
MEMORANDUM



TO: Mayor Walker and Councilors
FROM: M McPherson, City Administrator
SUBJECT: **Authorize Participation Method in Baldwin Township Incorporation**
DATE: January 10, 2024

Background:

Baldwin Township adopted a resolution to seek incorporation in December 2023.

The Minnesota Office of Administrative hearings received Baldwin's petition January 9, 2024. Star Holman from the Office called to inform us of the receipt and to layout the upcoming meeting dates and layout the City's option for participation in the process.

Upcoming meeting dates:

January 17, 18 or 19 - Pre-hearing phone conference with the Administrative Law Judge (ALJ), the Township, its attorney and any member of the public who desires to participate. One does not need to be a "party" in the proceedings to participate, so the City is able to join in to listen and/or ask questions. Staff intends to participate.

Week of March 4 - the hearing before the ALJ will be scheduled this week.

Methods that the City could participate in the process:

1. Per MS 414.031, file a competing petition with the Office of Administrative Hearings. Due to notification requirements to adjacent entities, by the time it was received and a hearing date set, it would be beyond the hearing date noted above. This option is not an option for the City.
2. The City falls within the definition of a "party" per MR 6000.0100 and as such, could join in the petition, so to speak. As a party, the City would be allowed to provide evidence and testimony, cross-examine and question witnesses, and provide expert witnesses of our own. Very court-like in its procedural requirements. This option would require the City to share in the costs of the hearing (the State charges for these hearings). The last incorporation request by Empire Township, the costs totaled approximately \$7,000.
3. Attend the hearing and provide both written and verbal testimony, similar to the process the Planning Commission conducts for its public hearings. The ALJ is required to review the entire record in making the final determination. Providing written and verbal testimony would also include any questions from the ALJ themselves to anyone speaking during the hearing.

Recommendation:

After discussion with outside expert counsel, staff recommends that the City Council authorize staff to prepare written and verbal testimony to submit at the hearing per Option #3 above.