

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

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

Following a contested case proceeding resolved through mediation, a joint resolution for orderly annexation was adopted by the City of Austin and Lansing Township representing among other things, a resolution of contested issues contained in Municipal Boundary Adjustment (hereinafter "MBA") Docket A-7607.

Said joint resolution requests that the property, previously the subject of MBA Docket A-7607, designate approximately 698.55 acres of land for orderly annexation; and requests the immediate annexation of approximately 336.75 acres of land to the City of Austin pursuant to M.S. 414.0325, Subd. 1.

The joint resolution for orderly annexation submitted by the City of Austin and Lansing Township 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. On February 12, 2009, the Chief Administrative Law Judge reviewed and accepted the joint resolution which was adopted by the City on January 5, 2009, and by the

Township on January 7, 2009, and duly filed with the Office of Administrative Hearings-
Municipal Boundary Adjustments on January 28, 2009.

2. The joint resolution requests the designation and immediate annexation of certain
property to the City of Austin described as follows:

All that part of the S $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22-T103N-R18W, Section 23-T103N-R18W, the
NE $\frac{1}{4}$ Section 26-T103N-R18W and the E $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27-T103N-R18W, Mower
County, Minnesota; described as follows:

Commencing at the N $\frac{1}{4}$ corner of said Section 26;

thence South a distance of 1326.00 feet, on the north-south $\frac{1}{4}$ line of said Section
26, to the south line of the N $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 26;

thence Westerly on the south line of the N $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section 26 a distance
of 33.00 feet;

thence Southerly a distance of 33.00 feet, on a line parallel to said north-south $\frac{1}{4}$
line;

thence East a distance of 1369.20 feet, on a line parallel with and 33 feet south of
the south line of the N $\frac{1}{2}$ NE $\frac{1}{4}$ of said Section 26;

thence North a distance of 711.58 feet, parallel with the north-south $\frac{1}{4}$ section line
of said Section 26;

thence West a distance of 16.50 feet, to a point on the east line of the plat of
Ramsey Park, as the same is platted and recorded in the office of the County
Recorder of Mower County, Minnesota;

thence North a distance of 645.60 feet, on the east line of said Ramsey Park, to a
point on the north line of the NE $\frac{1}{4}$ of said Section 26;

thence West a distance of 780.65 feet, on the north line of the NE $\frac{1}{4}$ of said
Section 26, to a point on a southerly extension of the east line of the plat of San
Fernando Villas First Addition, as the same is platted and recorded in the office of
the County Recorder of Mower County, Minnesota;

thence North a distance of 326.32 feet, on the east line of said San Fernando
Villas First Addition and a southerly extension thereof;

thence Northeasterly a distance of 137.98 feet, on the east line of said San Fernando Villas First Addition, on a tangential curve concave to the southeast with a radius of 150.11 feet;

thence Northeasterly a distance of 432.20 feet, on a tangential line on the southeasterly line of said San Fernando Villas First Addition;

thence Northeasterly a distance of 246.74 feet, on a tangential curve on the southerly line of said San Fernando Villas First Addition, with a radius of 380.20 feet;

thence East a distance of 184.09 feet, on a tangential line on the southerly line of said San Fernando Villas First Addition, to a corner thereof;

thence Northerly a distance of 538.80 feet, on the east line of said San Fernando Villas First Addition, to a point on the easterly right-of-way line of County State Aid Highway No. 16;

thence Northerly and Northeasterly a distance of 1326 feet more or less, on the easterly line of said San Fernando Villas First Addition and the east line of said County State Aid Highway No. 16, to a point 321.84 feet east of the west line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of said Section 23;

thence North a distance of 105.04 feet, to a point on the north line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of said Section 23, which is 321.84 feet east of the northwest corner of said E $\frac{1}{2}$ SE $\frac{1}{4}$;

thence Northerly a distance of 1095.79 feet, to a point on the south right-of-way line of the former Chicago, Milwaukee, St. Paul & Pacific Railroad (now abandoned), which is 555.69 feet northeasterly of the northeast corner of Outlot 3 in Auditor's Plat of the W $\frac{1}{2}$ E $\frac{1}{2}$ Section 23- T103N-R18W;

thence Southwesterly a distance of 1353 feet more or less, on the southerly right-of-way line of said abandoned Chicago, Milwaukee, St. Paul & Pacific Railroad, to a point on the centerline of the Cedar River;

thence Southerly and Westerly on the centerline of said Cedar River, 2875 feet more or less, to a point on the east right-of-way line of County State Aid Highway No. 25;

thence Northwesterly a distance of 1140 feet more or less, on the easterly right-of-way line of said County State Aid Highway No. 25, to the southeast corner of Outlot 5 in the Plat of Outlots in the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 23-T103N-R18W, as the

same is platted and recorded in the office of the County Recorder of Mower County, Minnesota;

thence Northwesterly a distance of 848 feet more or less, on the northeasterly line of Outlot 5 to the northeast corner of Outlot 4 in said Plat of Outlots in the $W\frac{1}{2}$ $SW\frac{1}{4}$ of said Section 23;

thence Southwesterly a distance of 1120 feet more or less, on the northwesterly line of Outlots 1, 2, 3 & 4 and a southwesterly extension thereof, to a point on the west line of the $NW\frac{1}{4}$ $SW\frac{1}{4}$ of said Section 23;

thence South a distance of 1082.92 feet, on the west line of said $NW\frac{1}{4}$ $SW\frac{1}{4}$, to the southwest corner thereof;

thence West a distance of 42.76 feet, on the north line of the $S\frac{1}{2}$ $SE\frac{1}{4}$ Section 22-T103N-R18W, to the west right-of-way line of County State Aid Highway No. 25 (540th Avenue), as shown on Mower County Highway Right Of Way Plat No. 4;

thence Southerly a distance of 2120.00 feet, on the west right-of-way line of said County State Aid Highway No. 25 (540th Avenue), as shown on said Mower County Highway Right Of Way Plat No. 4;

thence Southerly a distance of 518.70 feet, to the southwest corner of the $N\frac{1}{2}$ $NW\frac{1}{4}$ of said Section 26;

thence South a distance of 206.00 feet, on the west line of the $NW\frac{1}{4}$ of said Section 26, to the south right-of-way line of Queens Lane, as shown on the plat of Royal Manor Subdivision, as the same is platted and recorded in the office of the County Recorder of Mower County, Minnesota;

thence Easterly a distance of 210.60 feet, on the south line of said Queens Lane, to the northwest corner of Lot 11, Block 2 in said Royal Manor Subdivision;

thence Southeasterly a distance of 146.00 feet, on the west line of said Lot 11, Block 2, to the southwest corner thereof;

thence East a distance of 10.89 feet, on the south line of said Lot 11, Block 2, to the northwest corner of Block 2, Royal Manor Second Subdivision, as the same is platted and recorded in the office of the County Recorder of Mower County, Minnesota;

thence Southeasterly a distance of 936.00 feet, on the southwesterly line of said

Block 2, Royal Manor Second Subdivision, to the southeast corner of said Block 2;

thence Southwesterly a distance of 29.00 feet, on the westerly right-of-way line of Kings Row, as shown on said plat of Royal Manor Second Subdivision;

thence Southeasterly a distance of 66.00 feet, on the southerly right-of-way line of said Kings Row, to the westerly line of Lot 11, Block 3 in said Royal Manor Second Subdivision;

thence Southwesterly a distance of 37.00 feet, on the westerly line of said Lot 11, Block 3 to a corner thereof;

thence Southwesterly a distance of 207.40 feet, on the westerly line of said Lot 11, and a southwesterly extension thereof, to a point on the south line of the NW $\frac{1}{4}$ of said Section 26;

thence East a distance of 233 feet more or less, on the south line of said NW $\frac{1}{4}$ to a point on the centerline of the Cedar River;

thence Northerly and Northeasterly a distance of 4441 feet more or less, on the centerline of said Cedar River, to a point on the westerly right-of-way line of the Iowa, Chicago & Eastern Railroad Corporation (formerly Chicago, Milwaukee, St. Paul & Pacific Railroad), this point being in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 23;

thence Southeasterly a distance of 1467.00 feet, on the westerly right-of-way line of said Iowa, Chicago & Eastern Railroad Corporation (formerly the Chicago, Milwaukee, St. Paul & Pacific Railroad), to a point on the north line of the NW $\frac{1}{4}$ of said Section 26;

thence East a distance of 446.75 feet, on the north line of the NW $\frac{1}{4}$ of said Section 26, to the point of beginning.

Together with the following described Tract 1:

TRACT 1:

All that part of the S $\frac{1}{2}$ NE $\frac{1}{4}$ and the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 26-T103N-R18W, Mower County, Minnesota; described as follows:

Commencing at the northeast corner of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section 26; thence Westerly a distance of 33.00 feet, on the north line of said S $\frac{1}{2}$ NW $\frac{1}{4}$; thence Southerly a distance of 33.00 feet, on a line parallel with and 33.00 feet west of the east line of said S $\frac{1}{2}$ NW $\frac{1}{4}$, to the point of beginning;

thence Southerly a distance of 1294.08 feet, on a line parallel with and 33.00 feet west of the east line of said S½ NW¼, to a point on the south line thereof;

thence East a distance of 87.20 feet, on the south line of said S½ NW¼ and the S½ NE¼ of said Section 26, to a point on the east right-of-way line of County State Aid Highway No. 16 (11th Street NE);

thence North a distance of 306.85 feet, on the east right-of-way line of said County State Aid Highway No. 16;

thence East a distance of 462.36 feet, on a line parallel with said north line of the S½ NE¼ of said Section 26;

thence North a distance of 310.00 feet, on a line parallel with the west line of the S½ NE¼ of said Section 26;

thence West a distance of 464.97 feet, on a line parallel with the north line of the S½ NE¼ of said Section 26, to a point on the east right-of-way line of said County State Aid Highway No. 16;

thence North a distance of 677.23 feet, on the east right-of-way line of said County State Aid Highway No. 16, to a point 33.00 feet south of the north line of the S½ NE¼ of said Section 26;

thence West a distance of 76.28 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 Chief Administrative Law Judge annexing the area described herein.

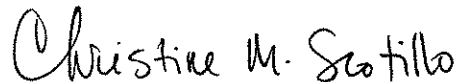
ORDER

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

2. Pursuant to Minnesota Statutes §414.036, Lansing Township will be reimbursed by the City of Austin in accordance with the terms of the Joint Resolution No. 13541 signed by the City on January 5, 2009 and the Township on January 7, 2009.

Dated this 12th day of February, 2009.

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



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustment

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1426-1 Austin, the Chief Administrative Law Judge finds and makes the following comment:

Paragraph 15 of Joint Resolution No. 13541 states the agreement shall expire within 5 years from the effective date of the Agreement. End dates or ending mechanisms are problematic in that they appear contrary to 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.

CWS