

OA-724-5 Byron
City Resolution No. 2002-04
Town Resolution No. 2002-02

BEFORE THE DIRECTOR OF THE OFFICE OF
STRATEGIC AND LONG RANGE PLANNING
OF THE STATE OF MINNESOTA

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, said joint resolution requests that certain property be annexed to the City of Byron pursuant to M.S. 414.0325, Subd. 1; and

WHEREAS, M.S. 414.0325, M.S. 414.11, and M.S. 414.12 states that in certain circumstances the Director of the Office 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 April 12, 2002, the Director of the Office of Strategic and Long Range Planning 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 resolution to the City of Byron, Minnesota, the same as if it had

originally been made a part thereof:

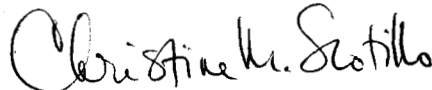
That part of the Northeast Quarter of Section 33, Township 107 North, Range 15 West, Olmsted County, Minnesota, described as follows:

Beginning at the northwest corner of said Northeast Quarter of Section 33; thence on an assumed bearing of South 00 degrees 24'20" East a distance of 966.16 feet along the west line of said Northeast Quarter; thence North 89 degrees 18' 35" East a distance of 570.00 feet; thence South 00 Degrees 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 degrees 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 degrees 14' 40"-West a distance of 2204.27 feet along said east line to the northeast corner of said Northeast Quarter; thence South 89 degrees 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.

Dated this 12th day of April, 2002.

For the Director of the Office of Strategic
& Long Range Planning
658 Cedar Street - Room 300
St. Paul, Minnesota 55155



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

OA-724-5 Byron

MEMORANDUM

In ordering the annexation contained in Docket No. OA-724-5 Byron, the Director of Strategic and Long Range Planning 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.

CMS