

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

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

That part of the Northeast quarter of the Northeast quarter (NE ¼ of NE ¼) 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 Northeast corner of Section 1, Township 106 North, Range 7 West; thence in a Westerly direction along the North line of the Northeast quarter of the Northeast quarter (NE ¼ of NE ¼) of said Section 1 for a distance of 567.70 feet; thence deflect to the left 51° 29' for a distance of 220.50 feet to the point of beginning; thence deflect to the right 90° for a distance of 169.50 feet;

thence deflect to the left  $94^{\circ} 03' 45''$  for a distance of 85.22 feet; thence deflect to the left  $85^{\circ} 56' 15''$  for a distance of 163.47 feet; thence deflect to the left  $90^{\circ}$  for a distance of 85 feet, more or less, to the point of beginning.

ALSO, That part of the Northeast quarter of the Northeast quarter (NE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ ) 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 Section 1; thence in a westerly direction along the North line of said NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  567.70 feet; thence deflect to the left  $51^{\circ} 29'$ , a distance of 305.50 feet to a point on the westerly line of Pinecrest Road and the point of beginning of the land to be described; thence deflect to the right  $90^{\circ}$ , a distance of 163.93 feet; thence deflect to the left  $93^{\circ} 59' 20''$  a distance of 30.07 feet; thence deflect to the left  $86^{\circ} 00' 40''$ , a distance of 161.84 feet to said westerly line of Pinecrest Road; thence deflect to the left  $90^{\circ}$  along said westerly line of Pinecrest Road 30.00 feet to the point of beginning.

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 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. 2010-23.

Dated this 19<sup>th</sup> day of May, 2010.

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



Christine M. Scotillo  
Executive Director  
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1159-9, 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.

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