

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	
AGREEMENT BETWEEN THE CITY OF WINONA)	<u>FINDINGS OF FACT</u>
AND WILSON 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 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:

That part of the Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) of Section One (1), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, described as follows:

Commencing at the Northeast corner of said Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4); thence North 90° 00' 00" West, assumed hearing along the North line of said Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) 535.75 feet; thence South 38° 31' 00" West 683.70 feet; thence South 19° 03' 00" West 342.00 feet; thence North 90° 00' 00" East 278.00 feet; thence South 24° 37' 20" East 40.00 feet to the point of beginning of the land to be described; thence South 00° 00' 00" East 110.04 feet; thence South 89° 50' 25" West 50.32 feet; thence North 00° 00' 00" East 121.82 feet; thence North 90° 00' 00" East 2.43 feet; thence Easterly 53.02 feet along a curve

concave to the North having a radius of 40.00 feet and a central angle of $75^{\circ} 56' 08''$ to the point of beginning.

Also, that part of the Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) of Section One (1), Township One Hundred Six (106) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, which is more particularly bounded and described as follows, to-wit:

Commencing at the iron monument that marks the Northeast corner of said Section One (1); thence in a Westerly direction along the North line of said Section One for a distance of 535.75 feet; thence at a deflection angle to the left of $51^{\circ} 29'$ for a distance of 683.70 feet; thence at a deflection angle to the left of $19^{\circ} 28'$ for a distance of 342 feet; thence at a deflection angle to the left of $109^{\circ} 03'$ for a distance of 278 feet; thence at a deflection angle to the right of $65^{\circ} 24'$ for a distance of 40 feet to the point of beginning; thence at a deflection angle to the right of $24^{\circ} 36'$ for a distance of 110.04 feet; thence at a deflection angle to the left of 90° for a distance of 250.17 feet to the center line of the Township Road; thence at a deflection angle to the left of $125^{\circ} 33'$ and Northwesterly along the center line of said Township Road for a distance of 42.69 feet; thence at a deflection angle to the right of $18^{\circ} 34'$ for a distance of 93.60 feet; thence at a deflection angle to the right of $10^{\circ} 32'$ for a distance of 22.30 feet; thence at a deflection angle to the left of $83^{\circ} 33'$ for a distance of 172.15 feet; thence in a Southwesterly direction along a curve concave to the Northwest, said curve having a central angle of $65^{\circ} 24'$ and a radius of 40 feet, for a distance of 45.26 feet to the point of beginning.

Also, for purposes of ingress to and egress from the above tract of land, an easement of 25 feet on each side of the following described center line:

Commencing at the Northeast Corner of said Section One (1); thence in a Westerly direction along the North line of said Section One (1) for a distance of 535.75 feet to the point of beginning; thence at a deflection angle to the left of $51^{\circ} 29'$ for a distance of 560.85 feet; thence deflect to the left on a 8° curve; delta angle $19^{\circ} 28'$, radius 716.20 feet, for a distance of 243.33 feet; thence on tangent to said curve for a distance of 75.58 feet; thence deflect to the left on a 56° curve, delta angle $109^{\circ} 03'$, radius 102.31 feet, for a distance of 194.73 feet; thence on tangent to said curve for a distance of 134.43 feet and there terminating. Said point of termination being the center of a circle having a radius of 40 feet, and all the land within the limits of said circle is considered part of the roadway and is to be used as a "turn-around" for said road.

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.

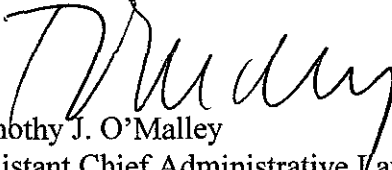
2. An order should be issued by the Chief Administrative Law Judge or authorized designee annexing the area described herein.

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. 2011-84.

Dated this 11th day of October, 2011.


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

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-16, 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.