

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of the Petition for the
Dissolution of the City of Tenney

**FINDINGS OF FACT,
CONCLUSIONS
AND ORDER**

This matter was heard by Administrative Law Judge (ALJ) Richard C. Luis on April 5, 2011, in the Council Chambers at Tenney (the City), Minnesota. The record closed on April 14, 2011, the deadline for receipt of post-hearing filings.

The Petitioner and the City of Tenney appeared by and through Mayor Kristen Schwab and City Clerk/Treasurer Donald "Oscar" Guenther. Appearances also were made by Wayne Bezenek, Wilkin County Auditor, Harris Richardson and John Scott, Campbell Township Supervisors and Phyllis Scott, Campbell Township Treasurer.

Based on all the records, files and proceedings in this matter, the Administrative Law Judge makes the following Findings of Fact, Conclusions and Order:

STATEMENT OF ISSUE

Should the City of Tenney conduct a referendum vote on the issue of dissolution of the City on June 21, 2011?

The ALJ concludes that the City of Tenney should conduct such a referendum vote.

FINDINGS OF FACT

1. On February 11, 2011, a Petition for Dissolution was received by the Municipal Boundary Adjustment Unit requesting the Chief Administrative Law Judge to order a referendum on the question of dissolution of the City of Tenney. The Petitioner is Tenney's Mayor, Kristen Schwab.¹

2. In the 2010 general election, three voters appeared at the City's polling place in Campbell, Minnesota, (approximately six miles from Tenney).²

¹ Ex. 1.

² *Id.*

3. The area proposed for dissolution consists of the area lying within the boundaries of the City of Tenney, Minnesota, located in Section 28, Township 130 (Campbell Township, Wilkin County), Range 46, and includes the City of Tenney's City Dump, located in Section 26, Township 130, Range 46 (which is 3 acres more or less of the total 21.89 acres proposed for dissolution).³ The Dump is located at the corner of 260th Avenue and 510th Street in Campbell Township, approximately 1.5 miles east of the rest of Tenney.⁴ The Dump has not been used in several years. Anything deposited there has been covered over and landscaped.⁵

4. The City owns nine lots located within the 19-acre Tenney townsite. The property includes the City Hall and a Recreation Building.⁶ It also owns the land parcel containing the City's Dump.⁷

5. The total assessed value of the City's real estate is \$22,500.00.⁸

6. Tenney is the smallest City in Minnesota. The City had a census population of six in 2000. There are two households in the City.⁹ Its present population is five people.¹⁰

7. The City does not have a municipal well, nor does it provide sanitary sewer service or own a sewage treatment plant. All citizens in Tenney have their own well and septic systems. The City does not issue septic permits – these and other related functions are provided by Wilkin County.¹¹

8. The City does not have a fire department. It receives help from surrounding cities for fire protection, such as Campbell and Tintah in Minnesota, and Fairmount, North Dakota.¹²

9. The City does not have a police department. It receives police protection from the Wilkin County Sheriff's Department, for which it is not charged.¹³

10. The City currently has less than one mile of City streets,¹⁴ which are plowed and maintained by the only business in the City, the Wheaton-Dumont Elevator Company, which uses the streets to accommodate truck traffic. At any given time on a normal business day, approximately 20 people are in Tenney (2 residents, 6 elevator

³ *Id.*

⁴ Ex. 7.

⁵ Testimonies of Schwab and Guenther.

⁶ Ex. 6.

⁷ Post-Hearing Submission by City.

⁸ *Id.*

⁹ Ex. 3.

¹⁰ Testimonies of Schwab and Guenther.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Ex. 6.

employees, and approximately twelve truckers unloading grain or waiting in line for that purpose).¹⁵

11. The City does not have zoning regulations. The zoning authority is that of Campbell Township.¹⁶

12. The City does not own any significant personal property, apart from lawn maintenance equipment and furniture. The estimated value of the City's personal property is \$8,555.00.¹⁷

13. The City had total cash deposits of approximately \$7,000 on the day of the hearing.¹⁸

14. The City has no outstanding bonds or other obligations.¹⁹

15. No eligible individuals have expressed interest in filing for City Offices in any subsequent elections.²⁰

16. The City considers June 21, 2011, as a favorable day for the referendum on the dissolution of Tenney.²¹

17. Tenney's City Council has adopted a resolution requesting the County Auditor's Office to administer a mail ballot referendum election to dissolve the City, to be conducted on June 21, 2011.²²

18. The Wilkin County Auditor administers the elections in and for the City of Tenney. County Auditor Wayne Bezenek has consulted with the Office of the Minnesota Secretary of State. Mr. Bezenek notes that the election can be conducted using mailed ballots, so opening a polling place June 21 will not be necessary, no judges need to be present, and costs will be minimized (he estimates less than \$100.00). The Wilkin County Absentee/Mail Ballot Board will count the votes.²³

19. After settlement of all outstanding accounts, any real estate, personal property and cash deposits then owned by the City will be transferred to Campbell Township (current population 84),²⁴ and the territory now occupied by Tenney will become part of that Township when the City dissolves and ceases to exist.

¹⁵ Testimonies of Schwab and Guenther.

¹⁶ *Id.*, Testimony of P. Scott.

¹⁷ Post-Hearing Submission by City.

¹⁸ Testimony of Guenther.

¹⁹ *Id.*, Post-Hearing Submission by City.

²⁰ Testimonies of Schwab, Guenther.

²¹ *Id.*, Testimony of Bezenek.

²² Post-Hearing Submission by County Auditor.

²³ *Id.*

²⁴ Ex. 3.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Office of Administrative Hearings and Municipal Boundary Adjustment Unit have jurisdiction over this matter pursuant to Minn. Stat. § 412.091 and Ch. 414.
2. Minn. Stat. § 412.091 requires one third of the qualified voters to sign a petition before a dissolution proceeding may commence. The Petition filed February 11, 2011, contains a sufficient number of signatures (one) of qualified voters (three).
3. It is appropriate to Order the City of Tenney to conduct a referendum on the question of Dissolution of the City on June 21, 2011.

Based on the Conclusions, the Administrative Law Judge makes the following:

ORDER

1. **IT IS ORDERED** that the City of Tenney conduct a referendum by mailed ballot on the question of Dissolution of the City on June 21, 2011.
2. **IT IS ORDERED FURTHER** that the City cause to be printed, on the ballot for the referendum, the printed words: "For Dissolution" and "Against Dissolution," with a square before each phrase in which the voter may express a preference by a cross or other method of expressing preference provided by law.
3. **IT IS ORDERED FURTHER** that, following the election, the City Clerk shall file with the Municipal Boundary Adjustment Unit, the Secretary of State, and the Wilkin County Auditor a Certificate stating the results of the vote on the referendum.
4. **IT IS ORDERED FURTHER** that, if a majority of those voting on the question favor dissolution, the City of Tenney, Minnesota, shall cease to exist six months after the date of the election.

Dated: April 18, 2011

s/Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

Reported: Digitally Recorded – No Transcript Prepared

NOTICE

Under Minn. Stat. § 414.07, this Order is the final decision in this case. Any aggrieved party may appeal to Wilkin County District Court within 30 days of the issuance of this Order, pursuant to Minn. Stat. § 414.07, subd. 2.

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions of Law and Order within 7 days from the date of the mailing of the Order.²⁵ A request for amendment shall not extend the time of appeal from these Findings of Fact, Conclusions of Law, and Order.

²⁵ Minn. R. 6000.3100.