

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of OA-1073-5
Byron/Kalmar Township
Pursuant to Minnesota Statutes 414

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The city resolution for orderly annexation submitted by the City of Byron was reviewed for conformity with applicable law. By delegation, the Chief Administrative Law Judge hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. A joint resolution for orderly annexation was adopted by the City of Byron and Kalmar Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustment Unit.

2. A resolution adopted and submitted by the City of Byron, requests annexation of part of the designated area described as follows:

The West 46 rods of the South 18 rods of the West 100 acres of the Southeast Quarter (SE ¼), Section 28, Township 107, Range 15, Olmsted County, Minnesota, excepting therefrom the East 379.50 feet of the West 759.00 feet of the South 297.00 feet of the Southeast Quarter (SE ¼) of Section 28, Township 107, Range 15, Olmsted County Minnesota.

3. Minnesota Statutes § 414.0325, subd. 1(h) states that in certain circumstances the Chief Administrative Law Judge may review and comment, but shall within 30 days order the annexation pursuant to the terms of a joint resolution for orderly annexation.

4. The joint resolution contains all the information required by Minnesota Statutes § 414.0325, subd. 1(h), including a provision that the Chief Administrative Law

Judge may review and comment but shall order the annexation within 30 days in accordance with the terms of the joint resolution.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has duly acquired and now has jurisdiction of the within proceeding.
2. An order should be issued by the Chief Administrative Law Judge or authorized designee annexing the area described herein.

ORDER

1. The property described in Findings of Fact 2 is annexed to the City of Byron, the same as if it had originally been made a part thereof.
2. Pursuant to Minnesota Statutes § 414.036, Kalmar Township will be reimbursed by the City of Byron in accordance with the terms of Joint Resolution No. 2004-09 signed by the City and Township on July 29, 2004.

Dated: January 15, 2013



Timothy J. O'Malley
Assistant Chief Administrative Law Judge
Municipal Boundary Adjustment Unit

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1073-5 Byron, the Chief Administrative Law Judge finds and makes the following comment:

Paragraph 26 states the agreement shall expire on January 1, 2029. 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 these comments in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

T.J.O.