

IN THE MATTER OF THE JOINT RESOLUTION OF THE TOWN OF PAYNESVILLE AND THE CITY OF PAYNESVILLE TO AMEND THE JOINT RESOLUTION FOR ORDERLY ANNEXATION ENTITLED 2005-38 JOINT RESOLUTION FOR ORDERLY ANNEXATION AND ACCEPTED AND FILED IN THE OFFICE OF ADMINISTRATIVE HEARINGS AS FILE OA-1220, WHICH JOINT RESOLUTION FOR ORDERLY ANNEXATION WAS PREVIOUSLY AMENDED BY THE JOINT RESOLUTION OF THE TOWN OF PAYNESVILLE AND THE CITY OF PAYNESVILLE ENTITLED 2007-45 ADDENDUM TO JOINT RESOLUTION FOR ORDERLY ANNEXATION.

2010- 31

ADDENDUM TO JOINT RESOLUTION FOR ORDERLY ANNEXATION

The Township of Paynesville and the City of Paynesville hereby jointly agree to the following:

1. The parties hereto previously entered into a Joint Resolution for Orderly Annexation (Resolution 2005-38), which was executed by the City of Paynesville September 28, 2005, and by Paynesville Township September 12, 2005, and filed in the Office of Administrative Hearings Municipal Boundary Adjustments unit as OA-1220.

2. Subsequently, the parties hereto entered into an Addendum to the Joint Resolution for Orderly Annexation (Resolution 2007-45).

3. The parties hereto wish to re-state the Joint Resolution for Orderly Annexation in its entirety, further modifying and amending the same.

NOW, THEREFORE, the Joint Resolution for Orderly Annexation between the parties hereto as referenced above, is hereby modified and amended so that the same shall read in its entirety as follows:

2005-38

JOINT RESOLUTION FOR ORDERLY ANNEXATION

1. This Agreement is intended to deal primarily with undeveloped areas of the Township which are believed to be likely areas for future development of residential, commercial and industrial property. Both parties recognize that there may be other areas which are currently developed in either residential or commercial property within the Township and may later come to require City services due to water or septic system demands. Any such areas will be dealt with separately and aside from this Joint Resolution

for Orderly Annexation. The parties also recognize that the possible re-routing of Highway 23 may affect future development in ways that cannot presently be anticipated, but this Joint Resolution for Orderly Annexation represents the efforts of the parties to deal with future development as they presently believe it is most likely to occur.

2. The areas in Paynesville Township described on Exhibits A & B, which are attached hereto and incorporated herein by reference, are subject to orderly annexation pursuant to Minnesota Statutes §414.0325, and the parties designate these areas for orderly annexation.

3. The Township of Paynesville does, upon the passage of this Resolution and its adoption by the City Council of the City of Paynesville, Minnesota, and upon acceptance by the Office of Administrative Hearings, Municipal Boundary Adjustments, confer jurisdiction on the Office of Administrative Hearings, Municipal Boundary Adjustments, over the various provisions contained in this agreement.

4. The effect of annexation on population shall be that the population of the area annexed pursuant to this Resolution shall be treated for all purposes as part of the population of the City of Paynesville immediately upon approval of annexation by the Office of Administrative Hearings, Municipal Boundary Adjustments.

5. Planning throughout the orderly annexation areas described above shall be pursuant to Minnesota Statute §414.0325, Subd. 5, by the creation of a Joint Planning board. The Joint Planning Board shall take responsibility for zoning and planning within the above-described areas from the date of this agreement. Planning and land use control authority with the areas designated for orderly annexation shall be the responsibility of a Joint Planning Board consisting of five (5) members, two (2) to be appointed by the City Council of the City of Paynesville and two (2) to be appointed by the Paynesville Township Board. The fifth member of the Planning Board shall be elected by a majority of the four (4) members appointed by the City Council of the City of Paynesville and the Paynesville Township Board.

6. In all annexations within the orderly annexation area, the taxes due and/or delinquent on the date of annexation remain the property of Paynesville Township. All taxes and assessments accrued after the date of annexation are the property of the City of Paynesville, subject only to the provisions of Paragraph 8 below. The City of Paynesville, upon annexation, becomes the owner or beneficiary of all roads, easements and rights-of-way, or other interests in property within the annexed area previously held by Paynesville Township and shall bear the responsibility associated with those rights.

7. Any person owning the lands annexed to the City pursuant to this agreement shall have the following rights with regard to the payment of assessment and hook-up charges on projects previously completed by the City which may be assessable against said annexed property:

- a) Hook-up charges shall be payable upon hook-up to municipal services.
- b) Hook-up charges will be based on costs to the City determined by the City Council from time to time.
- c) Any assessment for existing improvements benefiting annexed property shall be payable over the same number of years and at the same interest rate as the original project provided for.

8. As to those lands which are agreed to be subject to orderly annexation to the City pursuant to this agreement, of the base tax payable to the Township at the time of annexation, the following shall occur:

The Township shall receive 100% of the base tax until the annexed property has been serviced by municipal services, including City sewer and water, for up to a maximum of eight (8) years. If City services, including sewer and water, are installed on the annexed property after annexation, but prior to the expiration of the eight (8) year time period, then after the installation of City services, the Township shall receive 50% of the base tax in each year after the City services have been installed, through and

including the eighth year after annexation. Thereafter, all taxes collected, if any, shall belong to the City of Paynesville.

9. The annexation of areas of land which are subject to this Resolution shall be triggered by a request from the owner of one of the parcels described, or if there is more than one property owner within a parcel described above, then 51% of the property owners within the area as of the date of the request. Each person whose name appears as an owner of a fee interest in a parcel within one of the described areas on the date of the request shall be entitled to one vote regardless of the size of the parcel or the percentage of that person's ownership. When a request is received:

i) The request for annexation must contain a request to be served with municipal sanitary sewer and municipal water facilities from the City and first addressed to the Paynesville Township Board, which shall consider whether the request is from a sufficient number of property owners.

ii) If the request is from a sufficient number of property owners and the request has been triggered by a need for City services such as sanitary sewer or water, Paynesville Township shall approve the request for annexation, subject to approval by the City of Paynesville.

iii) The request will then be directed to the City of Paynesville where, if the City Council agrees that annexation is desirable, and that the City can provide services within a reasonable time upon request by the property owner, then the request for annexation will be approved by the City and submitted to the Office of Administrative Hearings, Municipal Boundary Adjustments, without further consideration.

10. No consideration by the chief administrative law judge is necessary. The chief administrative law judge may review and comment, but shall, within thirty (30) days, order the annexation in accordance with the terms of this Resolution.

11. The City shall not initiate any annexation action nor promote a property owner petition seeking annexation of any property not located within the orderly annexation area as described in Paragraph 2 of this Agreement without the written consent of the Town Board.

12. This Resolution shall take effect on the date that the Joint Resolution for Orderly Annexation is approved by the Office of Administrative Hearings. Each annexation of property included in this Joint Resolution for Orderly Annexation must be submitted to and approved by the Office of Administrative Hearings, Municipal Boundary Adjustments, following the procedures set forth in Paragraph 9 above. The Joint Planning Board created pursuant to Paragraph 5 above shall review this Joint Resolution for Orderly Annexation at least annually and based on that review may make recommendations to the City and Township for amendments to this Agreement.

13. Any alterations, variations, modifications or waivers of the provisions of this Joint Resolution for Orderly Annexation shall only be valid if they have been reduced to writing and signed by authorized representatives of the parties.

14. The provisions of this Joint Resolution for Orderly Annexation shall be deemed to be severable. If any part of this contract is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of the contract unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire contract with respect to either party.

The parties further agree to substitute for any invalid provision a valid provision that most closely approximates the economic effect and intent of the invalid provision.

15. This Joint Resolution for Orderly Annexation is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior

negotiations, understandings or agreements. There are no representations, warranties or stipulations, either oral or written, not herein contained.

16. It is specifically acknowledged and understood that the parties are represented by, and have available to them, independent counsel. As a matter of convenience, one party to this agreement may have taken on the bulk of the task of drafting this agreement. This agreement shall not be construed against the drafting party merely because of its role in drafting this agreement.

CITY OF PAYNESVILLE

Passed and adopted by the City Council of the City of Paynesville this 27th day of October, 2010.

Attest:

Renee Eckerly
Renee Eckerly, City Administrator

Jeff Thompson
Jeff Thompson, Mayor

PAYNESVILLE TOWNSHIP

Passed and adopted by the Town Board of the Town of Paynesville this 25 day of October, 2010.

Attest:

Ann D. White
Town Clerk

Wen C. Suetsek
Chairman



EXHIBIT A
Lands Included in Orderly Annexation Per Original File 0A-1220

All such property lying in Township 122 North, Range 32 West, Stearns County, Minnesota, described as follows:

The Southwest Quarter of Section 3, except the following described property: The West 1,100.00 feet of the Southwest Quarter of Section Three, Township One Hundred Twenty-two North, Range Thirty-two West, Stearns County, Minnesota, lying Northwesterly of a line 37.5 feet Northerly and parallel to the centerline of the Northern States Power electrical transmission easement, said centerline is described as follows: Beginning at a point on the East-West Quarter line 89.00 feet West of the center of Section 3; thence Southwesterly to a point on the West line of Section 3, which said point is 488.05 feet North of the Southwest corner of Section 3.

AND

The West Half of Section 10.

AND

The West Half of Section 15.

AND

All that portion of the South half of Section 16 not currently located in the City of Paynesville.

AND

The North Half of the Northwest Quarter of Section 21 lying West of Stearns County Highway No. 181, except the following described property: That part of the Northwest Quarter of the Northwest Quarter of Section Twenty-one, Township One Hundred Twenty-two North, Range Thirty-two West, Stearns County, Minnesota, described as follows: Beginning at the Southwest corner of said Northwest Quarter of the Northwest Quarter of Section Twenty-one; thence Northerly along the West line of said quarter-quarter section a distance of 740 feet; thence Southeasterly in a straight line to a point in the South line of said quarter-quarter section, which point lies 475 feet East of the point of beginning; thence Westerly along said South line of said quarter-quarter section a distance of 475 feet to the point of beginning, and there terminating.

AND

The Southeast Quarter of Section 18.

AND

All of Section 17 not currently located in the City of Paynesville, except the following described property:

All that part in the West One-half of the Northwest Quarter (W ½ NW ¼) of Section Seventeen (17), in Township One Hundred Twenty-two (122) North, of Range Thirty-two (32) West, in Stearns County, Minnesota, described as follows, to-wit: Beginning at the Northwest corner of said NW ¼; thence on an assumed bearing of South 0°39'53" West line of said NW ¼, a distance of 448.35 feet; thence on a bearing of South 73°48'51" East, parallel with the Southerly right of way line of Minnesota Trunk Highway No. 55, a distance of 650.00 feet; thence on a bearing of North 0°39'53" East parallel with the West line of said NW ¼, a distance of 450.00 feet to said Southerly right of way line, thence a bearing of North 73°48'51" West, along said Southerly right of way line, 643.86 feet to the North line of said NW ¼; thence on a bearing of North 89°23'06" West, along the North line of said NW ¼, a distance of 5.92 feet to the point of beginning.

And also except the following described property:

Commencing at the Northwest corner of said Northwest Quarter; thence on an assumed bearing of South 00°39'53" West along the West line of said NW ¼ a distance of 448.35 feet to the point of beginning; thence South 73°48'51" East, parallel with the Southerly right of way line of Minnesota Trunk Highway No. 55, a distance of 530.11 feet, thence South 00°39'53" West to the North line of Block 2 of Wilglo Acres Addition, thence West along the North line of Block 2 of Wilglo Acres Addition to the West line of the Northwest Quarter of Section 17, a point 1,775.96 feet South of the Northwest corner of the Northwest Quarter of said Section 17, thence North to the point of beginning and there terminating.

AND

That portion of the Southeast Quarter of Section 8 lying East of Stearns County Highway No. 130.

BUT EXCLUDING THE FOLLOWING DESCRIBED PROPERTY:

That part of Section 17 and 20, Township 122, Range 32, Stearns County, Minnesota, described as follows, to-wit: Commencing at the Southwest corner of said Section 17; thence North 89°47'57" East, along the line between said sections, a distance of 1282.07 feet; thence South 74°23'57" East 1005.94 feet to the point of beginning of the property to be described; thence North 74°23'57" West 1005.94 feet to a point on the line between said sections; thence South 89°47'57" West 1282.07 feet to the Southwest corner of said Section 17; thence North 00°32'32" West, along the West line of the Southwest Quarter of said Section 17, a distance of 1326.42 feet; thence South 74°23'57" East 67.70 feet; thence North 89°44'39" East 1116.23 feet; thence North 00°29'26" West 83.96 feet; thence North 88°51'39" East 819.76 feet; thence South 45°55'03" East 1129.00 feet; thence South 00°34'03" East 618.17 feet to the South line of said Section 17; thence North 89°48'28" East along said South line of Section 17 a distance of 567.04 feet more or less to the Westerly right-of-way line of State Highway Number 23; thence Southerly along said Westerly right-of-way line to its intersection with a line which bears South 65°52'07" East from the point of beginning; thence North 65°52'07" West 966.57 feet to the point of beginning.

AND ALSO EXCLUDING THE FOLLOWING DESCRIBED PROPERTY:

And that part of Section 18, Township 122, Range 32, Stearns County, Minnesota, described as follows, to-wit: Beginning at the Southeast corner of said Section 18; thence North $89^{\circ}55'26''$ West, along the South line of said section, a distance of 1332.68 feet; thence North $00^{\circ}29'58''$ West, along the West line of the East Half of said Southeast Quarter, a distance of 734.63 feet; thence North 734.63 feet; thence North $74^{\circ}23'57''$ West 2839.56 feet; thence North $15^{\circ}36'03''$ East 492.01 feet to a point in the South line of the North 20 acres of the Northeast Quarter of the Southwest Quarter of said section; thence North $89^{\circ}47'36''$ West, along said South line, a distance of 68.50 feet to the Southwest corner of said North 20 acres; thence North $00^{\circ}16'27''$ West, along the West line thereof, a distance of 411.88 feet; thence South $74^{\circ}23'57''$ East 1381.71 feet to a point on the East line thereof; thence North $00^{\circ}27'24''$ West, along said East line, a distance of 57.23 feet; thence South $74^{\circ}23'57''$ East 1385.40 feet to a point on the East line of the West Half of the Southeast Quarter of said section; thence South $00^{\circ}29'58''$ East, along said East line, a distance of 43.30 feet; thence South $89^{\circ}55'26''$ East 1331.44 feet to its intersection with the East line of said section; thence South $00^{\circ}32'32''$ East 1654.10 feet to the point of beginning.

The above described premises consisting of 1,260 acres, more or less, which acreage is depicted on the map attached hereto and labeled Map 1.

EXHIBIT B
LANDS NEWLY ADDED TO ORDERLY ANNEXATION AGREEMENT

Dennis Rothstein:

That part of the following described tract which lies Southerly of Minnesota Department of Transportation Highway Right-of-way Plat No. 73-104, as of public record, Stearns County, Minnesota:

That part of the NW 1/4 and of the NE 1/4 of Section 20, Township 122, Range 32, Stearns County, Minnesota, described as follows: Commencing at the Northwest corner of said NW 1/4 of Section 20; thence on an assumed bearing of S 89°39' E along the North line of said Section 20 a distance of 1148.10 feet to the point of beginning of the tract herein described; thence on a bearing of S 11°12' E, 508.90 feet; thence S 02°12' E, 602.40 feet; thence N 62°36' E, 1030.29 feet; thence S 34°51' E, 566.63 feet to its intersection with a line which is on a not tangent curve to the last described course but is parallel to and 175 feet Northwesterly of the Northwesterly Right-of-way line of State Trunk Highway Number 23; thence Northeasterly along said curve which is concave to the Northwest, having a central angle of 05°37'17", a radius of 1659.86, a distance of 162.84 feet the chord bearing of said curve is N 52°17'39" E; thence S 40°30'59" E on a line which is radial to the curve of State Trunk Highway Number 23, a distance of 175.00 feet to the Northwesterly Right-of-way of said State Trunk Highway Number 23; thence Northwesterly along said Right-of-way line to its intersection with the North line of said Section 20; thence Westerly along said North line, to the point of beginning.

LESS AND EXCEPT

That part of the above described property lying Northerly of the following described Line "B". Line "B" is described as beginning at the hereinbefore described Point "X"; thence S 15°36'03" W, 237.52 feet; thence S 74°23'57" E, 166.67 feet; thence S 65°52'07" E, 842.66 feet; thence N 15°36'03" E, 645.43 feet to a point on the North line of the Northwest Quarter of the Northeast Quarter of said Section 20 and said line "B" there terminating.

ALSO LESS AND EXCEPT

That part of the above described property lying Northerly of the following described Line "D". and Easterly of the following described Line "E". Line "D" is described as commencing at the Northwest corner of Section 20, Township 122, Range 32, Stearns County, Minnesota; thence N 00°32'32" W, along the West line of the Southwest Quarter of Section 17, Township 122, Range 32, a distance of 805.89 feet; thence S 74°23'57" E, 2297.96 feet; thence S 15°36'03" W, 425.00 feet; thence S 74°23'57" E, 166.67 feet; thence S 65°52'07" E, 842.66 feet to a point hereinafter referred to as Point "Y" and the point of beginning of Line "D" to be described; thence continuing S 65°52'07" E, 123.91 feet to the Westerly Right-of-way line of said State Trunk Highway Number 23 and said line "D" there terminating. Line "E" described as beginning at the hereinbefore described Point "Y" thence N 15°36'03" E, 645.43 feet to a point on the North line of the Northwest Quarter of the Northeast Quarter of said Section 20 and said Line "E" there terminating. Subject to the easements of record. Containing 6.12 acres, more or less.

The above-described premises consisting of 6.12 acres, more or less, as designated in red on the map attached hereto and designated as Map 2.

Paynesville Township\City of Paynesville Orderly Annexation Area

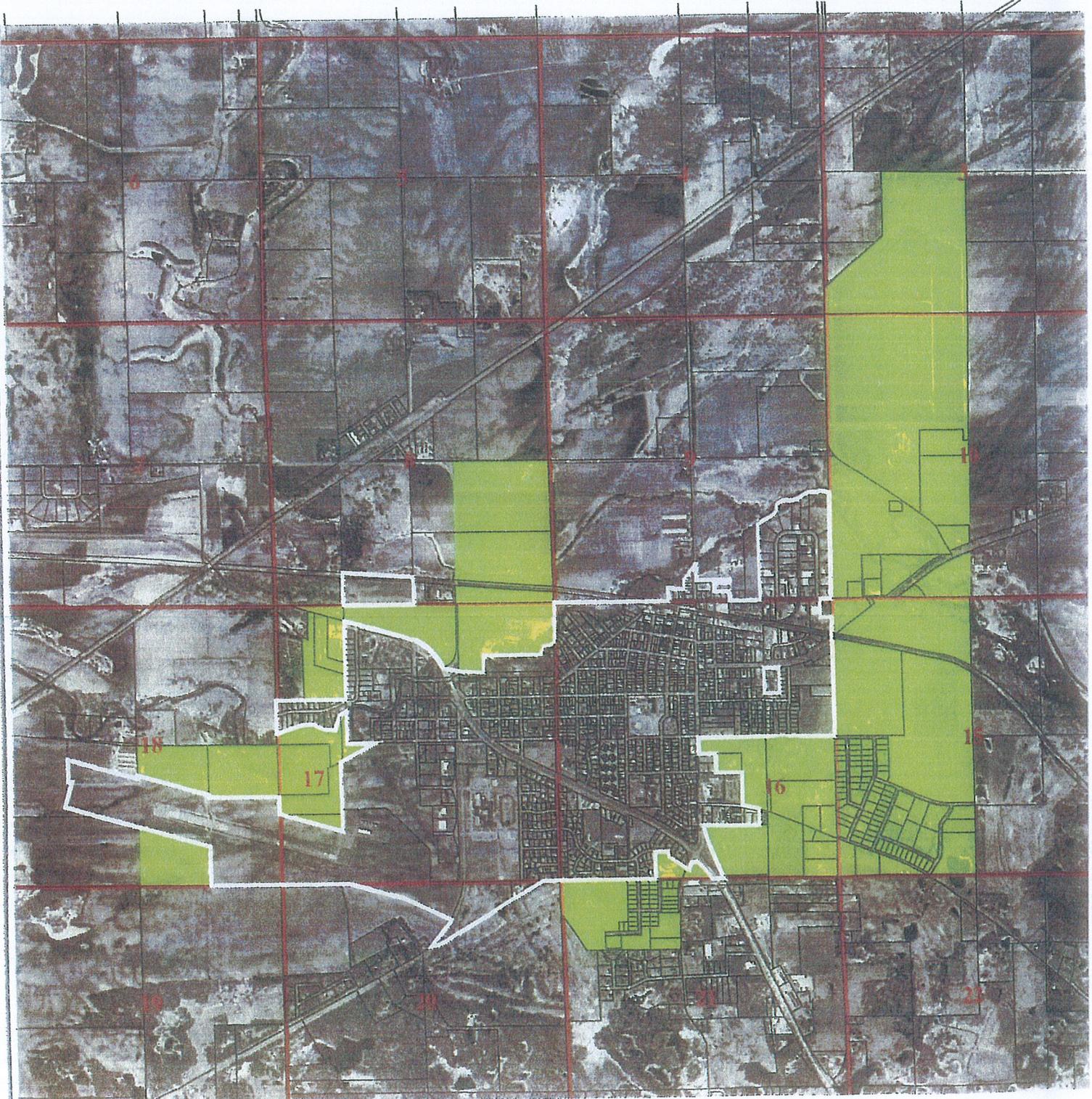


Stearns County Environmental Services
October 7, 2005

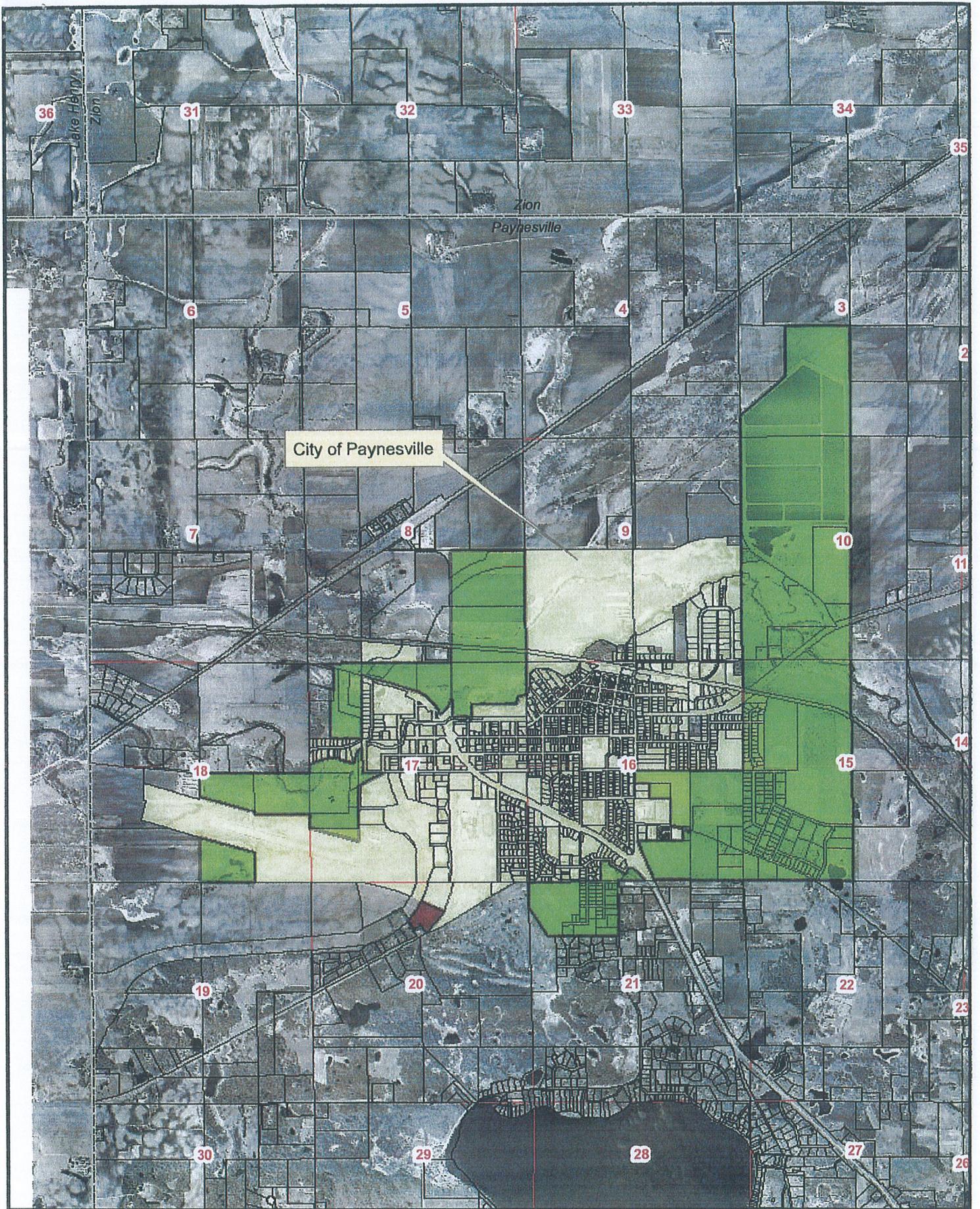
	Municipal Boundary
	Parcels
	Proposed Annexation Area
	Section Lines

This map is made available on an "as is" basis without express or implied warranty of any sort, including specifically, any implied warranties of fitness for a particular purpose, warranties of merchantability or warranties relating to the accuracy of the database.

~ 1,260 acres in annexation area



Map 1



Paynesville Orderly Annexation Area

 Orderly Annexation Area



Map 2

CERTIFICATE OF ADMINISTRATION

I, Renee Eckerly, the duly appointed, qualified and acting Administrator of the City of Paynesville, do hereby certify that the records of the City Council indicate that the attached Resolution is a true and correct copy of said Resolution of the City of Paynesville.

That present at the meeting were the following council members:

Jeff Thompson, Jean Soine, Jeff Bertram, Dennis Zimmerman, and Gene Beavers.

The following members were absent: None

The vote with respect to the Resolution was as follows:

Three in favor of the Resolution.

Two against the Resolution.

None abstained from voting.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 27th day of October, 2010.

Renee Eckerly
Renee Eckerly, City Administrator
City of Paynesville

ATTEST:

Jeff Thompson
Jeff Thompson, Mayor
City of Paynesville