

OA-724-11 Byron
City Resolution No. 2003-40
Town Resolution No. 2003-03

DEPARTMENT OF ADMINISTRATION
STATE OF MINNESOTA
BEFORE THE DIRECTOR OF
STRATEGIC AND LONG RANGE PLANNING

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF BYRON AND) ORDER
THE TOWN OF KALMAR PURSUANT TO MINNESOTA)
STATUTES 414)

WHEREAS, a joint resolution for orderly annexation was adopted by the City of Byron and the Town of Kalmar; and

WHEREAS, a resolution was received from the City of Byron requesting that certain property be annexed to the City of Byron pursuant to M.S. 414.0325; and

WHEREAS, M.S. 414.0325 states that in certain circumstances the Director of Strategic and Long Range Planning may review and comment, but shall within 30 days order the annexation of land pursuant to said subdivisions; and

WHEREAS, on February 19, 2004, the Director has reviewed and accepted the resolution for orderly annexation;

IT IS HEREBY ORDERED: That the following described property is hereby annexed in accordance with the terms of the joint resolution to the City of Byron, Minnesota, the same as if it had originally been made a part thereof:

All that part of the Northeast Quarter (NE ¼) of Section 33, Township 107 North, Range 15 West, lying north of the right-of-way of the Winona and St. Peter Railway Company, Olmsted County, Minnesota;

EXCEPTING the following three described parcels:

That part of the Northeast Quarter of Section 33, Township 107 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Beginning at the northwest corner of said Northeast Quarter of Section 33; thence on an assumed bearing of South 00°24'20" East a distance of 966.16 feet along the west line of said Northeast Quarter; thence North 89°18'35" East a distance of 570.00 feet; thence South 00°24'20" East a distance of 1086.36 feet along a line parallel to said west line to the northerly line of the existing railroad right-of-way; thence South 85°43'10" East a distance of 2065.26 feet along said railroad right-of-way to the east line of said Northeast Quarter; thence North 00°14'40" West a distance of 2204.27 feet along said east line to the northeast corner of said Northeast Quarter; thence South 89°54'07" West a distance of 2634.58 feet to the northwest corner of said Northeast Quarter and the point of beginning; containing 113.20 acres.

Subject to a road right-of-way along the north line and a part of the west line of the above described parcel and any other easements of record.

ALSO

That part of the West Half of the Northeast Quarter of Section 33, Township 107 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the northwest corner of said West Half of the Northeast Quarter of Section 33; thence on an assumed bearing of South 00°24'20" East a distance of 966.16 feet along the west line of said West Half of the Northeast Quarter to the point of beginning; thence North 89°18'35" East a distance of 570.00 feet; thence South 00°24'20" East a distance of 382.11 feet along a line parallel to said west line; thence South 89°18'35" West a distance of 570.00 feet to said west line; thence North 00°24'20" West a distance of 382.11 feet along said west line to the point of beginning; containing 5.00 acres.

Subject to a road right-of-way along the west line of the above described parcel and any other easements of record.

ALSO

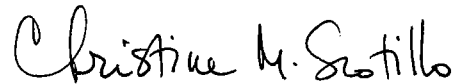
That part of the Southwest Quarter of the Northeast Quarter of Section 33, Township 107 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Commencing at the northwest corner of said Northeast Quarter; thence on an assumed bearing of South 00°24'20" East along the west line of said Northeast Quarter 966.16 feet; thence North 89°18'35" East 570.00 feet; thence South 00°24'20" East 580.19 feet to the point of beginning; thence continuing South 00°24'20" East 506.17 feet; thence North 85°43'10" West 521.74 feet; thence North 00°24'20" West 403.55 feet; thence North 89°35'40" East 301.69 feet; thence North 44°35'40" East 84.85 feet; thence North 89°35'40" East 158.30 feet to the point of beginning, containing 5.33 acres.

Subject to a road right-of-way along the west line of the above described parcel and any other easements of record. The above described parcel contains 3.56 acres.

Dated this 19th day of February, 2004.

For the Director
658 Cedar Street - Room 300
St. Paul, Minnesota 55155

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive, flowing style.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-724-11 Byron, the Director finds and makes the following comment:

Planning in the area designated for orderly annexation must be provided for by one of three provisions set forth in Minnesota Statutes Section 414.0325, Subd. 5. The joint resolution does not make reference to which of the three statutory provisions the parties have agreed on to govern planning in the designated area.

Paragraph XII of the agreement provides for a division of tax revenue from an annexed area, based upon a ten year schedule. By making this order, no determination is made as to the effectiveness of such a schedule. Minnesota Statutes Section 414.036 allows for a reimbursement to the township of property taxes of substantially equal payments over a period of not less than two nor more than six years. Including such a provision in an order under Minnesota Statutes Section 414.0325 is discretionary with the Director.

Additionally, paragraph XVII states the agreement shall automatically expire on June 1, 2020. End dates or ending mechanisms are problematic in that they appear to run afoul of the act of conferring jurisdiction to the Director. (Paragraph VIII). 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 Director upon written request of the parties to the agreement to mutually end their agreement has not been addressed.

The parties are encouraged to consider these comments in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.