

JUN 21 2002

STATE OF MINNESOTA

OFFICE OF STRATEGIC AND LONG-RANGE PLANNING

-----  
IN THE MATTER OF THE PETITION FOR            )  
THE ANNEXATION OF CERTAIN LAND            )     **JOINT RESOLUTION**  
TO THE CITY OF PARK RAPIDS PURSUANT    )  
TO MINNESOTA STATUTES, SECTION 414.031)  
-----

JOINT RESOLUTION FOR ORDERLY ANNEXATION  
BY AND BETWEEN TODD TOWNSHIP AND  
THE CITY OF PARK RAPIDS IN SETTLEMENT OF MINNESOTA  
PLANNING FILE NO. A-6560 PARK RAPIDS

**WHEREAS**, the City of Park Rapids filed an annexation petition, dated July 18, 2001, with the Minnesota Planning Municipal Boundary Adjustments Office (File No. A-6560 Park Rapids) seeking annexation of certain areas located within Todd Township pursuant to Minnesota Statutes, Section 414.031; and

**WHEREAS**, Todd Township and the City of Park Rapids have been working toward settlement of their boundary dispute and have reached a settlement agreement believed to be in the mutual best interests of both parties; and

**WHEREAS**, Todd Township and the City of Park Rapids agree that orderly annexation and extension of municipal services is in the best interests of both communities in order to meet the current needs of commercial and residential properties located in the areas legally described in this Joint Resolution, due to failed or inadequate private wastewater treatment systems in said areas; and

**WHEREAS**, Todd Township and the City of Park Rapids agree that orderly annexation and extension of municipal services will promote the public health, safety, and welfare of the community; and

**WHEREAS**, Todd Township and the City of Park Rapids desire to accomplish the orderly annexation of, and the extension of municipal sanitary sewer and water service to the areas legally described in this Joint Resolution in a mutually acceptable manner without the need for a contested hearing.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Park Rapids (City), Hubbard County, Minnesota and Todd Township (Township), Hubbard County, Minnesota as follows;

1. Designation of Orderly Annexation Areas. The City and Township hereby designate the following three areas as in need of orderly annexation pursuant to Minnesota Statutes, Section 414.0325, and in accordance with the terms and conditions of this Joint Resolution:
  - a. "Orderly Annexation Area I". "Orderly Annexation Area I", hereinafter referred to as "Area I", is legally described in Exhibit 1 attached hereto and incorporated herein by reference. For ease of reference, Area I is shown on the map attached hereto as Exhibit 4 and is that area of the Township which is generally located east and north of highway 71 on the north end of the City, currently developed in a primarily residential character, is now or about to become urban or suburban in character, and is in need of municipal sanitary sewer and water services as a result of noncompliant, failing or failed individual sewage treatment systems.
  - b. "Orderly Annexation Area II". "Orderly Annexation Area II", hereinafter referred to as "Area II", is legally described in Exhibit 2 attached hereto and incorporated herein by reference. For ease of reference, Area II is shown on the map attached hereto as Exhibit 4. Area II contains four parcels within Area I which have recently upgraded their individual sewage treatment systems.
  - c. "Orderly Annexation Area III". "Orderly Annexation Area III", hereinafter referred to as "Area III", is legally described in Exhibit 3 attached hereto and incorporated herein by reference. For ease of reference, Area III is shown on the map attached hereto as Exhibit 4 and is generally that area of the Township lying west of Area I and north of Highway 71 to the western boundary of the area commonly known as Welle's Channel Shores.
2. Orderly Annexation of Area I. Area I is designated for immediate orderly annexation and service extension.
  - a. Acreage of Area I. The City and Township agree that Area I is designated as in need of orderly annexation and contains approximately 34.65 acres.
  - b. Population of Area I. The City and Township agree that the year-round and seasonal population of Area I is 55 people.
  - c. No Hearing Required. The City and Township agree that no alteration of the stated boundaries as described herein is appropriate, that no consideration by Minnesota Planning is necessary, and that all terms and conditions for annexation of Area I are provided for in this Joint Resolution. Pursuant to Minnesota

Statutes, Section 414.0325, upon receipt of this Joint Resolution, Minnesota Planning may review and comment, but shall within thirty (30) days of receipt, order the annexation of Area I in accordance with the terms and conditions contained in this Joint Resolution.

- d. Provision of Services. The City and Township agree that after annexation of Area I pursuant to the terms of this Joint Resolution, the City shall be responsible for providing municipal governmental services thereto.
- e. Provision of Municipal Sewer and Water Services. The City and Township agree that after annexation of Area I pursuant to the terms of this Joint Resolution, the City shall exercise its best efforts to move forward with installing and providing sewer and water services to the properties within Area I in the first construction season when such extension is practicable. The City shall, within three (3) years of the effective date of annexation of Area I, authorize the plans and specifications for the project in Area I and commence substantial construction of the project for the provision of sanitary sewer and water services to Area I in accordance with the authorized plans and specifications. If the City fails to take the actions required in this Paragraph within said time, Area I shall be immediately detached back to the Township, and the remaining terms of the Joint Resolution shall be null and void, unless the City and Township shall otherwise agree. In determining whether to agree to any alternative conditions in this regard, the Township shall take into account grant funding problems or the will of the affected property owners, but the ultimate decision is left to the Township. In such event, the City agrees to execute any document necessary to effect such detachment of said area, and such termination of this Agreement.
- f. Assessments for Costs of Extending Services into Area I. It is a material condition of this Agreement that the property owners within Area I be fairly assessed for the costs of providing sanitary sewer and water services into said area. Construction of sanitary sewer and water lines within the Deane Pointe area will require substantial de-watering. The costs of said de-watering and additional depth or construction requirements should not be unfairly assessed against those properties that do not require these construction techniques for service of their properties. Therefore, in the plans and specifications for this project, the sanitary sewer and water projects shall be divided into two sections, a section A and a section B. The City agrees that, in assessing the sanitary sewer and water service project within Area I, it shall assess project costs in two distinct parts or areas, which shall be separated at approximately the northwestern boundary of Indian Point, Block 1, (the "dividing point") and that the assessment of those properties north of that dividing point within Area I (Section B) shall include any and all construction costs incurred north of said dividing point (including all such costs incurred due to the extra de-watering and other work performed north of the

dividing point). Properties south of the dividing point (Section A) shall be assessed based upon the construction costs incurred up to the dividing point. No deferment of the project costs for the extension of sewer and water services to any areas of the project shall be made that is not in accordance with standard deferment procedures for a typical City project, i.e. costs related to over-sizing of pipes and proportionate cost share of lift stations which are designed to serve a wider area. All other costs related to the project (engineering, legal, bonding, etc.) associated with the sewer and water project shall be assessed in accordance with City assessment policy.

3. Orderly Annexation of Area II. The City and Township agree that Area II is designated as in need of orderly annexation pursuant to Minnesota Statutes, Section 414.0325.
  - a. Acreage of Area II. The City and Township agree that Area II contains approximately 2.88 acres.
  - b. Timing of orderly annexation of Area II. The City and Township agree that Area II may be annexed by the City on or after ten (10) years following the date of execution of this Joint Resolution or May 1, 2012, whichever comes first. An individual property located within Area II may be annexed prior to the expiration of the ten (10) year period stated herein should the owner of said property file a petition with the City for annexation and/or connection to municipal sewer or water service, or if a property is sold at any time during the ten (10) year period then that particular property shall be subject to immediate annexation on or after the date of closing. After annexation of a property located within Area II, said property shall be required to connect to City sewer and water service, and to pay all assessments, charges and costs for City services that apply to the properties in Area II.

The properties described as part of "Area II" are actually located within Area I, but are eligible to be excluded from immediate annexation with the remainder of Area I, and are eligible to be subject to the same timing, terms and conditions as the properties located within Area III, except as otherwise provided in this paragraph. The eligibility for exclusion of these properties from Area I is based upon the affected property owners granting at no cost to the City reasonable, necessary and least impactful easements over, under and across the front (roadside) portion of their properties, for the limited purpose of allowing construction and maintenance of facilities installed with the sanitary sewer and water project. Said easement must be executed by a property owner within sixty (60) days from the date of actual receipt of the easement documents prepared by the City in order for that property to qualify for the exclusion. Apart from the City's agreement to delay annexation of the parcels until annexation of Area III as described herein, the City shall not be obliged to pay any further or other

consideration to the owners of said parcels for the necessary easements over, upon, under or across said parcels. The City agrees to restore all said parcels to substantially the same condition as existed on the property prior to the work in the easement area.

- c. No Hearing Required. The City and Township agree that upon the occurrence of any event triggering annexation provided in Paragraph 3.b. above, the City may execute a resolution for annexation of the property meeting the triggering event and file the same with Minnesota Planning or its successor. Upon receipt of such a resolution from the City providing for annexation of a designated area and a copy of this Joint Resolution, Minnesota Planning, pursuant to Minnesota Statutes, Section 414.0325, may review and comment, but shall, within thirty (30) days of receipt of said resolution, order the annexation of the area designated therein in accordance with the terms and conditions of this Joint Resolution. The City and Township agree that no alteration of the boundaries as described in the filed resolution is appropriate, that no consideration by Minnesota Planning is necessary, and that all terms and conditions for annexation of the area designated in the filed resolution are provided for in this Joint Resolution.

The Township shall not object to an annexation of Area II or any portion thereof initiated by the City in accordance with the triggering events provided in Paragraph 3.b. As of the effective date of this Joint Resolution, there is no election requirement in the law to accomplish an annexation. No such election shall be required or apply to any annexation provided herein either now or during any period during which this Joint Resolution is in effect.

- d. Provision of Services. The City and Township agree that after annexation of Area II, or any portion thereof, pursuant to the terms of this Joint Resolution, the City shall provide municipal governmental services to such area, and the parcels therein shall then be required to connect to municipal sewer and water services.
4. Orderly Annexation of Area III. The City and Township agree that Area III is designated as in need of orderly annexation pursuant to Minnesota Statutes, Section 414.0325.
- a. Acreage of Area III. The City and Township agree that Area III contains approximately 90.05 acres.
- b. Timing of Orderly Annexation of Area III. The City and Township agree that Area III may be annexed by the City on or after ten (10) years following the date of execution of this Joint Resolution or May 1, 2012, if the City has complied with the requirements of paragraph 4.f.

JUN 21 2002

- c. Early Orderly Annexation in Area III. All or any portion of Area III may be subject to annexation prior to the expiration of the ten year period or May 1, 2012, as provided herein, if the City has complied with the requirements of paragraph 4.f., and if one or more of the following conditions are met:
- i. An individual property owner with property abutting the City files a written petition with the City for annexation, provided that the portion of the City upon which said property abuts is not an "island", that is, any property or group of properties having any intervening parcel between said property or properties and the "Loon's Nest" property which is not then annexed to the City;
  - ii. A super-majority (75%) of all property owners within Area III file a written petition with the City for annexation;
  - iii. The Minnesota Pollution Control Agency or other state agency initiates and orders the City to extend or provide a City service to all or a portion of Area III, provided that the City shall not solicit or initiate any such action;
  - iv. Property located in Area III is owned by the City and abutting thereto; or
  - v. The City and Township otherwise agree to early annexation of Area III or a portion thereof.
- d. No Hearing Required. The City and Township agree that, upon the occurrence of the event triggering annexation of Area III as provided in Paragraph 4.b., or in the event that one or more of the above conditions provided in Paragraph 4.c. is met for any portion of Area III, the City shall provide written notice of such to the Township, and, upon receipt of a resolution of the City so providing and designating all of Area III as provided in Paragraph 4.b. or the portion of Area III meeting one or more of the above conditions provided in Paragraph 4.c., and a copy of this Joint Resolution, Minnesota Planning may review and comment, but shall within thirty (30) days of receipt of said resolution and a copy of this Joint Resolution, order the annexation of the area designated in the resolution in accordance with the terms and conditions of this Joint Resolution. The City and Township agree that no alteration of the stated boundaries as described in the resolution for annexation is appropriate, that no consideration by Minnesota Planning is necessary, and that all terms and conditions for annexation of Area III are provided for in this Joint Resolution.

Provided that the requisite terms and conditions have been met, the Township shall not object to an annexation of Area III or any portion thereof initiated by the City in accordance with the triggering events provided in Paragraphs 4.b. or 4.c.

As of the effective date of this Joint Resolution, there is no election requirement in the law to accomplish an annexation. No such election shall be required or apply to any annexation provided herein either now or during any period during which this Joint Resolution is in effect.

- e. Provision of Services. The City and Township agree that after annexation of Area III pursuant to the terms of this Joint Resolution, the City shall be responsible for providing municipal governmental services thereto, and that timely provision of such services is a material term of this Joint Resolution.
  - f. Provision of Municipal Sewer Service. The City and Township agree that, prior to annexation in accordance with Paragraph 4.b. or Paragraph 4.c., the City shall authorize the plans and specifications for the project to provide municipal sanitary sewer and water services to the properties within Area III to be annexed. If the City does not authorize the plans and specifications for such project, the City shall not file a resolution for the annexation of said properties in Area III, in accordance with the conditions described in Paragraph 4.c. for a portion of Area III, or for all of Area III as provided in Paragraph 4.b., with Minnesota Planning, or its successor. The City and Township agree that annexation of Area III or a portion thereof must occur before the City has the ability to move forward with bidding, approving and awarding contracts for the projects in Area III. The City shall, within three (3) years following May 1, 2012 commence substantial construction of the project for the provision of sanitary sewer and water services to Area III. If the City fails to commence substantial construction within said time, Area III shall be immediately detached back to the Township, and the remaining terms of the Joint Resolution pertaining to said Area shall be null and void, unless the City and Township shall otherwise agree. In determining whether to agree to any alternative conditions in this regard, the Township shall take into account grant funding problems or the will of the affected property owners, but the ultimate decision is left to the Township. In such event, the City agrees to execute any document necessary to effect such detachment of said area, and such termination of this Agreement
5. Extra-Territorial Zoning Authority in Areas II and III. The City and Township agree that upon the execution of this Joint Resolution, the City's zoning ordinance shall be extended to govern Areas II and III and the Township agrees to exclude these areas from its zoning. Since municipal sewer and water service will be installed by the City in Areas II and III as required by this Joint Resolution, the Township, to the extent it has authority, agrees to prohibit the construction of new or the replacement of existing individual wells or individual sewage treatment systems within Areas II and III during the term of this Joint Resolution, unless the City Council adopts a resolution authorizing and approving the installation of a new or the replacement of an existing individual well or individual sewage treatment system in Areas II or III. The City and Township agree that individual

property owners may take reasonable and necessary interim measures to maintain current well or sanitary sewer treatment systems prior to annexation under this agreement. The City and Township agree that this Joint Resolution shall be filed with Hubbard County and shall constitute the joint request of the City and Township to Hubbard County to agree to the extension of the City's zoning ordinance to govern Areas II and III. For those portions of Areas II and III which are under Hubbard County shoreland zoning authority, the City may seek agreement with the County regarding assertion of extra-territorial zoning within those areas, but limited to Shoreland Authority.

6. Tax Reimbursement in Area I and Area III. The City and Township agree that the property taxes payable in Area I and Area III (which are legally described in Exhibits 1 and 3 respectively) shall be paid to the City starting in the year in which the annexation becomes effective. If annexation of Area I or Area III becomes effective before August 1 of a levy year, the City shall levy on the annexed area for the levy year and thereafter. The City shall make a cash payment to the Township for the period and in accordance with the following schedule, except as otherwise provided in this paragraph:
- i. In the first year following the year the City could first levy on the annexed area, an amount equal to seventy-five (75) percent of the property taxes distributed to the Township in regard to the annexed area in the last year the property taxes from the annexed area were payable to the Township;
  - ii. In the second year, an amount equal to fifty (50) percent of said amount; and
  - iii. In the third year, an amount equal to twenty-five (25) percent of said amount.

The City shall make payment in accordance with the above schedule until the date the City commences substantial construction of the respective sewer and water projects in Area I or Area III, respectively. Notwithstanding the above schedule, payment as contemplated herein shall end on the date the City commences substantial construction of the respective sewer and water projects in Area I or Area III, and thereafter, the City will no longer reimburse the Township for the tax revenues in each such area. The City shall make payment as contemplated herein no later than December 31 of the first year following the year when the City could first levy on the annexed area and for subsequent years as provided herein. If the date of commencement of substantial construction of the sewer and water project, following the annexation of Area I or Area III, falls in the middle of a levy year, the tax reimbursement payment to the Township for the applicable above scheduled year shall be prorated to provide reimbursement to the Township for that portion of that year occurring prior to the date of commencement of substantial construction of the sewer and water project in Area I or Area III, respectively.

7. Grant Funding. For purposes of financing and/or defraying the costs for the provision of sewer and water service to Area I, the City agrees to make best efforts to seek grant



funding from the United States Department of Agriculture (USDA) or other sources deemed appropriate by the City. To the extent necessary, the Township shall cooperate in securing such grant funding.

8. Withdrawal of City Annexation Petition. The City agrees to withdraw its annexation petition, dated July 18, 2001, as soon as practicable after execution and filing of this Joint Resolution with Minnesota Planning and agrees not to seek annexation of any portion of Areas II or III prior to the occurrence of an event triggering annexation as provided for in this Joint Resolution.
9. Withdrawal of Township Wastewater Treatment System Proposal. The Township agrees to withdraw its proposal to build a sewer system in Areas I, II and III as soon as practicable after execution and filing of this Joint Resolution with Minnesota Planning and agrees not to seek to build a separate wastewater treatment system or seek a permit for a separate wastewater treatment system within Areas I, II or III for as long as this Agreement is in effect.
10. Settlement of Pending Actions. The City and Township agree to jointly seek the dismissal of the action of the Minnesota Pollution Control Agency (MPCA) before the Office of Administrative Hearings, file no. OAH Docket No. 6-2200-12953-2., and the citizens' lawsuit, joined by the City, before the Hubbard County District Court, file no. C2-01-542, so that all administrative, adjudicative or other contested proceedings related to this matter shall be hereby resolved.
11. Adopt and Enforce Regulations. The City and Township agree to enact, adopt, and strictly enforce all such resolutions, ordinances, or regulations, as may be or shall be necessary to give full effect to the stipulations contained in this Joint Resolution.
12. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.
13. Modification/Amendment. This Joint Resolution shall not be modified, amended, or altered except upon the written joint resolution of the City and the Township duly executed and adopted by the City Council and the Township Board of Supervisors and filed with Minnesota Planning or its successor.
14. Term. This Joint Resolution shall be in full force and effect for a term of fifteen (15) years from the date of execution, unless otherwise terminated earlier or extended by mutual written joint resolution of the City and Township. This Joint Resolution shall be filed by the City with the Minnesota Planning Municipal Boundary Adjustments Office after adoption by the parties.

15. Severability. In the event that any provision of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties hereto.
16. Headings and Captions. Headings and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.
17. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution, including the present and all future exhibits and attachments, shall constitute the entire agreement between the parties hereto, superseding all prior agreements and negotiations. This Joint Resolution shall be binding upon and inure to the benefit of the respective successors and assigns of the City and Township.
18. Disputes and Remedies. The City and Township agree as follows:
  - a. Negotiation. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and the Township will direct staff members as they deem appropriate to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
  - b. Arbitration. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties may mutually agree in writing to seek relief by submitting their respective grievances to binding arbitration.
  - c. Adjudication. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to binding arbitration, either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

19. Notice. Any notices required under the provisions of this Joint Resolution shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to the City:

City Administrator  
City of Park Rapids  
212 W. 2nd St.  
Park Rapids, MN 56470-1507

If to the Township:

Mrs. Mildred Lovin, Town Clerk  
Todd Township  
14514 Eagle Pointe Drive  
Park Rapids, MN 56470

Passed, adopted and approved by the Township Board of Supervisors of Todd Township, Hubbard County, Minnesota this 22<sup>nd</sup> day of MAY, 2002.

Todd Township


By: , Chair

ATTEST:

  
Mildred Lovin, Town Clerk

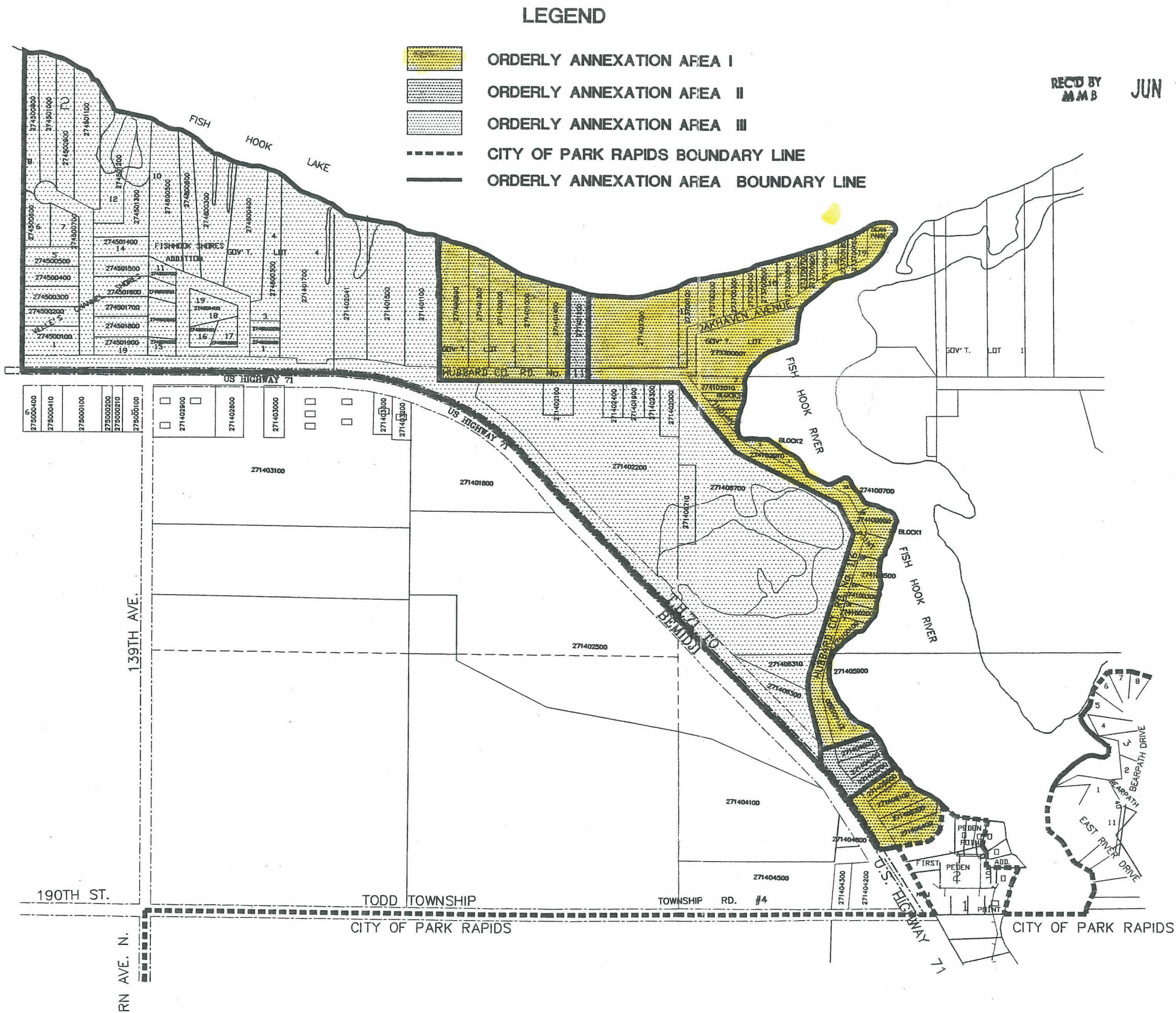
Passed, adopted and approved by the City Council of the City of Park Rapids, Hubbard County, Minnesota this 14<sup>th</sup> day of May, 2002.

City of Park Rapids

By:   
Ted Godfrey, Mayor

ATTEST:

  
Betty J. Thomsen, City Administrator



REC'D BY JUN 21 2002  
M M B



**JOINT RESOLUTION FOR ORDERLY ANNEXATION BY AND  
BETWEEN TODD TOWNSHIP AND THE CITY OF PARK RAPIDS.**

**Larson-Peterson & Associates, Inc.**

CONSULTING MUNICIPAL ENGINEERS

1115 WEST RIVER ROAD, P.O. BOX 150  
DETROIT LAKES, MINNESOTA 55502-0150  
TELEPHONE: 218-847-5607  
FAX: 218-847-2751



SHEET 1 OF 1

ANNEXATION AREAS  
FISH HOOK RIVER / FISH HOOK LAKE  
PARK RAPIDS, MINNESOTA

DRAWN BY: D.W.D.  
CHECKED BY: G.L.N.  
APPROVED BY: G.L.N.  
DATE: APRIL, 2001  
FILE NO.: 00-PKD-03  
REVISED BY:

EXHIBIT No. 4