

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Orderly Annexation
of Certain Real Property to the City of
Fosston from Rosebud Township
(MBAU Docket OA-1867-1)

**ORDER APPROVING
ANNEXATION**

Resolution No. 23-37 for orderly annexation (Joint Resolution), adopted by the City of Fosston (City) and the Rosebud Town Board (Township) on October 16, 2023, requests the designation and immediate annexation of certain real property (Property) legally described as follows:

Parcel No. 61.00017.05 (City of Fosston)

Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence west a distance of 233.25 feet along the south line of cemetery property to the west line of the southeast quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence south to the point of beginning.

AND

Commencing at a point on Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (14 7) North, Range Forty (40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence southerly along the east line of the west 233.25 feet to a point 233.25 feet east of the southwest corner of the Southeast Quarter (SE1/4) of Section Three (3); thence west 233.25 feet to said Southwest corner of Section Three (3), thence north 47 feet to the point of beginning; excluding land already in the city.

(Consisting of approximately 2.88 acres.)

AND

Parcel No. 61.00028.00 (Rosehill Cemetery Association)

That part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of

Section Three (3), Township One Hundred Forty-seven (147), North of Range Forty (40), described as follows: Beginning at a point 977 feet north of the quarter post on the south boundary of Sec. 3, Twp. 147, N. Rg. 40, on a line running nearly south and north from said quarter post to the center of the same section, thence south 88 degrees East 233 ¼ feet, thence North 2 degrees East 208 feet; thence North 88 degrees West 233 ¼ feet; thence south 2 degrees West 208 feet to the point of beginning, magnetic declination 11 degrees 12' east. This tract of land is divided into two Blocks named "A" and "B" with a driveway running east and west between the blocks said driveway, being 12 feet wide. It is further subdivided into lots 16 feet by 20 feet and an alley between each lot. 4 ½ feet wide. Another alley 4 ½ feet wide runs along the south, east and north sides, while along the west side runs an alley 7 ¼ feet wide; also that part described as follows: Beginning at a point on the quarter line of said section, 743.56 feet north of the quarter post on the south boundary of said section; thence south 88 degrees East a distance of 233 ¼ feet; thence north 2 degrees East a distance of 233.44 feet to the southeast corner of Rosehill Cemetery; thence North 88 degrees West along the South line of said Cemetery a distance of 233 ¼ feet to the southwest corner of said Cemetery; thence south 2 degrees West along said quarter line 233.44 feet to the point of beginning; AND That part of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40) West, described as follows, to-wit: Beginning at a point 977 feet north of the quarter post on the south boundary of said Section 3 on a line running nearly north and south from said quarter post to the center post of said Section 3, thence S. 88 degrees E. 233 ¼ feet; thence N. 2 degrees E. 208 feet to the place of commencement of the tract herein intended to be described, said last described line hereinafter described as Line "A"; thence at right angles to said Line "A" in an easterly direction a distance of 66 feet; thence at right angles in a southerly direction and parallel to said Line "A" a distance of 412.5 feet; thence at right angles in a westerly direction a distance of 66 feet, more or less, to the easterly line of the existing Rose Hill Cemetery Association property; thence northerly along the easterly line of said Rose Hill Cemetery Association property to the place of commencement EXCEPT the following described tract:

That part of the Southwest Quarter of the Southeast Quarter of Section 3, Township 147 North, Range 40 West of the Fifth Principal Meridian described as follows: Commencing at the southwest corner of said Southwest Quarter of the Southeast Quarter; thence northerly along the west line of said Southwest Quarter of the Southeast Quarter having an assumed bearing of North 00 degrees 39 minutes 33 seconds West a distance of 743.56 feet to the southwest corner of a tract of land conveyed to the Rosehill Cemetery Association by Warranty Deed Document Number 293685 on file and recorded in the Office of the County Recorder, Polk County, Minnesota dated April 2nd, 1948 and the point of beginning; thence continuing northerly along the west line of said conveyed tract of land North 00 degrees 39 minutes 33 seconds West a distance of 126.17 feet; thence South 52 degrees 24 minutes 52 seconds East a distance of 165.84 feet to a line being 25.00 feet northerly of and parallel with the south line of said

conveyed tract of land; thence South 89 degrees 25 minutes 15 seconds East along said parallel line a distance of 102.75 feet, more or less to the east line of a tract of land conveyed to the Rosehill Cemetery Association by said Warranty Deed Document Number 293685; thence south 00 degrees 39 minutes 33 seconds East along said east line a distance of 25.00 feet to the southeast corner of said conveyed tract of land; thence North 89 degrees 25 minutes 15 seconds West along the south line of said conveyed tracts of land a distance of 233.25 feet to the point of beginning.

(Consisting of approximately 2.7 acres.)

AND

Parcel No. 61.00037.01 (City of Fosston)

The Southerly Seven Hundred (700) feet of the Westerly Two Thirty-three and one-fourth (233.25) feet of the Northerly One Thousand Four Hundred Fifty-five (1,455) feet of the West Half of the Southeast Quarter (W1/2 of SE1/4), Section Three (3), Township One Hundred Forty-seven (147), North of Range Forty (40), West of the Fifth Principal Meridian.

AND

The southerly Thirty (30) feet of the Westerly Two Thirty-three and one-fourth (233.25) feet of the Northerly One Thousand Four Hundred Eight-five (1,485) feet of the West Half of the Southeast Quarter (W1/2 of SE1/4), Section Three (3), Township One Hundred Forty-seven (147) North, of Range Forty (40) West of the Fifth Principal Meridian; lying north of the north line of the land conveyed to the Rosehill Cemetery Association by Warranty Deed Document 293685.

(Consisting of approximately 3.75 acres.)

AND

Parcel No. 61.00075.02 (William J. Malwitz and Phyllis J. Malwitz)

That part of the Northeast Quarter, Section 9, Township 147 North, Range 40 West of the Fifth Principal Meridian, Polk County, Minnesota described as follows: Commencing at the northeast corner of said Northeast Quarter; thence South 88 degrees 54 minutes 59 seconds West, assumed bearing, along the north line of said Northeast Quarter, a distance of 165.00 feet to the point of beginning; thence continuing South 88 degrees 54 minutes 59 seconds West, along the north line of said Northeast Quarter, a distance of 132.00 feet; thence South 00 degrees 50 minutes 01 second East 198.00 feet; thence North 88 degrees 54 minutes 59 seconds East 132.00 feet; thence North 00 degrees 50 minutes 01 second West 198.00 feet, more or less, to the point of beginning, EXCEPT THE FOLLOWING DESCRIBED TRACT: That part of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Nine (9) Township One Hundred Forty-seven (147) North, Range Forty (40) West of the Fifth Principal Meridian, described as follows: Beginning at the corner stake between Sections Three (3) and Nine (9), thence

West 8 rods to the point of beginning, thence West 8 rods, South 10 rods, East 8 rods and North 10 rods to the point of beginning.

(Consisting of approximately 0.21 acres.)

AND

Parcel No. 61.00075.03 (Richard A. Rhodes)

That part of the Northeast Quarter, Section 9, Township 147 North, Range 40 West of the Fifth Principal Meridian, Polk County, Minnesota described as follows: Beginning at the northeast corner of said Northeast Quarter; thence South 88 degrees 54 minutes 59 seconds West, assumed bearing, along the north line of said Northeast Quarter, a distance of 165.00 feet; thence South 00 degrees 50 minutes 01 second East 198.00 feet; thence North 88 degrees 54 minutes 59 seconds East 165.00 feet, more or less, to the east line of said Northeast Quarter; thence North 00 degrees 50 minutes 01 second West, along the east line of said Northeast Quarter, a distance of 198.00 feet, more or less, to the point of beginning, EXCEPT THE FOLLOWING DESCRIBED TRACT: That part of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Nine (9), Township One Hundred Forty-seven (147) North, Range Forty (40) West of the Fifth Principal Meridian, described as follows: Beginning at the corner stake between Sections Three (3) and Nine (9), thence West 8 rods, South 10 rods, East 8 rods and North 10 rods to the point of beginning, ALSO EXCEPT LAND ALREADY WITHIN THE CITY.


(Consisting of approximately 0.12 acres.)

Based upon a review of the Joint Resolution, the Administrative Law Judge makes the following:

ORDER

1. Pursuant to Minn. Stat. § 414.0325 (2022), the Joint Resolution is deemed adequate in all legal respects and properly supports this Order.
2. Pursuant to the terms of the Joint Resolution and this Order, the Property is **ANNEXED** to the City.
3. Pursuant to the agreement of the parties and as allowed by Minn. Stat. § 414.036 (2022), no reimbursement shall be made by the City to the Township.

Dated: November 2, 2023


JESSICA A. PALMER-DENIG
Administrative Law Judge

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.0325, .07, .09, .12 (2022). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Polk County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2023). However, no request for amendment shall extend the time of appeal from this Order.