

OA-357-70 Mankato
City Resolution Dated 10-10-05
Town Waiver Dated 9-21-05

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF MANKATO)
AND THE TOWN OF MANKATO PURSUANT TO)
MINNESOTA STATUTES 414)

ORDER

WHEREAS, a joint resolution for orderly annexation was adopted by the City of Mankato and the Town of Mankato; and

WHEREAS, a resolution was received from the City of Mankato indicating their desire that certain property be annexed to the City of Mankato pursuant to M.S. 414.0325; and

WHEREAS, M.S. 414.0325 states that in certain circumstances the Director of Strategic and Long Range Planning may review and comment, but shall within 30 days order the annexation pursuant to said subdivisions; and

WHEREAS, Reorganization Order No. 192, effective March 8, 2005, has transferred the duties of the Director to the Chief Administrative Law Judge.

WHEREAS, on March 9, 2006, the Chief Administrative Law Judge reviewed and accepted the resolution for orderly annexation;

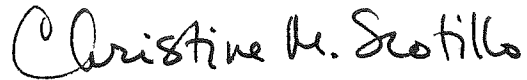
IT IS HEREBY ORDERED: That the following described property is hereby annexed in accordance with the terms of the joint resolution to the City of Mankato, Minnesota, the same as

if it had originally been made a part thereof:

The Northeast Quarter of the Southwest Quarter of Section 4, Township 108 North,
Range 26 West. Containing 39.61 acres.

Dated this 9th day of March, 2006.

For the Chief Administrative Law Judge
658 Cedar Street – Room 300
St. Paul, MN 55155

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive style with a large initial 'C'.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-357-70, the Chief Administrative Law Judge finds and makes the following comment:

Planning in the area designated for orderly annexation must be provided for by one of three provisions set forth in Minnesota Statutes Section 414.0325, Subd. 5. The joint resolution does not make reference to which of the three statutory provisions the parties have agreed on to govern planning in the designated area.

Minnesota Statutes Section 414.036 specifically allows for municipal reimbursement in an order issued pursuant to Minnesota Statutes Section 414.0325. Such reimbursement to the township of property taxes must be of substantially equal payments over a period of not less than two nor more than six years. Including such a provision in an order under Minnesota Statutes Section 414.0325 is discretionary with the Chief Administrative Law Judge. Article VIII of the agreement provides for a division of tax revenue from an annexed area, based upon an eight year schedule. By making this order, no determination is made as to the effectiveness of such a schedule.

Article XII states the agreement shall expire within 20 years unless an extension is requested by the parties in writing. 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. See Section II. 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.

