

Joellen Phacker

RESOLUTION # 168-1994

REC'D BY SEP 12 1994
MMB

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

In the Matter of the Joint Orderly Annexation Agreement Between the City of Fergus Falls and Town of Fergus Falls Pursuant to Minnesota Statutes §414

Resolution of the City of Fergus Falls

WHEREAS, a Joint Resolution for Orderly Annexation (1974 Joint Resolution), by and between the City of Fergus Falls (City) and the Township of Fergus Falls (Township), was adopted by the City on July 17, 1974, and by the Township on July 18, 1974, and duly accepted by the Minnesota Municipal Commission (legal predecessor to the Minnesota Municipal Board);

WHEREAS, the 1974 Joint Resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and provides that the Minnesota Municipal Commission's (Board's) jurisdiction is strictly limited to the terms of the joint resolution;

WHEREAS, the City and Township engaged in litigation over certain terms of the 1974 Joint Resolution which resulted in a Minnesota Court of Appeals' published opinion, cited at Township of Fergus Falls v. City of Fergus Falls, 357 N.W.2d 428 (Minn. Ct. App. 1984);

WHEREAS, the City and Township entered into a Stipulation for Settlement of Appeal and Amendment to Orderly Annexation dated December 27, 1984, which amended the 1974 Joint Resolution;

WHEREAS, the City and Township entered into an Agreement adopted by the City on December 7, 1987, and by the Township on November 18, 1987, which again amended the 1974 Joint Resolution;

WHEREAS, the City and the Township entered into a Joint Resolution adopted by the City on December 7, 1987, and the Township on November 10, 1987 (1987 Joint Resolution) which resolved, among other things, that part of the area described in the 1974 Joint Resolution would be annexed to the City without the need for a hearing because the parties were satisfied that: the area was or was about to become urban or suburban in character and that the City was capable of providing services within a reasonable time; or that township form of government was not adequate to protect the public health, safety and welfare; or that annexation was in the best interests of the area proposed for annexation. See Minn. Stat. §414.0325, Subd. 3. The 1987 Joint Resolution also resolved that an annexation election was not required.

WHEREAS, the City and Township entered into an Agreement adopted by the City on May 6, 1991, and by the Township on May 2, 1991, which again amended the 1974 Joint Resolution;

WHEREAS, the City and the Township entered into a Joint Resolution adopted by the City of May 6, 1991, and by the Township on May 2, 1991, (1991 Joint Resolution) which resolved, among other things, that part of the area described in the 1974 Joint Resolution would be annexed to the City without the need for a hearing because the parties were satisfied that: the area was or was about to become urban or suburban in character and that the

City was capable of providing services within a reasonable time; or that township form of government was not adequate to protect the public health, safety and welfare; or that annexation was in the best interests of the area proposed for annexation. See Minn. Stat. §414.0325, Subd. 3. The 1991 Joint Resolution also resolved that an annexation election was not required.

WHEREAS, Minnesota Statutes, §414.0325, subdivision 1 provides in part:

Thereafter, an annexation of any part of the designated area may be initiated by submitting to the executive director a resolution of any signatory to the joint resolution . . .

(Emphasis added).

WHEREAS, according to 1992 Laws of Minnesota, Chapter 556, Section 12, the Minnesota Legislature repealed Minnesota Statutes, §414.031, subdivision 5, the law governing annexation elections.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Fergus Falls as follows:

1. Pursuant to Minnesota Statutes, §414.0325, subdivision 1 and to the 1974 Joint Resolution and the amendments thereto, the City petitions the Minnesota Municipal Board for annexation of the following area, legally described as:

(See attached sheet marked Exhibit "A" for correction legal description)

2. That pursuant to the Court of Appeals' decision in Township of Fergus Falls v. City of Fergus Falls, 357 N.W.2d 428 (Minn. Ct. App. 1984) and the Minnesota Legislature's repeal of Minn. Stat. §414.031, subd. 5, there no longer exists any requirement that an annexation election be held.

3. Pursuant to Minnesota Statutes, §414.0325, subdivision 1 and to the 1974 Joint Resolution, which joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and provides that the Minnesota Municipal Commission's (Board's) jurisdiction is strictly limited to the terms of the Joint Resolution, the Board may review and comment, but shall, within thirty (30) days, order the annexation in accordance with the terms of the joint resolution.

4. Effective Date. The effective date of this Resolution shall be the 15th day of August, 1994.

This Resolution was introduced on August 15, 1994, and adopted by the City Council on the 15th day of August, 1994, by the following vote:

AYES: Olson, Keeton, Rude, Dieseth, Kvenvolden, Anderson, Melby

NAYS: None

ABSENT: Fish

Whereupon said Resolution was duly adopted.

ATTEST:

APPROVED:



City Administrator



Mayor

EXHIBIT A

The Northwest Quarter ($NW\frac{1}{4}$), the North Half of the Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$), all in Section Twenty-five (25); and that portion of the East Half ($E\frac{1}{2}$) of Section Twenty-six (26) not presently within the corporate limits of City and excepting therefrom that portion of the plat of Woodland Heights Second Addition, all in the Township One Hundred Thirty-three (133) North, Range Forty-three (43) West, (Fergus Falls Township), Otter Tail County, Minnesota,

except that part of the Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$) of Section Twenty-five (25), Township One Hundred Thirty-three (133) North, Range Forty-three (43) West, Otter Tail County, Minnesota, described as follows:

Commencing at the South quarter section corner of said Section Twenty-five (25); thence North $00^{\circ}15'57''$ East (Assumed Bearing) along the North-South quarter section line of said Section Twenty-five (25) a distance of 1333.02 feet to the Southeast corner of said Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$), said point being the point of beginning; thence South $89^{\circ}59'24''$ West along the South line of said Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$) a distance of 275.00 feet; thence North $00^{\circ}15'57''$ East a distance of 500.00 feet; thence North $89^{\circ}59'24''$ East a distance of 275.00 feet to the East line of said Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$); thence South $00^{\circ}15'57''$ West along said East line a distance of 500.00 feet to the point of beginning. (David Spies has petitioned for annexation of this described tract separately and this was sent to the Municipal Board in August 1994.)

REC'D BY SEP 12 1994
M.M.P.

PROPOSED ANNEXATION
-Detail-
(450 Acres)

Location
(see Detail)

PROPOSED ANNEXATION
IN SECTIONS 25 & 26
T 133 N, R 43 W

CITY OF
FERGUS FALLS,
MINNESOTA

Exception