

OA-724-9 Byron
City Resolution No. 2003-03
Town Resolution No. 2003-01

DEPARTMENT OF ADMINISTRATION
STATE OF MINNESOTA
BEFORE THE ACTING DIRECTOR OF
STRATEGIC AND LONG RANGE PLANNING

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

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

WHEREAS, a resolution was received from the City of Byron requesting that certain
property be annexed to the City of Byron 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 of land pursuant to said subdivisions; and

WHEREAS, on November 12, 2003, the Acting Director has reviewed and accepted the
resolution for orderly annexation;

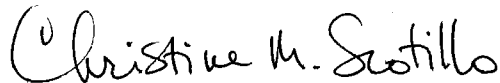
IT IS HEREBY ORDERED: That the following described property is hereby annexed in
accordance with the terms of the joint resolution to the City of Byron, Minnesota, the same as if
it had originally been made a part thereof:

That part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 107

North, Range 15 West, Olmsted County, Minnesota, described as follows: Commencing at the northwest corner of said Northeast Quarter; thence southerly on a Minnesota State Plan Grid Azimuth from north of 179 degrees 19 minutes 38 seconds along the west line of said Northeast Quarter 470.00 feet to the point of beginning; thence continue southerly 179 degrees 19 minutes 38 seconds azimuth along said west line 847.09 feet to the south line of said Northwest Quarter of the Northeast Quarter; thence easterly 89 degrees 53 minutes 07 seconds azimuth along said south line 1315.10 feet to the east line of said Northwest Quarter; thence northerly 359 degrees 18 minutes 12 seconds azimuth along said east line 814.17 feet; thence westerly 269 degrees 18 minutes 07 seconds azimuth 198.70 feet; thence northerly 359 degrees 19 minutes 38 seconds azimuth 140.81 feet; thence westerly 269 degrees 19 minutes 38 seconds azimuth 216.00 feet; thence southerly 179 degrees 19 minutes 38 seconds azimuth 105.00 feet; thence westerly 269 degrees 57 minutes 50 seconds azimuth 900.06 feet to the point of beginning. Said tract contains 25.92 acres more or less.

Dated this 12th day of November, 2003.

For the Acting Director
658 Cedar Street - Room 300
St. Paul, Minnesota 55155

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive, flowing style.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

OA-724-9 Byron

MEMORANDUM

In ordering the annexation contained in Docket No. OA-724-9 Byron, the Acting Director 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.

Paragraph XII of the agreement provides for a division of tax revenue from an annexed area, based upon a ten year schedule. By making this order, no determination is made as to the effectiveness of such a schedule. Minnesota Statutes Section 414.036 allows for a reimbursement to the township of property taxes 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 Director.

Additionally, paragraph XVII states the agreement shall automatically expire on June 1, 2020. End dates or ending mechanisms are problematic in that they appear to run afoul of the act of conferring jurisdiction to the Director. (Paragraph VIII). 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 Director upon written request of the parties to the agreement to mutually end their agreement has not been addressed.

The parties are encouraged to consider these comments in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

CWA