

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF WINONA) FINDINGS OF FACT
AND WILSON TOWNSHIP PURSUANT TO) CONCLUSIONS OF LAW
MINNESOTA STATUTES 414) AND ORDER

The city resolution for orderly annexation submitted by the City of Winona 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 Winona and Wilson 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 Winona, requests annexation of part of the designated area described as follows:

The tracts of land situated in the County of Winona, State of Minnesota, described as follows, to wit:

PARCEL 1:

That part of the Northeast Quarter of the Northeast Quarter (NE1/4 of NE1/4) of Section One (1), Township One Hundred Six (106), Range Seven (7), Winona County, Minnesota, more particularly bounded and described by lines as follows:

Commencing at the iron monument which marks the Northeast corner of Section One (1), Township One Hundred Six (106), Range Seven (7); thence in a Westerly direction along the North line of the Northeast Quarter (NE1/4) of said Section a distance of 350.43 feet to an iron pipe; thence deflect to the left 51

degrees 29 minutes a distance of 345.77 feet to the point of beginning; thence deflect to the right 90 degrees a distance of 120 feet; thence deflect to the left 90 degrees a distance of 85 feet; thence deflect to the left 90 degrees a distance of 120 feet; thence deflect to the left 90 degrees a distance of 85 feet to the point of beginning,

AND

PARCEL 2:

Outlot A: Pinecrest Subdivision, being located upon and forming a part of the Northeast Quarter of the Northeast Quarter (NE1/4 of NE1/4), Section One (1), Township One Hundred Six (106), Range Seven (7), Winona County, Minnesota.

Together with ½ of Pinecrest Road (25 feet) immediately adjacent to all such property. Such portion of road measuring approximately 25 feet x 125 feet.

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.

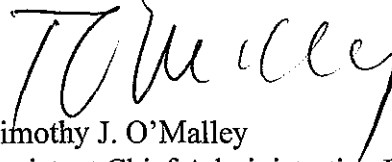
2. An order should be issued by the Chief Administrative Law Judge or authorized designee annexing the area described herein.

ORDER

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

2. Pursuant to Minnesota Statutes §414.036, Wilson Township will be reimbursed by the City of Winona in accordance with the terms of the Joint Resolution signed by the City of Winona on May 23, 2005 and Wilson Township on May 18, 2005; and City Resolution No. 2011-40.

Dated this 28th day of June, 2011.

A handwritten signature in black ink, appearing to read "T. O'Malley", written over the printed name.

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

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-12, the Chief Administrative Law Judge finds and makes the following comment:

Paragraph 24 states the agreement shall remain in full force and effect until termination by joint agreement of the parties; the remainder of the OAA is annexed; or 10 years from the effective date. 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.