



**City Council – Meeting Agenda -REVISED
March 16, 2021 – 5:30 P.M. – Foley City Hall**

1. Call the meeting to order.
2. Pledge of Allegiance.
3. Approve the agenda.
4. Consent Agenda:
 - Appoint Councilmember Rosalie Musachio to Planning Commission.
5. Discussion on orderly annexation agreement and annexation petition.
 - Resolution #2021-08 Petition of Annexation
6. Mayor's Comments & Open Forum
7. Department Reports:
 - City Attorney – Adam Ripple
 - Administration – Sarah Brunn
8. Old Business
 - Update on wastewater project.
9. New Business
10. Discussion on purchase of PID 020049300 & PID 020050000.
 - Close the meeting per Minn. Stat. 13D.05 Subd. 3(c) 13D.05 – discussion on potential land price of PID 020049300 & PID 020050000.
11. Recess meeting until March 19, 2021 @ 12pm.
12. *Reconvene Meeting*
13. *Update on Gilmanton Township Meeting*
 - *Discussion on Resolution #2021 – 09 Orderly Annexation and Joint Planning Agreement with Gilmanton Township.*
14. *Adjourn*

Resolution # _____

**Orderly Annexation and Joint Planning Agreement Between
Gilmanton Township and the City of Foley**

WHEREAS, the Town of Gilmanton ("Town") and the City of Foley ("City") have had discussions regarding the planning and development of lands adjacent to the City;

WHEREAS, the Town and City jointly agree that both intend to conserve agricultural lands and promote growth and development in appropriate areas only upon annexation to the City;

WHEREAS, the Town and City jointly enter into this Agreement to establish an orderly annexation area and adopted land use controls;

WHEREAS, the Town and City jointly agree that lands within the orderly annexation area should be governed by the land use controls of the City instead of Benton County;

WHEREAS, the Town and City jointly enter into this Agreement to establish a process for administering the City's land use controls within the orderly annexation area;

WHEREAS, Minnesota Statutes § 414.0325 provides a procedure for the Town and City to agree on a process of orderly annexation of a designated area;

WHEREAS, the orderly annexation area encompassed by the Agreement is relatively small, consisting of approximately 840 acres, as depicted in **Exhibit A** ("Orderly Annexation Area") and legally described in **Exhibit B**;

WHEREAS, on June __, 2020 a Notice of Intent to include property in an orderly annexation area was published pursuant to the requirements of Minnesota Statutes § 414.0325, Subd. 1b;

WHEREAS, the City and Town have met numerous times since the first joint meeting on July 7, 2020, including open houses for the public to discuss the implications of orderly annexation; and

WHEREAS, the City and Town have agreed to all the terms and conditions for the annexation of the Orderly Annexation Area and the City and Town agree that no alteration of the designated area is appropriate and 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 the resolution.

NOW, THEREFORE, for good and valuable consideration, and after a properly conducted joint public hearing by the Town and City, the Town Board of Supervisors of the Town of Gilmanton and the City Council of the City of Foley hereby resolve and agree as follows:

ORDERLY ANNEXATION AGREEMENT

1. **Designation.** The City and Town designate the real property described and depicted in **Exhibit A** ("Orderly Annexation Area") as subject to orderly annexation pursuant to Minnesota Statute § 414.0325. The Orderly Annexation Area consists of approximately 840 acres, the population in the subject area is less than 75, and the land use type is agricultural.
2. **State Jurisdiction.** The Town and City, by approval and submission of this Agreement to the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings, confers jurisdiction upon the Chief Administrative Law Judge to accomplish orderly annexation in accordance with the terms of this Agreement.
3. **Rural Preservation Until Annexation.** The Town and City have identified the Orderly Annexation Area as areas that are about to become urban or suburban, and because the City anticipates being capable of providing services to this area within a reasonable time, the annexation would be in the best interest of the area if development occurs. In the interim, however, the intent of the Town and City is to maintain and preserve the current rural character of the Orderly Annexation Area until property is annexed into the City. This means allowing agricultural uses and homesteads at a density of four per forty acres and restricting subdivisions for building purposes that result in lots smaller than ten acres. Nothing in this Agreement is intended to impair or restrict the rights of lots of record or legal nonconformities.
4. **Conditions for Annexation.** Property in the Orderly Annexation Area shall be annexed into the City when agreed to by two of the following three parties: the property owner, the City of Foley, or the Town of Gilmanton. The City may also annex property in the Orderly Annexation Area if the property is owned by the City. The City shall initiate this process by providing written notice to the Town and all owners of record of the area proposed to be annexed. The City shall accept written comments from the Town for consideration. After 30 days from the date of the written notice, the City may adopt a resolution completing the annexation.
5. **Property Taxes.** The City and Town agree to the following property tax provisions:
 - a. **Rate.** The tax capacity rate applicable to undeveloped property after annexation shall be increased in substantially equal proportions each year of a six-year period until it equals the tax capacity rate of the City. If any part of the annexed property becomes developed prior to the end of the six-year period, it shall be assessed at the City's tax rate.
 - b. **Reimbursement.** The City agrees to reimburse the Town an amount equal to seven years of property taxes that would be received from annexed properties based on the rates and values at the time of annexation. Payment will be made in a lump sum within six months after the annexation is effective.

6. **Agreement Term.** Unless the parties have agreed to an extension, this Agreement shall terminate on December 31, 2030.
7. **Exclusive.** It is the intent of the parties that this Agreement sets the exclusive procedures under which annexation from the Town to the City may occur during the term of this Agreement.

JOINT PLANNING AGREEMENT

1. **Applicable Land Use Controls.** Zoning within the Orderly Annexation Area is currently administered by Benton County, utilizing the Benton County Zoning Ordinance. In order to eliminate authority for changes in applicable land use controls from residing with Benton County and outside of the control of either the Town or City, and to eliminate questions of applicability of past revisions of Benton County's Development Code, the Town and City agree to apply the City's zoning ordinance within the Orderly Annexation Area. The goal of land use controls is to preserve the Orderly Annexation Area as agricultural until development is appropriate, so no rezoning of property to a designation other than Agricultural within the Orderly Annexation shall occur prior to annexation.
2. **Wetland and SSTS Remain with Benton County.** All jurisdiction and regulatory authority, including permits, inspection, and enforcement for subsurface sewage treatment systems and wetlands pursuant to the Minnesota Wetlands Conservation Act within the Orderly Annexation Area shall continue to remain with Benton County. Benton County shall collect and retain all fees in connection with subsurface sewage treatment systems and wetlands.
3. **Zoning Designation.** All property within the Orderly Annexation Area is currently zoned Agricultural "A", Business "B-1", Business Enterprise "B-2", or Single-Family Residence "R-2" under Benton County's designation, a copy of which is attached as **Exhibit C**. Upon execution of this Agreement, the property within the Orderly Annexation shall be zoned A-1 Agricultural in accordance with the City's zoning ordinance with the exception that properties zoned B-1 or B-2 shall retain all permitted and conditional uses allowed for such zone under the Benton County's zoning except adult uses, whether or not such uses currently exist on the property. All existing legal uses in operation on March ___, 2021 shall be able to continue to operate as legal non-conformities.
4. **Administration of Land Use Controls.** The Town and City agree that land use controls within the Orderly Annexation Area shall be administered as follows:
 - a. **Joint Planning Board.** Pursuant to Minnesota Statutes §§ 414.0325 and 471.59, the Town and City hereby establish a Joint Planning Board to administer land use controls within the Joint Planning Area. The Joint Planning Board shall consist of two town supervisors and two city council members as appointed by their respective bodies. A Town representative shall serve as chair of the Joint Planning Board and a City representative shall serve as vice chair on even years. A City representative shall serve as chair of the Joint Planning Board and a Town

representative shall serve as vice chair on odd years. Meetings shall be called on an as-needed basis when zoning requests are received or when either the City or Town request a meeting. Every effort will be made to conduct Joint Planning Board meetings at the Town Hall and on the same day as Town Board meetings. The Joint Planning Board shall obtain and maintain a policy of liability coverage for land use claims, the premiums for which shall be paid by the City.

- b. **Staff.** City staff shall, at no cost to the Town, provide all administrative functions for the Joint Planning Board, including the preparation of meeting minutes, serving as zoning administrator, and undertaking enforcement actions. The official City newspaper shall be the official newspaper of the Joint Planning Board for all meeting, public hearing, and other official notices.
 - c. **Land Use Permits and Variances.** Conditional and interim use permits and variance requests shall be submitted on the City's forms and processed by the Joint Planning Board in accordance with the City's zoning ordinance.
 - d. **Solar Project Setbacks.** The City currently has a moratorium on Solar Projects. Rather than extend the moratorium to the Orderly Annexation Area, the Joint Planning Board shall enforce a 500-foot setback from public road rights of way or any public easement containing a water main or sanitary sewer main for all Solar Projects in the Orderly Annexation Area. This setback shall be re-evaluated by the Joint Planning Board once the City adopts permanent Solar Project standards.
 - e. **Ordinance Revisions.** Any revisions to the City's Agriculture District zoning ordinance shall automatically apply to the Orderly Annexation Area unless specifically modified by the Joint Planning Board; this includes any interim ordinances. The City shall provide the Town will notice of any such revisions.
5. **Subdivision of Property.** It is the purpose of this Agreement to regulate subdivisions of land in a manner so as to protect the integrity of the agricultural nature of the Orderly Annexation Area. Such protection requires that any platting or subdivision of property be completed after the property has been annexed to the City, except in those rare circumstances where the Board determines:
- a. the subdivision will not increase the residential density of one single family dwelling per ten acres;
 - b. the subdivision will not precipitate commercial or industrial development; and
 - c. the subdivision of land will not harm the continued vitality of the Orderly Annexation Area as a rural, agricultural area which will not be further developed until such time as is appropriate for annexation.
6. **Further Amendment.** Any amendment to the Orderly Annexation and Joint Planning Agreement shall require a public hearing by the Joint Planning Board and approval by the Gilmanton Town Board and the Foley City Council.

7. **Effective Date.** This Orderly Annexation and Joint Planning Agreement shall be effective upon adoption of the Town Board and City Council and issuance of an Order by the Chief Administrative Law Judge.

Adopted by Town Board of Supervisors for the Town Gilmanton this ____ day of _____, 2021.

By: _____
Town Board Chair

ATTEST:

By: _____
Town Clerk

Adopted by City Council for the City of Foley this ____ day of _____, 2021.

By: _____
Mayor

ATTEST:

By: _____
City Administrator

EXHIBIT A

(Depiction of Orderly Annexation Area)

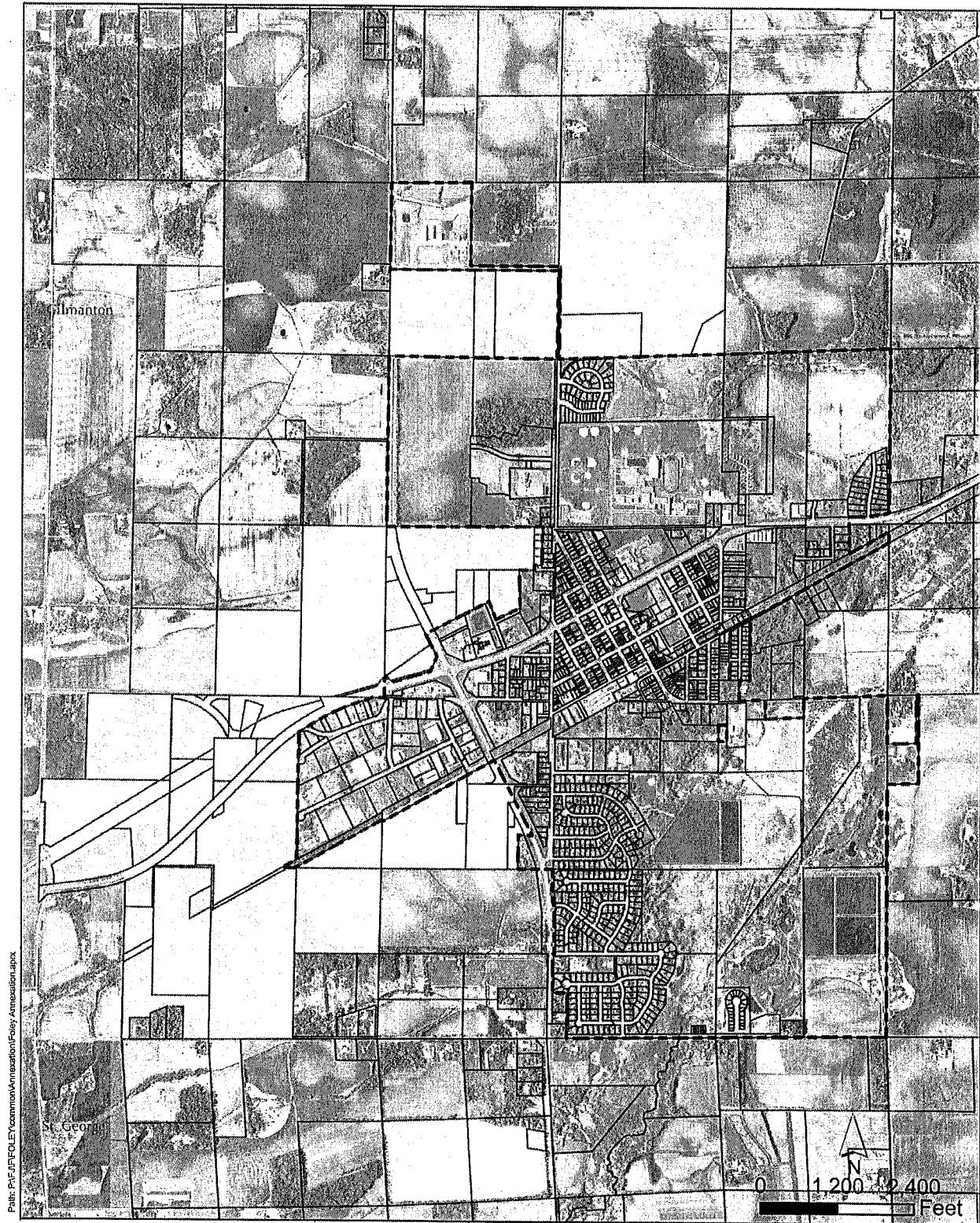



EXHIBIT B

(Legal Description of Orderly Annexation Area)

EXHIBIT C

(County Zoning of Orderly Annexation Area)

 **Beacon™** Benton County, MN

