refiled with the Court of Administrative Hearings on October 27, 2025 (changing the legal description in Exhibit A).

thence deflecting to the right a delta angle of  $106^{\circ}50'$  for a distance of 563.7 feet to a point on the West line of said Section 26 and said line there terminating.

EXCEPTING THEREFROM all that part lying Southerly of the following described line: Beginning at a point on the West line of said W1/2 of SW1/4, distant 320 feet North of the Southwest corner of said Section 26; thence Northerly along said West line 36 feet, thence Easterly at a right angle 48.97 feet, thence northeasterly, deflecting to the left  $36^{\circ}19'10''$ , a distance of 822.76 feet to the Westerly right of way line of Minnesota Trunk Highway No. 25 and there terminating.

PID No. 020036800 – 4.26 acres

That part of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Twenty-six (26), Township Thirty-seven (37) North, Range Twenty-nine (29) West, Fourth Principal Meridian, Benton County, Minnesota, described as follows, to-wit:

Beginning at a point on the West line of said Southwest Quarter of the Southwest Quarter, distant 320.00 feet North of the Southwest corner of said Section 26; thence Northerly, along said West line 36.00 feet; thence Easterly at a right angle 48.97 feet; thence Northeasterly, deflecting to the left 36 degrees 19 minutes 10 seconds, a distance of 822.76 feet to the Westerly right-of-way line of Trunk Highway 25; thence Southeasterly, along said right-of-way line 213.00 feet to a highway right-of-way monument; thence Southwesterly 253.70 feet, along sight triangle to a highway right-of-way monument on Trunk Highway 23; thence Southwesterly, along the Northerly right-of-way line of said Trunk Highway 23, a distance of 610.40 feet to a highway right-of-way monument; thence Northwesterly on a sight triangle 120.20 feet to a highway right-of-way monument; thence Westerly, a distance of 33.00 feet to the point of beginning. Subject to easements of record.

Less: Parcel 324G as shown on Minnesota Department of Transportation Right of Way Plat No. 05-37.

PID No. 020038500 – 79.76 acres

The East Half of the Southeast Quarter (E1/2 of SE1/4), less road right of way, all in section Twenty-seven (27), Township Thirty-seven (37) North, Range Twenty-nine (29) West, Fourth Principal Meridian, Benton County, Minnesota.

Except Parcel 254 as shown on MINNESOTA DEPARTMENT OF  
TRANSPORTATION RIGHT OF WAY PLAT NO. 05-37

Except land already within the city.

Minimum Maintenance Road

The Township Road (no number listed on County map) to the North of Highway 23 and West of Highway 25 from North of the Thomas Henry residence to North to Highway 25 shall be a Minimum Maintenance Road starting as soon as the road signs are in place.

The four parcels and the minimum maintenance road are collectively referred to as the Subject Properties.

The record closed on October 27, 2025, upon the City's last filing.

Based upon a review of the submissions, the Administrative Law Judge makes the following:

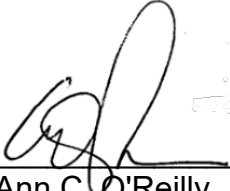
**ORDER**

1. Pursuant to Minn. Stat. § 414.0325, the Resolution Re-Approving Annexation of Land Located in Gilmanton Township, Benton County per the Orderly Annexation Agreement, City Resolution No. 2025-22, has been reviewed and is approved.

2. Pursuant to the terms of the Orderly Annexation Agreement, the City Resolution, the Township Resolution, the review of the property legal descriptions by MnDOT, and this Order, the Subject Properties are **ANNEXED** to the City.

3. Pursuant to the agreement of the parties. and as allowed by Minn. Stat. § 414.036 (2024), all taxes, reimbursements, and other payments shall be made in accordance with the terms of the Orderly Annexation Agreement.

Dated: November 13, 2025

  
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Ann C. O'Reilly  
Administrative Law Judge

## **NOTICE**

This Order is the final administrative order in this case under Minn. Stat. §§ 414.0325, .07, .09, .12 (2024). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Benton County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2025). However, no request for amendment shall extend the time of appeal from this Order.