

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF ROCHESTER)
AND THE TOWN OF CASCADE PURSUANT TO)
MINNESOTA STATUTES 414)

O R D E R

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

WHEREAS, a resolution was received from the City of Rochester requesting that certain property be annexed to the City of Rochester 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 pursuant to said subdivisions; and

WHEREAS, Reorganization Order No. 192, effective March 8, 2005, has transferred the duties of the Director to the Chief Administrative Law Judge; and

WHEREAS, on November 10, 2005, the Chief Administrative Law Judge 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 Rochester, Minnesota, the same as

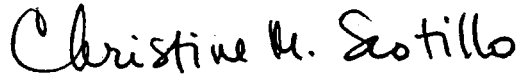
if it had originally been made a part thereof:

That part of the North 560.00 feet of Lot 2, Block 1, WESTGARDS FIRST SUBDIVISION, Cascade Township, Olmsted County, Minnesota lying southerly of the following described line:

Commencing at the northwest corner of said Lot 1; thence southerly along the West line of said Lot 2 on an assumed bearing of South a distance of 360.00 feet to the point of beginning of the line to be described; thence East a distance of 45.00 feet; thence South 85 degrees 56 minutes 49 seconds East a distance of 443.69 feet to the easterly line of said Lot 2 and said line there terminating.

Dated this 10th day of November, 2005.

For the Chief Administrative Law Judge
658 Cedar Street - Room 300
St. Paul, MN 55155



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1048-2 Rochester, the Chief Administrative Law Judge 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 7 provides for municipal reimbursement - a different application for different status of land. If Paragraph 7(A) applies to this file then 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.

Paragraph 13 states the agreement will terminate when the parties adopt a joint resolution of termination, when all of the land within the annexation area is annexed to the City, or on January 1, 2014, whichever occurs first. End dates or ending mechanisms are problematic in that they appear to run afoul of 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.

CWS