

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	
AGREEMENT BETWEEN THE CITY OF WACONIA)	<u>FINDINGS OF FACT</u>
AND WACONIA TOWNSHIP PURSUANT TO)	<u>CONCLUSIONS OF LAW</u>
MINNESOTA STATUTES 414)	<u>AND ORDER</u>

The city resolution for orderly annexation submitted by the City of Waconia was reviewed for conformity with applicable law. The undersigned Assistant Chief Administrative Law Judge, acting under a delegation from 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 Waconia and Waconia Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustments.

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

That part of the Southwest Quarter of the Northeast Quarter of Section 26, Township 116, Range 25, Carver County, Minnesota, described as follows:

Commencing at the southwest corner of Outlot U, WATERFORD, according to the recorded plat thereof, said Carver County, thence on a bearing of East, assumed bearing along the south line of said Outlot U, a distance of 257.78 feet to the point of beginning; thence continuing on a bearing of East along said south line, a distance of 54.50 feet; thence South 35 degrees 42 minutes

55 seconds West, a distance of 30.77 feet; thence northwesterly along a non-tangential curve concave to the southwest, having a central angle of 2 degrees 42 minutes 27 seconds, a radius of 936.79 feet for an arc distance of 44.27 feet to said south line and the point of beginning, the cord of said curve bears North 55 degrees 38 minutes 18 seconds West.

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 Assistant Chief Administrative Law Judge annexing the area described herein.

ORDER

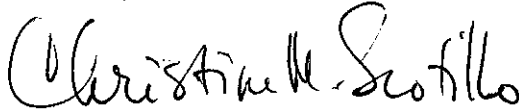
1. The property described in Findings of Fact 2 is annexed to the City of Waconia, the same as if it had originally been made a part thereof.

2. Pursuant to Minnesota Statutes §414.036, Waconia Township will be reimbursed by the City of Waconia in accordance with the terms of the Joint Resolution signed by the City of

Waconia on December 20, 2004 and the Township of Waconia on December 22, 2004.

Dated this 22nd day of April, 2010.

For the Assistant Chief Administrative Law Judge
P. O. Box 64620
St. Paul, Minnesota 55164-0620

A handwritten signature in black ink, reading "Christine M. Scotillo". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1115-4, the Chief Administrative Law Judge finds and makes the following comment:

In City Resolution No. 2010-57, paragraph #1 refers to Minn. Stat. §414.0325 Subd. 1(d)(1) as the authority for the city to initiate a “review and comment” resolution under MBA Docket No. OA-1115. (Note 414.0325 Subd 1(e)(1)(2008 as amended). That section of the statute authorizes signatories to a joint resolution for orderly annexation to initiate an annexation from the area designated by a joint resolution. It does not allow any signatory to a joint resolution to, sua sponte, accomplish such annexation via a “review and comment” resolution signed by only one of the signatories in the absence of the hearing procedures set forth in Minn. Stat. §414.0325 Subds. 2 and 3.

In OA-1115, the authority for the city to initiate a “review and comment” resolution on its own comes from Paragraph #6 of the *joint resolution* for orderly annexation, a provision which the parties negotiated and which was approved by Waconia Township December 22, 2004 and by the City of Waconia on December 20, 2004, and not from the cited statutory section, which invoked by itself would lead to a hearing as per 414.0325 Subd. 2 (2008). That resolution provides in paragraph #6 which states, in part:

Approval Process. The City and the Township mutually state that the OA

Area shall be annexed to the City by the MBA on receipt of the City’s resolution

in accord and with the terms of this Joint Resolution as follows:

Please refer to provisions of your main agreement that are germane when filing future annexations under this joint resolution.

In addition, paragraph No. 18 states the agreement shall expire at the end of the day on July 1, 2015. 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.

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.