



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

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GOVERNOR

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Municipal Boundary Review

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December 10th, 2012

Honorable Gary Sharpe
Fond du Lac County Circuit Court
City County Government Center
160 S. Macy Street
Fond du Lac, WI 54935

RECEIVED

DEC 11 2012

CITY OF MENASHA
BY dg

PROPOSED INCORPORATION OF PORTIONS OF THE TOWNS OF HARRISON, CALUMET COUNTY, AND BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN, AS THE VILLAGE OF HARRISON, Calumet County Circuit Court Case #12-CV-28

Dear Judge Sharpe:

The Incorporation Review Board has reviewed the Town of Harrison incorporation petition to determine whether it meets the standards in s. 66.0207 Wis. Stats. You had forwarded this petition to the Board on March 7, 2012 after having found that the petition met the minimum area and population standards in s. 66.0205 Wis. Stats.

According to s. 66.0203(9)(e) Wis. Stats., the Board has three options upon reviewing the petition against the statutory standards. The Board may find that:

- 1) The petition as submitted is dismissed;
- 2) The petition as submitted is granted.
- 3) The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the Board's findings and determination.

Based on testimony at a public hearing in the Town of Harrison, Incorporation Review Board meetings in Madison, as well as submittals and correspondence received from Petitioners, Intervenors, and area residents, the Board finds that the petition as submitted meets the required standards in s. 66.0207 Wis. Stats. and that the petition is therefore granted.

The Incorporation Review Board and the Department of Administration will retain all supporting documents and records pursuant to Record Disposal Authorization for 10 years, after which they are transferred to the State Historical Society. These files are part of the Department's municipal incorporation record series, and are available upon request. The determination document is available on the Department's website at: <http://doa.wi.gov/municipalboundaryreview>.

Sincerely,

Ed Eberle, Chair of the Incorporation Review Board, and
Administrator of the Division of Intergovernmental Relations

Enclosure: Determination of the Incorporation Review Board

cc:

Andrew Rossmeissl, Petitioners' Attorney
Kevin Davidson, Intervening City of Kaukauna Attorney
Pam Captain, Intervening City of Menasha Attorney
John St. Peter, Intervening Town of Buchanan Attorney
Celine Romenesko, Petitioners' Representative
Rick Kindschi, Petitioners' 1st Alternate Representative
Travis Parish, Town of Harrison Administrator
Angela Gorall, Town of Buchanan Administrator
Terrence J. McMahon, Member, Wisconsin Incorporation Review Board
Lonnie Muller, Member, Wisconsin Incorporation Review Board
Rich Eggleston, Member, Wisconsin Incorporation Review Board
Paul Fisk, Member, Wisconsin Incorporation Review Board

(the following entities are not receiving a full determination document. However, the determination document is available upon request, and may also be viewed at <http://doa.wi.gov/municipalboundaryreview>)

Cindi Hesse, City of Appleton Clerk
Lisa Averkamp, Village of Stockbridge Clerk
Susan Duda, City of Kaukauna Clerk
Deborah Galeazzi, City of Menasha Clerk
Patricia Sturn, City of Neenah Clerk
Pamela Ubrig, City of Oshkosh Clerk
Karen Janette, Town of Brillion Clerk
Nancy Christensen, Town of Center Clerk
Doug Koffarnus, Town of Chilton Clerk
Susan Nester-Huebner, Town of Clayton Clerk
Bonnie Fischer, Town of Ellington Clerk
Barbara Seegers, Town of Freedom Clerk
Karen Weinschrott, Town of Grand Chute Clerk
Deborah Wagner, Town of Greenville Clerk
Penny Weir, Town of Harrison Clerk
William Clancy, Town of Holland Clerk
Lynn Gerrits, Town of Kaukauna Clerk
Karen Bachman, Town of Menasha Clerk
Robin Coburn, Town of Neenah Clerk
Jeanette Merton, Town of Oshkosh Clerk
Mary Schwartz, Town of Rantoul Clerk
Janene Van Hoorn, Town of Stockbridge Clerk
Cory Swedberg, Town of Vandebroek Clerk
Marilyn Fahrenkrug, Town of Vinland Clerk
Ellen Patterman, Town of Woodville Clerk
Donna Martzahl, Town of Wrightstown Clerk
Sean Hutchinson, Village of Combined Locks Clerk
Dennis Duprey, Village of Hilbert Clerk
Rick Hermus, Village of Kimberly Clerk
Vicki Schneider, Village of Little Chute Clerk
Ellen Maxymek, Village of Sherwood Clerk

EXECUTIVE SUMMARY

This document constitutes the Findings and Determination of the Incorporation Review Board on the petition filed by residents of the Town of Harrison in Calumet County to incorporate a portion of the town, a rural hamlet area that has existed as a unique social and economic community for over 100 years. The petition also includes a portion of road right-of-way from the Town of Buchanan in Outagamie County.

Harrison's incorporation process began with a newspaper notice on September 1, 2011 indicating Petitioners' intent to circulate an incorporation petition. After circulating the petition and gathering sufficient signatures, the petition was filed in Calumet County Circuit Court on January 12, 2012. A court hearing was held on the petition on February 27, 2012. Judge Gary Sharpe found the petition met the minimum area and population standards required by section 66.0205 Wis. Stats. The court forwarded the petition to the Board for its review of the standards in section 66.0207 Wis. Stats. On June 13th, 2012 Petitioners submitted their review fee and supporting materials, which commenced the Board's 180-day review period. As part of its review, the Incorporation Review Board held a public hearing in the Town of Harrison on July 31, 2012 to hear from Petitioners, Intervenor and local residents. The Board also held two meetings in Madison on September 12 and December 4, 2012 to discuss the petition and analyze its consistency with the statutory standards.

The Town of Harrison is located in the northwestern portion of Calumet County. Harrison shares a common boundary with the Cities of Appleton and Menasha, and the Towns of Menasha and Buchanan. Other municipal neighbors are the City of Kaukauna, Village of Kimberly, and Village of Sherwood. **Map 1** shows Harrison's location within the Fox Valley region.

The petitioned area includes 7,373 people and roughly 5 square miles. The specific area proposed to become the new village is shown on **Map 1**. Petitioners included road right-of-way in the Town of Buchanan to enable residents of the Town of Buchanan to eventually join the new village should local residents choose to.

Petitioners desire to incorporate this portion of the Town because the area is distinct and essentially unrelated to the rural character of the remaining Town of Harrison. The proposed village is densely populated, urban in character, and distinct socially from the rural areas of the Town, and has much higher service needs and demands. Petitioners are also interested in protecting their boundaries from annexations by Appleton, Menasha, Kaukauna, Kimberly, and Sherwood, which have negatively affected the proposed village area in terms of lost territory, tax revenues, and community identity. This area of the Town already provides village-level services, and functions like a village. Becoming a village would enable the community to utilize the regulations, economic development tools, governance structure, and other benefits that it cannot currently realize as a town government.

The Town of Buchanan, City of Menasha, and the City of Kaukauna were recognized by Judge Sharpe as being parties of interest. However, Buchanan indicated early on that it is supporting the incorporation petition, after the Town of Harrison entered into a boundary agreement with Buchanan limiting future annexations. The City of Menasha initially intervened against the incorporation, and passed a resolution indicating a willingness to annex the entire petitioned territory and provide services to this area. However, Judge Sharpe later invalidated this resolution because it violated the boundary agreement Menasha has with Harrison, and ordered the Incorporation Review Board to disregard it. Menasha ultimately dropped its opposition to the

incorporation petition. Only the City of Kaukauna is intervening against the incorporation, and continues to oppose it.

When reviewing incorporation petitions, the Board has three options for action, according to s. 66.0203(9)(e), Wis. Stats. The Board may determine:

- 1) The petition as submitted is dismissed;
- 2) The petition as submitted is granted; and
- 3) The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the Board's findings and determination.

This determination is organized into six sections, a section for each of the Board's six statutory public interest standards found in s. 66.0207, Wis.Stats.

1) Compactness & Homogeneity – Met. This standard requires the petitioned territory to be sufficiently compact and uniform to function as a city or village. Factors include existing natural boundaries such as rivers and topography, existing political boundaries, the current and potential transportation network, employment, business, social, and recreational opportunities. A petition may be weaker with certain factors or considerations and stronger with others, but it must show that, on balance, it supports a finding of compactness and homogeneity.

The proposed village relates favorably to all of the compact and homogenous factors enumerated in the statute and case law. In particular, the proposed village has:

- Boundaries that follow readily understood physical features such as streets, highways and a power-line and bicycle path;
- Boundaries that align closely with those of the Garners Creek Watershed, the Darboy Sanitary District, and the Kimberly School District boundaries;
- A transportation system that contains a dense network of highways, local roads, bicycle and pedestrian paths, and public transit opportunities;
- A high population density, higher than many of the surrounding cities and villages in the area;
- Numerous economic and business opportunities for local residents;
- A strong sense of community, as shown by many community events, clubs, meeting places, history, and
- Land uses that tend to be urban in nature such as residential, commercial, institutional, and recreational land uses.

2) Territory Beyond the Core - Met. This standard requires that the territory beyond the most densely populated square mile shall:

“Have the potential for residential or other land use development on a substantial scale within the next three years. The Board may waive these requirements to the extent that water, terrain or geography prevents such development.”

Petitioners included only 887 acres of vacant, developable lands within their petition. By including a reasonable amount of vacant and developable land, along with a history of strong past and recent development activity and population growth trends, and with sewer and water services immediately available, these among other factors demonstrate the 887 acres clearly have the potential to be developed within the next three years.

3) Tax Revenue – Met. This standard ensures that the territory petitioned for incorporation has the capacity to raise sufficient tax revenue to function as a city or village without unduly burdening residents.

Petitioners’ proposed budget appears to be frugal but nonetheless reasonable, especially considering that the Town already provides village-level services and that the proposed budget is substantially similar to the Town of Harrison’s existing budget. This means that a host of new services, staff, and equipment will not be required. Also, the fact that the Town of Harrison has a high equalized value, low tax rate, low debt level, and a high debt capacity are also strong indicators that the new village would be starting off on solid financial footing.

4) Level of Services – Not applicable

5) Impact on the Remainder of the Town – Met. This standard requires that the Board consider the impact that incorporation would have upon the remainder of the town. The Board examines whether incorporation would negatively impact the remaining residents by making continued governance of the town difficult.

The remaining Town of Harrison, has a sufficient value and population to enable the town government to continue to provide the services desired by residents. The remnant would have more population and property value than any other town in Calumet County, and more than most of the existing cities and villages in the county. In addition, the shape of the remnant Town is generally compact and rational, which helps promote community identity and makes providing services more efficient.

The Town of Harrison remnant might actually benefit from the proposed village area incorporating. Currently Harrison must plan for two distinct areas, one very urban and one very rural, each with specific and unique needs, service demands, costs, expectations, etc. Incorporation of the proposed village area would result in the remaining Town being more homogenous.

For the Town of Buchanan residents, there will likely be no change at all since this incorporation petition only includes a small section of road right-of-way along CTH KK.

6) Impact on the Metropolitan Community – Met. This standard reviews how incorporation would impact the larger metropolitan area and region, and in particular how

incorporation would impact the larger metropolitan area's ability to resolve regional issues such as stormwater, transportation, groundwater, housing, and economic development, among other regional issues. The Board must be able to make an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The existing Town of Harrison has shown itself to be a responsible regional citizen, and a regional leader with regard to managing stormwater, and in developing bike and pedestrian trails utilized by residents throughout the Fox Valley. The Town of Harrison has developed intergovernmental boundary agreements with most of its municipal neighbors, and participates in regional planning efforts with the East Central Wisconsin Regional Planning Commission.

Petitioners anticipate that the new village would continue these cooperative activities, and likely expand upon them. The proposed Village of Harrison could benefit the metropolitan community because its expanded powers and authority as a village would enable it to play a more significant role in community development. For example, expanded economic development powers such as Tax Incremental Financing (TIF) would help the new village grow the commercial and industrial base of the region, as well as finance projects to improve regional stormwater management, transportation projects, and recreational and cultural opportunities.

Having met all of the Incorporation Review Board's statutory standards in s. 66.0207 Wis. Stats., the Board finds that the petition should be granted.

The Board thanks Petitioners and Town of Harrison staff for all the materials, presentations and requested information, which greatly facilitated the Board's review.