

## Schuling Annexation



### OFFICE OF THE CITY ADMINISTRATOR

Johnston, Iowa

### AGENDA COMMUNICATION

March 4<sup>th</sup>, 2019

<b>SUBJECT:</b> Consider approval of Resolution 19-55; a resolution accepting a petition for voluntary annexation of territory into the City of Johnston with the establishment of zoning and referring the annexation proposal with the establishment of zoning to the Planning and Zoning Commission for their study and recommendation. The subject property is located east of Highway 141 and north of NW Towner Drive.	<b>ACTION REQUIRED:</b> <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review
<b>SYNOPSIS:</b>	<p>Edward and Patricia Schuling have submitted a petition for voluntary annexation of two parcels owned by the applicants into the City of Johnston. The applicant has not requested any zoning district, but the city would establish zoning for the properties at the time of annexation by defaulting to the standard annexation holding district of A-R, Agriculture Reserve Zoning District. The subject properties are located east of Highway 141 and immediately north of NW Towner Drive. Staff has prepared an annexation proposal to annex the petitioned properties with the addition of adjacent right-of-way.</p> <p>Staff did want to bring attention to the fact that the subject property lies within an area claimed by Xenia Rural Water District as their service territory. The City of Johnston is in pending litigation with Xenia Rural Water District. While litigation does not prohibit annexation of property into the City of Johnston litigation may restrict development of property until such time that a resolution is arrived at. As of publication of this staff report there is no known end date to the pending litigation.</p> <p>Furthermore, staff has begun discussion with Polk County Public Works regarding the feasibility of excluding public right-of-way from the annexation territory. The basis for staff's discussion about the exclusion of public right-of-way would be to maintain a consistent jurisdiction over the right-of-way. With the NW Saylorville Drive Expansion Annexation in 2018 right-of-way within this area was excluded from that annexation territory so as to avoid the creation of an un-incorporated island. The annexation proposal being initiated with Resolution 19-55 does include public right-of-way, but depending on the outcome of discussion with Polk County this right-of-way may be removed from the annexation territory</p>

when considering final approval of the annexation request.

Resolution 19-55 would direct the Community Development Department to serve all applicable notices as directed by the Iowa Code and the City of Johnston Code of Ordinances and the resolution would send the annexation proposal with the establishment of zoning to the Planning and Zoning Commission for their study and recommendation.

**RECOMMENDATION:**

Approval of Resolution 19-55

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**Attachments:**

Resolution 19-55;  
Petition for Voluntary Annexation;

EXHIBIT "C"

**EDWARD AND PATRICIA SCHULING  
VOLUNTARY ANNEXATION**



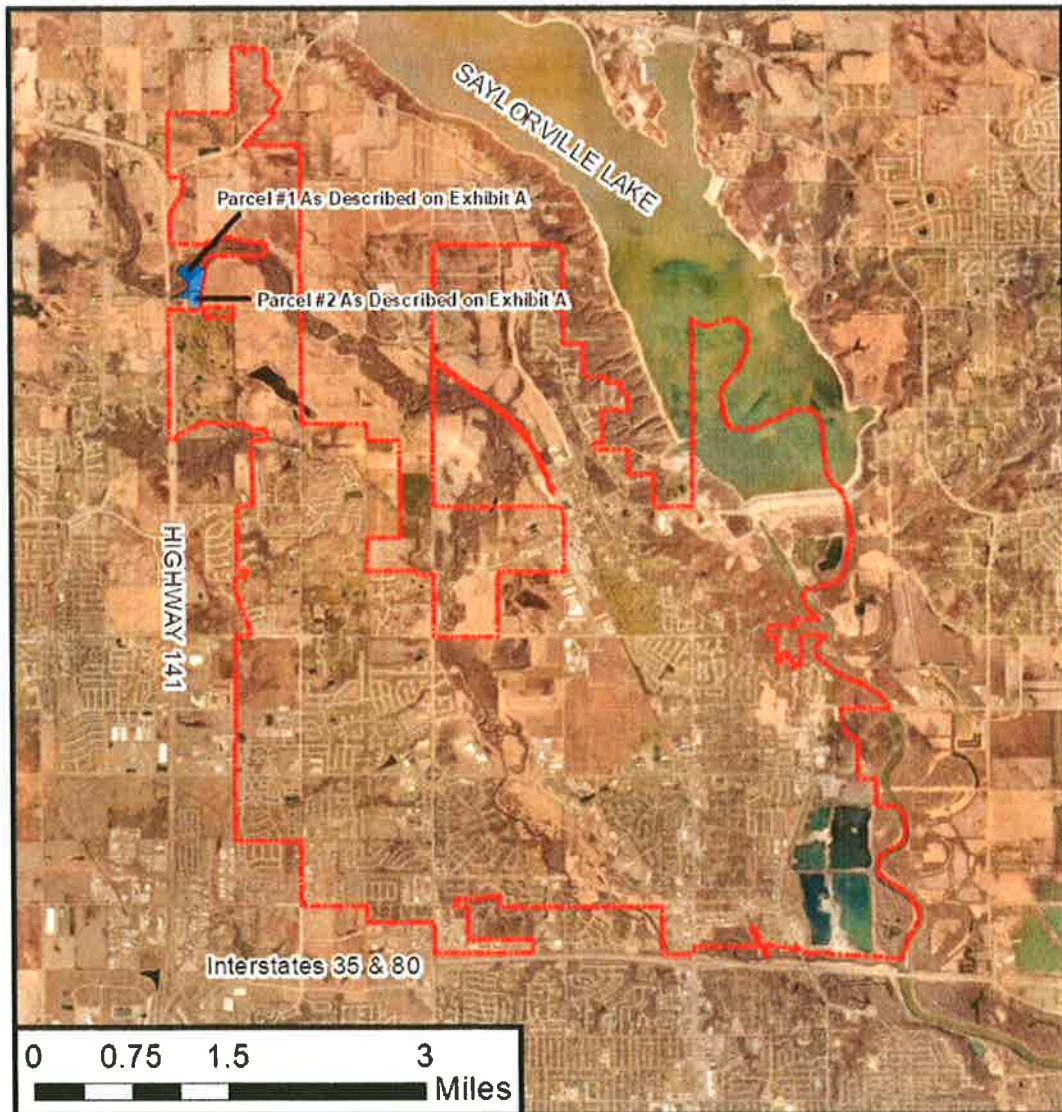
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**Exhibit "C"**

**EDWARD AND PATRICIA SCHULING  
VOLUNTARY ANNEXATION**

*Johnston*



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**Reichenbach Farms Inc.  
Annexation**



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

**AGENDA COMMUNICATION**

March 4<sup>th</sup>, 2019

<b>SUBJECT:</b> Consider approval of Resolution 19-54; a resolution accepting a petition for voluntary annexation of territory into the City of Johnston with the establishment of zoning and referring the annexation proposal with the establishment of zoning to the Planning and Zoning Commission for their study and recommendation.	<b>ACTION REQUIRED:</b> <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review
<b>SYNOPSIS:</b>	<p>Reichenbach Farms Inc. has submitted a petition for voluntary annexation of three parcels owned by the applicant into the City of Johnston. The applicant has not requested any zoning district, but the city would establish zoning for the properties at the time of annexation by defaulting to the standard annexation holding district of A-R, Agriculture Reserve Zoning District. The subject properties are located west of Highway 141 and immediately south of NW Towner Drive. Staff has prepared an annexation proposal to annex the petitioned properties with the addition of adjacent right-of-way.</p> <p>Staff did want to bring attention to the fact that the subject property lies within an area claimed by Xenia Rural Water District as their service territory. The City of Johnston is in pending litigation with Xenia Rural Water District. While litigation does not prohibit annexation of property into the City of Johnston litigation may restrict development of property until such time that a resolution is arrived at. As of publication of this staff report there is no known end date to the pending litigation.</p> <p>Resolution 19-54 would direct the Community Development Department to serve all applicable notices as directed by the Iowa Code and the City of Johnston Code of Ordinances and the resolution would send the annexation proposal with the establishment of zoning to the Planning and Zoning Commission for their study and recommendation.</p> <b>RECOMMENDATION:</b> Approval of Resolution 19-54

**Attachments:** Resolution 19-54;  
Petition for Voluntary Annexation;

**RESOLUTION 19-54**

**A RESOLUTION ACCEPTING A PETITION FOR VOLUNTARY ANNEXATION OF TERRITORY INTO THE CITY OF JOHNSTON WITH ESTABLISHMENT OF ZONING FOR 147.40 ACRES AND REFERING THE ANNEXATION PROPOSAL AND ESTABLISHMENT OF ZONING TO THE PLANNING AND ZONING COMMISSION FOR STUDY AND RECOMENDATION.**

**WHEREAS**, the City of Johnston is considering annexing the parcels described in attached Exhibit “A” and the land area as legally described in the attached Exhibit “B” and shown on the attached Exhibit “C”; and

**WHEREAS**, at the time of annexation the City Council may assign a zoning district classification to the newly annexed properties;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:**

The petition for voluntary annexation of property into the City of Johnston with establishment of zoning districts is accepted and the Department of Community Development is directed to serve all applicable notices and copies of the annexation proposal to all parties as directed by the Iowa Code and the Code of Ordinances, Johnston, 2007.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:**

The annexation proposal and amendment to the Official Zoning Map is hereby referred to the Planning & Zoning Commission for their study and recommendation.

**PASSED AND APPROVED** this 4<sup>th</sup> Day of March, 2019.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

**ATTEST:**

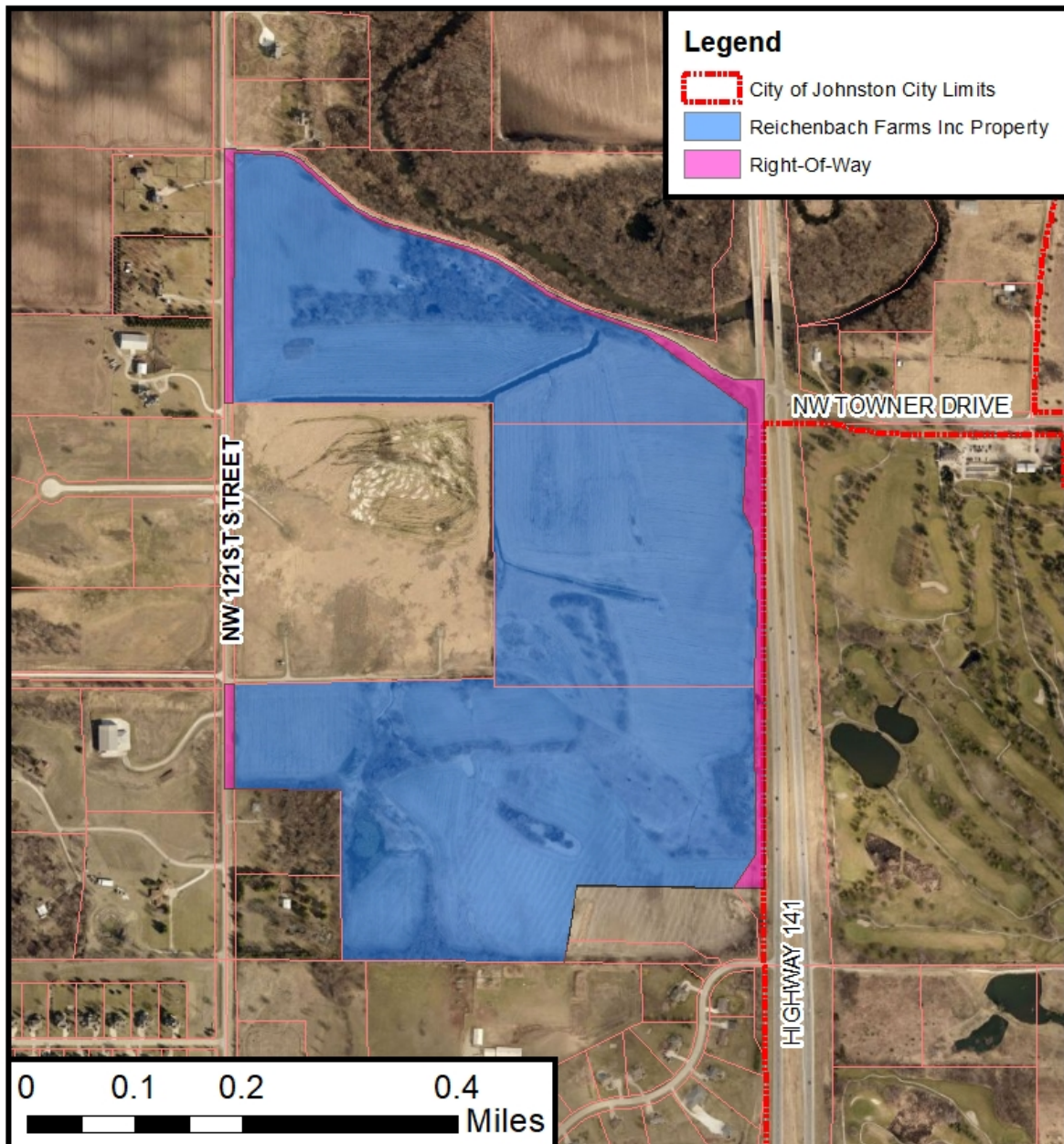
\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Brown	_____	_____	_____	_____
Martin	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Evans	_____	_____	_____	_____
Temple	_____	_____	_____	_____



EXHIBIT "C"

**REICHENBACH FARMS INCORPORATED  
VOLUNTARY ANNEXATION**



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CITY OF JOHNSTON  
VOLUNTARY ANNEXATION

www.cityofjohnston.com



Community Development · 6221 Merle Hay Road · Johnston, IA 50131 · 515-727-7778

We the undersigned, acting under Section 368.7, Voluntary Annexation of Territory, Code of Iowa, and being the owners of all the property legally described below, hereby request voluntary annexation of said legally described property, to become a part of the City of Johnston, Polk County, Iowa:

See attached Exhibit A

Reichenbach Farms Incorporated:

[Signature]  
Authorized Representative's Signature & Title

Fred A. Reichenbach Pres.  
Print Authorized Representative's Name & Title

Date: 10/8/18

STATE OF IOWA ( )  
COUNTY OF Polk ( ) SS

On this 8<sup>th</sup> day of October, 20 18, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Frederick Reichenbach (Print Name), to me personally known, who being by me duly sworn, did say that he/she is the President (Title) of the Reichenbach Farms Incorporated executing the foregoing instrument; that no seal has been procured by the Corporation; that the instrument was signed on behalf of the Corporation; and Emily Freeland (Print Name) acknowledged the execution of the instrument to be the voluntary act and deed of the Corporation, by it voluntarily executed.



Emily Freeland  
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA



### **Exhibit "A"**

The South 1/2 of the Southeast 1/4 Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M. and the South 2.50 Acres of the North 1/2 of the Southeast 1/4 Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M. less 2.97 Acres road and except Parcel 2018-60 as recorded in Book 16895 Page 239 with the Polk County Recorder's Office and except Powell Estates as recorded in Book 6137 Page 865 with the Polk County Recorder's office and except a parcel of land in the SE 1/4 Se 1/4 of Section 20, Township 80 North, Range 25 West of the 5<sup>th</sup> P.M., Polk County, Iowa that is more particularly described as follows:

Beginning at the NW corner of Parcel 2018-60 of said SE 1/4 SE 1/4, an official parcel recorded in Book 16895, Page 239 at the Polk County Recorder's office; thence N08°40'01"E, 272.39 Feet to a point that is 376.70 feet north of the south line of said SE 1/4 SE 1/4; thence S89°23'31"E, 768.51 Feet along a line that is 376.70 Feet north of a parallel to said SE 1/4 SE 1/4 to a point on the west right-of-way line to a point; thence S20°42'40"W, 18.61 Feet along said west right-of-way line to a point on the north right-of-way line of Timber Ridge Lane as it is presently established; thence S75°42'31"W, an arch length of 107.82 Feet to the east corner of said Parcel 2018-60; thence N27°43'17"W, 35.22 Feet along the north line of said Parcel 2018-60 to a point; thence N89°23'31"W, 58.40 Feet along said north line to a point; thence N56°44'01"W, 140.84 Feet along said north line to a point; thence N89°23'31"W, 562.51 Feet along said north line to the point of beginning and containing 6.00 acres more or less.

Parcel #1 on Exhibit B and Parcel #1 on Exhibit C

AND

The Northeast 1/4 of the Southeast 1/4 of Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M. less 1.47 Acres road and except the South 1.25 Acres of the NE 1/4 of the SE 1/4 Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M.

Parcel #2 on Exhibit B and Parcel #2 on Exhibit C

AND

The South 1/2 of the Northeast 1/4 lying south of NW Towner Drive Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M. less road and except that area beginning at the Southwest Corner of Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M., thence North 90 feet thence East 1,317.6 feet, thence South 103.03 feet to the south line of the South 1/2 of the Northeast 1/4 Section 20 Township 80 Range 25 West of the 5<sup>th</sup> P.M., thence along said south line west to the point of beginning

Parcel #3 on Exhibit B and Parcel #3 on Exhibit C

Exhibit "B"

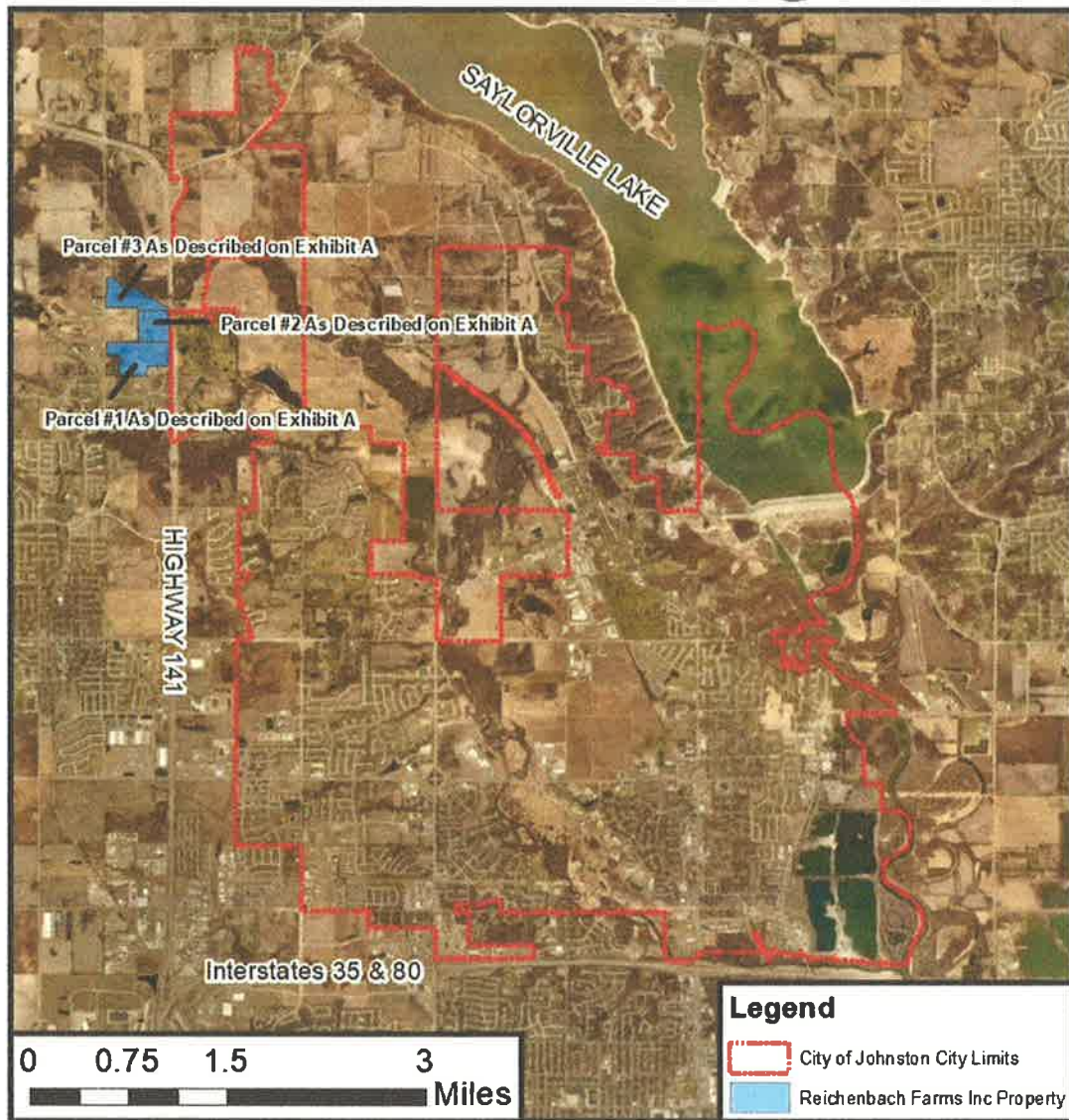
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