

**JOINT PLANNING BOARD  
CITY HALL  
AUGUST 9, 2010  
7:00 A.M.**

**AGENDA**

- I. CALL TO ORDER
- II. CONSENT AGENDA
  - A. Minutes (page 1)
- III. NEW BUSINESS
- IV. OLD BUSINESS
  - A. Orderly Annexation (page 4)
  - B. Annexation of Parcels Inside City Limits
- V. INFORMATIONAL
- VI. ADJOURN

**\*\*\*Please contact Renee Eckerly at 320-243-3714 ext. 227 or at [reneeE@paynesvillemn.com](mailto:reneeE@paynesvillemn.com) if you can't attend the meeting.\*\*\***

**Members: Township - Don Wiese, Don Pietsch, City – Jeff Thompson, Renee Eckerly, At Large – Jeff Bertram.**

This agenda has been prepared to provide information regarding an upcoming meeting of the Joint Planning Board. This document does not claim to be complete and is subject to change.

**BARRIER FREE:** All Joint Planning Board meetings are accessible to the handicapped. Attempts will be made to accommodate any other individual need for special services. Please contact City Hall (320) 243-3714 early, so necessary arrangements can be made.

## REQUEST FOR COMMITTEE/COUNCIL ACTION

**COMMITTEE/COUNCIL NAME:** Joint Planning Board

Committee/Council Meeting Date: August 9, 2010

Agenda Section: Consent

Originating Department:

Item Number: II - A

**ITEM DESCRIPTION:** Minutes

Prepared by: Staff

**COMMENTS:**

Please review the attached minutes from the July 14, 2010 Joint Planning Board meeting minutes.

**ADMINISTRATOR COMMENTS:**

**COMMITTEE/COUNCIL ACTION:**

Motion to approve the minutes from the July 14, 2010 Joint Planning Board meeting minutes.

**MINUTES  
JOINT PLANNING BOARD**

**JULY 14, 2010**

Chairperson Don Pietsch called the Joint Planning Board meeting to order at 7:10 a.m. Members present were Jeff Bertram, Renee Eckerly, Jeff Thompson, and Don Wiese. Also present was City Attorney, Bill Spooner.

**Motion was made by Bertram to approve the minutes of the June 28, 2010 Joint Planning Board meeting. Seconded by Thompson and unanimously carried.**

**ORDERLY ANNEXATION**

Eckerly reported on her research; it appears that each resolution except 2005-38 is specific to certain parcels being annexed. So she does not believe that 2005-38 was changed by 2007-45, but Spooner stated that the heading at the top of the Resolution 2007-45 states it does change 2005-38, which is different from all the other resolutions. Eckerly stated that resolutions that were past after 2007-45 were not consistent with the changes. They still had the 2 year and percentages so the resolutions are not consistent. Spooner reported that he believes Resolution 2007-45 paragraph 2 states changing 2005-38 Resolution. Paragraph 3 after #8 in 2007-45 should not completely remove paragraph 9 of 2005-38. In resolution 2005-38, the first and second section of paragraph 9 should remain; paragraph 3 has the 2 year wording that should be removed along with the percentages. Spooner believes the intent was services to be provided in a reasonable time. Spooner would revise Resolution 2007-45 with an amendment fixing the removal of paragraph 9. It was questioned to see if this process can be made simpler and cleaner to know which the main document is. Spooner will contact the Boundaries and Adjustments Board to research how to accomplish this to avoid future confusion. The Board discussed how to handle developers paying for some of the cost of utilities and this could be a requirement by the City to annex the land.

**Motion was made by Bertram to have Spooner create one document to outline the annexation process. Seconded by Wiese and unanimously carried.**

Spooner will change paragraph 9.

The Board discussed whether to allow people to annex "just because". Spooner stated there are three criteria to orderly annexation under State Statute:

1. Provide Service
2. Township can't provide health, safety, and welfare
3. It's in the best interest of the property

Pietsch stated that the Township will have a public hearing and will determine if it makes sense and then the City can decide.

Spooner cited what paragraph 9 could read:

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.

Property owners can un-annex back to the Township.

The Board discussed that the "just because" being landowners and wanting to make money off the land should not be allowed. The request should come from the landowner and what is best for the community.

The annexation map update time line was discussed. Eckerly stated that to avoid additional cost; update the map along with the agreement. Pietsch stated that the Township was waiting for the zoning changes. The Board recommended putting the new Hwy. 23 on the map and then review, if there are changes to the map, they should be included in the new resolution.

There are Township properties in the City boundaries. Spooner stated that those properties should be in the City. The Board discussed other services.

Parcels inside the City – The Township will contact property owners because the City can't, according to the agreement, with reasons being; using City services, roads, and ordinances such as animals. Any additional reasons to propose to residents will be brought back to the next meeting.

### **NEXT MEETING**

The next meeting was scheduled for August 23, 2010 at 7:00 a.m. with the agenda to include:

- A new orderly annexation map
- Draft Orderly Annexation Resolution
- Parcels inside the City limits

There being no further business, the meeting was adjourned at 12:35 p.m.

COPY

Re  
IN THE MATTER OF THE JOINT RESOLUTION OF THE TOWN OF PAYNESVILLE AND THE CITY OF PAYNESVILLE DESIGNATING AN UNINCORPORATED AREA AS IN NEED OF ORDERLY ANNEXATION AND CONFERRING JURISDICTION OVER SAID AREA TO THE DEPARTMENT OF ADMINISTRATION, MUNICIPAL BOUNDARY ADJUSTMENTS BOARD PURSUANT TO M.S.A. 414.0325.

2005-38

**JOINT RESOLUTION FOR ORDERLY ANNEXATION**

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

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 Exhibit A which is 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

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acceptance by the Department of Administration, Municipal Boundary Adjustments Board, confer jurisdiction on the Department of Administration, Municipal Boundary Adjustments Board 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 Department of Administration, Municipal Boundary Adjustments Board.

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 within 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 annexed to the City pursuant to this agreement, of the base tax payable to the Township at the time of annexation, the following shall occur:

In the first year after annexation the Township will receive 90% of that base tax; in the second year after annexation the Township shall receive 70% of that base tax; in the third year after annexation the Township shall receive 50% of that base tax; in the fourth year after annexation the Township shall receive 30% of that base tax; and finally in the fifth year after annexation the Township shall receive 10% of the base tax from the City of Paynesville. 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 the required services within two (2) years, then the request for annexation will be approved by the City of Paynesville and shall be submitted to the Department of Administration, Municipal Boundary Adjustments Board for approval without further consideration. The requirement that services be provided within two (2) years of an area to be annexed shall not apply to lands owned by the City of Paynesville or owned by other utilities where services such as sewer and water are not reasonably required.



If the requested services are not provided within two (2) years after the request for annexation has been approved by the Department of Administration, Municipal Boundary Adjustments Board, then the distribution of the base tax payable to the Township at the time of annexation shall remain at seventy percent (70%) to the Township and thirty percent (30%) to the City until the requested services have been provided, and thereafter the distribution of said base tax shall once again proceed in accordance with the schedule set forth in Paragraph 9 above. (That is, being divided 50% to the Township and 50% to the City one year after the completion of the requested services and proceeding accordingly).

10. No consideration by the Department of Administration, Municipal Boundary Adjustments Board is necessary. The Board 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 agreement shall take effect on the date that the Joint Resolution for Orderly Annexation is approved by the Department of Administration. Each annexation of property included in this Joint Resolution for Orderly Annexation must be submitted to and approved by the Department of Administration, Municipal Boundary Adjustments Board, 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.

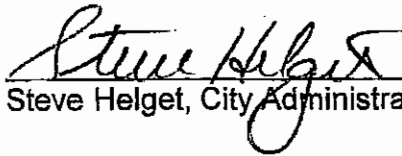
15. This Joint Resolution for Orderly Annexation is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties or stipulations, 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 28<sup>th</sup> day of September, 2005.

Attest:


  
Steve Helget, City Administrator

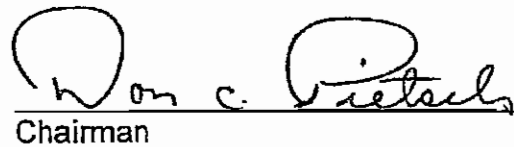
  
Jeff Thompson, Mayor

PAYNESVILLE TOWNSHIP

Passed and adopted by the Town Board of the Town of Paynesville this 12<sup>th</sup> day of September, 2005.

Attest:

  
Township Clerk

  
Chairman



**EXHIBIT A**

**Legal Description of Property Subject to Orderly Annexation and  
Included in the Orderly Annexation Area**

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.

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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 ( $W\frac{1}{2}$  NW  $\frac{1}{4}$ ) 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  $\frac{1}{4}$ ; thence on an assumed bearing of South  $0^{\circ}39'53''$  West line of said NW  $\frac{1}{4}$ , a distance of 448.35 feet; thence on a bearing of South  $73^{\circ}48'51''$  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  $0^{\circ}39'53''$  East parallel with the West line of said NW  $\frac{1}{4}$ , a distance of 450.00 feet to said Southerly right of way line, thence a bearing of North  $73^{\circ}48'51''$  West, along said Southerly right of way line, 643.86 feet to the North line of said NW  $\frac{1}{4}$ ; thence on bearing of North  $89^{\circ}23'06''$  West, along the North line of said NW  $\frac{1}{4}$ , 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 degrees 39 minutes 53 seconds West along the west line of said NW $\frac{1}{4}$  a distance of 448.35 feet to the point of beginning; thence South 73 degrees 48 minutes 51 seconds East, parallel with the southerly right of way line of Minnesota Trunk Highway No. 55, a distance of 530.11 feet, thence South 00 degrees 39 minutes 53 seconds 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 degrees 47 minutes 57 seconds East, along the line between said

sections, a distance of 1282.07 feet; thence South 74 degrees 23 minutes 57 seconds East 1005.94 feet to the point of beginning of the property to be described; thence North 74 degrees 23 minutes 57 seconds West 1005.94 feet to a point on the line between said sections; thence South 89 degrees 47 minutes 57 seconds West 1282.07 feet to the Southwest corner of said Section 17; thence North 00 degrees 32 minutes 32 seconds West, along the West line of the Southwest Quarter of said Section 17, a distance of 1326.42 feet; thence South 74 degrees 23 minutes 57 seconds East 67.70 feet; thence North 89 degrees 44 minutes 39 seconds East 1116.23 feet; thence North 00 degrees 29 minutes 26 seconds West 83.96 feet; thence North 88 degrees 51 minutes 39 seconds East 819.76 feet; thence South 45 degrees 55 minutes 03 seconds East 1129.00 feet; thence South 00 degrees 34 minutes 03 seconds East 618.17 feet to the South line of said Section 17; thence North 89 degrees 48 minutes 28 seconds 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 degrees 52 minutes 07 seconds East from the point of beginning; thence North 65 degrees 52 minutes 07 seconds 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 degrees 55 minutes 26 seconds West, along the South line of said section, a distance of 1332.68 feet; thence North 00 degrees 29 minutes 58 seconds West, along the West line of the East Half of said Southeast Quarter, a distance of 734.63 feet; thence North 74 degrees 23 minutes 57 seconds West 2839.56 feet; thence North 15 degrees 36 minutes 03 seconds 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 degrees 47 minutes 36 seconds West, along said South line, a distance of 68.50 feet to the Southwest corner of said North 20 acres; thence North 00 degrees 16 minutes 27 seconds West, along the West line thereof, a distance of 411.88 feet; thence South 74 degrees 23 minutes 57 seconds East 1381.71 feet to a point on the East line thereof; thence North 00 degrees 27 minutes 24 seconds West, along said East line, a distance of 57.23 feet; thence South, 74 degrees 23 minutes 57 seconds 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 degrees 29 minutes 58 seconds East, along said East line, a distance of 43.30 feet; thence South 89 degrees 55 minutes 26 seconds East 1331.44 feet to its intersection with the East line of said section; thence South 00 degrees 32 minutes 32 seconds East 1654.10 feet to the point of beginning.

# 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



IN THE MATTER OF THE JOINT RESOLUTION OF THE TOWN OF PAYNESVILLE AND THE CITY OF PAYNESVILLE TO AMEND TWO (2) PRIOR RESOLUTIONS FOR ORDERLY ANNEXATION.

2007- 45

**ADDENDUM TO  
JOINT RESOLUTIONS FOR ORDERLY ANNEXATION**

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

1. The parties hereto entered into a Joint Resolution for Orderly Annexation of a specific parcel of property containing 230 acres of land pursuant to the terms of Resolution 2005-30, which was executed by the City of Paynesville on July 27, 2005, and by Paynesville Township on August 8, 2005, for the annexation of a specific 230 acre parcel of property described therein and commonly referred to as the Ferche property.

2. Subsequently, the parties hereto, in an effort to address future planning and to identify properties which were likely to be candidates for municipal services and, therefore, annexation into the City of Paynesville in the future, entered into a Joint Resolution for Orderly Annexation (Resolution 2005-38), which was executed by the City of Paynesville on September 28, 2005, and by Paynesville Township on September 12, 2005.

3. Pursuant to Resolution 2005-30, the Municipal Boundary Adjustments Board entered an Order through its Office of Administrative Hearings entitled IN THE MATTER OF THE ORDERLY ANNEXATION AGREEMENT BETWEEN THE CITY OF PAYNESVILLE AND THE TOWN OF PAYNESVILLE PURSUANT TO MINNESOTA STATUTES CHAPTER 414, a copy of which is attached hereto and incorporated herein by reference.

4. As part of its Order annexing the Ferche property to the City, the Office of Administrative Hearings attached a Memorandum referencing the requirements and limitations of Minnesota Statute 414.036.

Ferche

X  
2005  
300



5. The parties hereto wish to amend the terms of their agreement as it relates to taxes on the property so as to comply more closely with the requirements of Minnesota Statute 414.036.

6. At the time of the Order granting annexation, Minnesota Statute 414.036 provided that reimbursement for taxes to the Township be over a period of not less than two (2) nor more than six (6) years from the time of annexation. Subsequently, Minnesota Statute 414.036 was amended by the 2006 Legislature to provide for reimbursement over a period of not less than two (2) nor more than eight (8) years.

NOW, THEREFORE, the Joint Resolutions for Orderly Annexation between the parties hereto referenced above, are modified as follows:

1) As to Resolution 2005-30, Paragraph 7 of said Joint Resolution for Orderly Annexation is hereby amended and modified to read as follows:

*7. 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 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 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.*

2) As to Resolution 2005-38, Joint Resolution for Orderly Annexation, Paragraph 8 of said Joint Resolution for Orderly Annexation is hereby amended and modified to provide as follows:

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 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 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.

3) As to Resolution 2005-38, Joint Resolution for Orderly Annexation, the provisions of Paragraph 9 are hereby deleted in their entirety.

4) Except as otherwise provided herein, the terms and provisions of the two (2) Joint Resolutions for Orderly Annexation referenced above, are hereby ratified and confirmed.

CITY OF PAYNESVILLE

Passed and adopted by the City Council of the City of Paynesville this 26th day of December, 2007.

Attest:

Renee Eckerly  
Renee Eckerly, City Administrator  
PAYNESVILLE TOWNSHIP

Jeff Thompson  
Jeff Thompson, Mayor

Passed and adopted by the Town Board of the Town of Paynesville this 11 day of February, 2007.

Attest:

Mu White  
Town Clerk



Don C. Fuchs  
Chairman

**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, Tom Lindquist, Jeff Bertram, and Gene Beavers.

The following members were absent: None

The vote with respect to the Resolution was as follows:

All in favor of the Resolution.

None against the Resolution.

None abstained from voting.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of December, 2007.

Renee Eckerly  
Renee Eckerly, City Administrator  
City of Paynesville

ATTEST:

Jeff Thompson  
Jeff Thompson, Mayor  
City of Paynesville

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-\_\_\_\_\_  
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 Exhibit A, which is 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 \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Attest:

\_\_\_\_\_  
Renee Eckerly, City Administrator

\_\_\_\_\_  
Jeff Thompson, Mayor

PAYNESVILLE TOWNSHIP

Passed and adopted by the Town Board of the Town of Paynesville this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Attest:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Chairman

