



WISCONSIN DEPARTMENT OF
ADMINISTRATION



DETERMINATION OF THE INCORPORATION REVIEW BOARD

February 1, 2016

In Re:

THE INCORPORATION OF A PORTION OF THE TOWN OF MENASHA,
WINNEBAGO COUNTY, WISCONSIN AS THE VILLAGE OF FOX CROSSING

Case No. 15-CV-452

Richard Jones, Representative of the Petitioners

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It is the function of the Incorporation Review Board to prepare findings and to make a determination as to whether the territory petitioned for incorporation meets the applicable standards prescribed in Section 66.0207, Wis. Stats. The Incorporation Review Board ("Board") was created by 2003 Wisconsin Act 171. Board members are appointed by Wisconsin's municipal associations. Membership of the Board is provided on Appendix A.

In summary, it is the DETERMINATION OF THE INCORPORATION REVIEW BOARD that when considering the petition under Section 66.0207, Wis. Stats.:

- STANDARD 1 (a), Homogeneity and Compactness – Met
- STANDARD 1 (b), Territory Beyond the Core – Met
- STANDARD 2 (a), Tax Revenue - Met
- STANDARD 2 (b), Level of Services – Met
- STANDARD 2 (c), Impact on the Remainder of the Town – Met
- STANDARD 2 (d), Impact on the Metropolitan Community - Met

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Incorporation Review Board to the Circuit Court, as prescribed by s. 66.0203 (9) (e) 3, Wis.Stats., is as follows: The Petition as submitted is granted.

Dated this 1st day of February 2016
By the Incorporation Review Board:

Ed Eberle
Chair of the Incorporation Review Board and
Assistant Deputy Secretary, Wisconsin Department of Natural Resources

NOTICE OF RIGHT TO APPEAL

This Notice sets forth the requirements and procedures for obtaining review for those persons who wish to obtain review of the attached decision of the Board. Per s. 66.0209 (2), Wis. Stats., decisions of the Board are subject to judicial review under s. 227.52. Per s. 227.53 any person aggrieved by a decision of the Board is entitled to review. Per s. 227.53 (1) (a) 1., proceedings for review are instituted by serving a petition therefor upon the agency, either personally or by certified mail, and by filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Per s. 227.53 (1) (a) 2m., an appeal must be filed within 30 days after mailing of the decision by the agency. Per s. 227.53 (1) (b), the petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. Any petition for judicial review shall name the Incorporation Review Board as the Respondent. Petitions for review should be served on the Chairperson of the Board. The address for service is:

c/o Municipal Boundary Review
101 East Wilson Street, 9th Floor
PO Box 1645
Madison, WI 53701

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. sec.s 227.52, 227.53 and 227.57 to ensure strict compliance with all requirements. The summary of appeal rights in this notice shall not be relied upon as a substitute for the careful review of all applicable statutes, nor shall it be relied upon as a substitute for obtaining the assistance of legal counsel.

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EXECUTIVE SUMMARY

This document constitutes the Findings and Determination of the Incorporation Review Board on the petition filed by residents of the Town of Menasha in Winnebago County to incorporate the western portion of the town as a new village which will be called Fox Crossing. The eastern portions of the Town will remain as the Town of Menasha. The new village and remnant town are depicted in **Map 1**.

Menasha's incorporation process began with a newspaper notice on December 15, 2014 indicating Petitioners' intent to circulate an incorporation petition. After circulating the petition and gathering sufficient signatures, the petition was filed in Winnebago County Circuit Court on May 1, 2015. Court hearings were held on the petition on June 5 and 26, 2015. Judge Karen Seifert found the petition met the minimum area and population standards required by s. 66.0205 Wis. Stats. and ordered the Incorporation Review Board to review the petition for the standards in s. 66.0207 Wis. Stats. On August 5, 2015 Petitioners submitted their review fee which commenced the Board's 180-day review period. As part of its review, the Board held a public hearing in the Town of Menasha on September 29, 2015 to hear from Petitioners, Parties of Interest, and local residents. The Board also held meetings in Madison on December 15, 2015 and January 21, 2016 to discuss and analyze how the petition relates to the statutory standards.

The Town of Menasha already functions as an urban community, with urban type services such as public water and sewer, police and fire protection, 21-miles of bike and pedestrian trails, and public transit. The Town also has extensive business activity and a population of 18,542, which makes it the second most populous town in Wisconsin. The Town's west side, which is proposed for incorporation, consists of approximately 9 square miles with a population of 10,649 persons. The area contains a mixture of housing types, parks, businesses, and the corporate headquarters of major employers such as Kimberly Clark, SCA Tissue, Miron Construction, Community First Credit Union, and Wild Ones, a national non-profit environmental and advocacy organization.

Petitioners desire incorporation in order to continue developing its own unique identity separate from other Fox Valley communities. Confusion exists between the City of Menasha and the Town of Menasha and its status as an unincorporated community. The Town struggles to brand its own identity with unique name recognition to persons from outside of the area. Given that the Fox Valley attracts business and industry from around the world, the Town's inability to be uniquely recognized is problematic. Petitioners believe that incorporating as the Village of Fox Crossing will create this needed name recognition and acknowledge what is already a thriving community that seeks to promote their own unique identity. **Map 2** shows the proposed village in relation to other Fox Valley communities.

Petitioners also seek to preserve their community's identity by protecting boundaries. Residents have witnessed how the Town's east side became fragmented by incremental annexations over the years from the Cities of Appleton and Menasha, and they wish to prevent that same outcome for the Town's west side.

The Cities of Appleton, Neenah, and Menasha, and the Town of Clayton were recognized by Judge Karen Seifert as Parties of Interest in the case, and the Town of Neenah has also participated in the Board's review process. However, during the course of the Board's review the City of Appleton declined to participate, and the City and Town of Neenah dropped their opposition after developing Memorandums of Understanding (MOU) with the Town of Menasha that resolved their concerns. The Town of Clayton is concerned about annexations by the new Village of Fox Crossing, and has requested that upon incorporation the new village develop a

boundary agreement with the Town. The strongest opposition comes from the City of Menasha, which acknowledges that the proposed village territory west of Little Lake Butte des Morts compares favorably to the statutory standards, but is concerned about the impact of incorporation on the remaining Town of Menasha area lying east of Little Lake Butte des Morts.

The City of Menasha passed a resolution inviting the Town of Menasha to stay the incorporation process to attempt mediation and address the challenges presented by the fragmented east side, but the Town has to date not reciprocated.

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.

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 Little Lake Butte des Morts;
- Boundaries that fall almost entirely within the Fox River watershed, Neenah Joint School District, and Grand Chute-Menasha West sewer service area;
- A transportation system containing a dense network of highways, local roads, bicycle and pedestrian paths, and public transit opportunities;
- A high population density;
- Numerous economic and business opportunities for local and regional residents, including the corporate headquarters for a number of companies;
- A strong sense of community, as shown by the many community events, clubs, organized activities; and
- Land uses that tend to be urban in nature such as residential, commercial, industrial, institutional, and recreational land uses.

- 2) Territory Beyond the Core - **Met**. This standard requires that vacant land included within the proposed village have a potential for substantial urban development within the next three years. Past trends in population growth and building activity within the proposed village area, as well as approved sewer service area plans, comprehensive plans, and the ongoing project to expand the USH 10/I-41 Roland Kampo Bridge interchange to a full interchange all strongly support a likelihood of continued substantial urban development of the proposed village's vacant lands.
- 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.

The proposed village territory has a high equalized value, low tax rate, reasonable debt level, and adequate remaining debt capacity. Also, the fact that the Town of Menasha already operates like a city or village means that incorporation will not necessitate new departments, staff, equipment, buildings, or other major expenditures.

Petitioners have committed to providing services to the Town remnant at a discounted rate, which could represent a continuous budget liability. However, the proposed village appears to have sufficient revenue resources to adequately handle this ongoing liability.

- 4) Level of Services – **Met**. This standard compares the services proposed by petitioners for the new village, which are the same services residents currently receive from the Town of Menasha, with those proposed by the adjacent City of Menasha.

The Town of Menasha currently provides urban type services to its west side residents at a favorable tax rate, and residents appear content with these services. The Town's Municipal Complex is located within the heart of the proposed village, while the City would need to cross Little Lake Butte des Morts to provide services or establish satellite facilities in the Town's west side which would be costly and redundant. For these reasons the Board finds that the petition meets the services standard.

The City of Menasha acknowledges that the Town currently provides adequate services to its west side territory, and could likely continue to provide adequate services in the future. Instead the City suggests that consolidation of the City and Town of Menasha is the best scenario for area residents and the region. The City believes that it can serve the Town remnants much more efficiently than could a new village. Although petitioners have committed the new village to providing continued services to the remnants' residents at a discounted rate, they feel this is not the most efficient and cost effective alternative over the long term. The Board recognizes the confusion and service delivery problems caused by the east side remnants and therefore recommends that the new village, Town, City of Menasha and City of Appleton work together to amend their current boundary agreements or enter into a new agreement to proactively resolve future service provisions to these remnants.

- 5) Impact on the Remainder of the Town – Met. This standard requires the Board to consider the impact that incorporation will have upon the remainder of the town to assure that incorporation will not negatively impact the remaining residents or make continued governance of the remaining town difficult.

After incorporation of the Town's west side as a new village, the east side town remainder would still contain substantial population and value. In fact, the town remnants would rank as the 15th most populous town in Wisconsin, and among the highest in assessed value. These factors indicate that the Town remnants could continue to operate as a Town, and the Board finds this standard met.

However, the Board does find that petitioners' proposed \$5.48 mill rate for the Town remnants may be low. This mill rate assumes that the new village will continue to provide the remnants' residents with services at its current rate. It is uncertain how long the new village would continue this discount, however a services agreement could be developed to provide the town remnants certainty. Town remnants residents may at some point need to pay more for services, which they currently have the capacity to do, either by creating departments and staff of their own or contracting with a neighboring municipality for these services at market rate. The Board again recommends that the new village, Town, City of Menasha and City of Appleton work together to proactively resolve future service provisions to the town remainders.

- 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 others. The Board must make an express finding that the incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The Board recognizes that the Town of Menasha has been a beneficial member of its larger Fox Valley region, and that an incorporated Village of Fox Crossing will also be a beneficial member of the Fox Valley region. Therefore the Board finds that the petition meets the Metropolitan Impact standard. The Board recommends that the new village, Town, City of Menasha and City of Appleton work together to proactively to resolve the future of the east side Town islands, which if left unresolved could perpetuate existing problems or create additional issues for the communities and the larger region.

Having found that the proposed incorporation of the Town of Menasha's west side territory as the Village of Fox Crossing clearly meets 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 recommends that the City and Town of Menasha amend their existing agreements or work to develop an intergovernmental agreement under ss. 66.0301 or 66.0307 Wis. Stats. to resolve issues and questions surrounding the east side Town remnant islands. Many other Wisconsin communities have successfully utilized intergovernmental agreements to resolve town island issues such as this. The Board urges the new Village of Fox Crossing, Town of Menasha, City of Menasha and City of Appleton to draw from these statewide examples and come together to cooperatively resolve the east side islands. Examples of successful communities are available on the Department's website at <http://doa.wi.gov/municipalboundaryreview>, and this website also

includes a roster of mediators who are trained to assist communities with resolving their intergovernmental disputes.

The Board thanks Petitioners, Town of Menasha staff and elected officials, and the Parties of Interest for all of their materials, presentations, testimony, and requested information, which greatly facilitated the Board's review.

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SECTION 1(A) HOMOGENEITY AND COMPACTNESS

The standard to be applied is found in §66.0207(1)(a) and is as follows:

The entire territory of the proposed village or city shall be reasonably homogenous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs.

In addition to the statutory factors cited above, the court in Pleasant Prairie v. Department of Local Affairs & Development¹ held that the Board may also consider land-use patterns, population density, employment patterns, recreation and health care customs.²

The facts surrounding each incorporation petition are different. However, in each case and for each requirement, the Board must be able to state that, even though the situation presented may not be perfect, *when taken as a whole*, the facts support a finding of homogeneity and compactness.

Physical and Natural Boundaries

Topography & Geology

The proposed village territory is relatively flat, with only eighty feet of change in elevation. Specifically, lands along Little Lake Buttes des Morts are 750 feet in elevation while lands at the far west side of the Town reach 830 feet.

Areas of high bedrock can be found in several areas of the Town, such as the intersection of CTH BB and Cold Spring Road, south USH 10, and the intersection of 9th Street and Manitowoc Street. Bedrock ranges in depth from surface level to thirty inches below the surface.³

Surface Water

Map 3 shows the area's surface water and wetland features. The most obvious and significant water feature is Little Lake Butte Des Morts, which is an expanded portion of the Fox River that cuts the Town of Menasha into eastern and western portions. Roughly 1.5 square miles in area, the lake may be the Town's most significant natural and cultural feature, providing fishing and boating recreation, scenic interest for pedestrians and bicyclists crossing the Friendship Trestle Trail Bridge. Numerous Town parks and public open spaces also line its banks.

The Town also has several small unnamed stream corridors.

The Town of Menasha has 381 acres of wetlands. The largest wetland complex is the Stroebe Island area along Little Lake Butte des Morts, with smaller areas found along streams. Wooded areas correspond with many of these wetlands areas. The Town generally has groundwater levels ranging from 2-4 feet below the surface.⁴

¹ Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

² Ibid., page 337.

³ *Town of Menasha Five Year Parks and Open Space Plan: 2011-2015*, page 18.

⁴ Ibid., page 18.

Drainage Basins

Three watersheds drain the proposed village area, as shown by **Map 4**. The Fox River watershed drains the vast majority of the proposed village area, with just a small area along Little Lake Butte Des Morts draining to Mud Creek, and another area adjacent to the City of Neenah draining to Neenah Slough.

Transportation

The following paragraphs describe the proposed village's streets and highways, rail, air, transit, and pedestrian and bicycle facilities.

Streets and Highways

Map 5 shows the functional classification of the proposed village area's network of streets and highways. The map shows that US Interstate (I) 41 and state highway (STH) 10 are the major transportation facilities, along with county highways (CTH) BB, CB, II, and O. **Table 1** shows the daily traffic counts for these highways.

Table 1: Proposed Village Traffic Counts⁵

Highway	Average Daily Traffic
I-41	87,800
USH 10	24,900
CTH BB	10,800
CTH CB	7,100
CTH II	4,400
CTH O	4,400

CTHs BB and II and STH 10 provide east-west access while CTH CB and I-41 provide north-south access, in addition to an interconnecting network of local roads. The current Town of Menasha maintains 98.05 miles of road. The new village would become responsible for approximately 68.04 miles, with the Town remnants responsible for 30.01 miles.⁶

The proposed village area falls entirely within the Fox Cities Urbanized Area approved by the Federal Highway Administration (FHWA) for transportation planning and funding purposes.

Rail

The Canadian National Rail Company maintains and operates a freight line that runs through the east side of the proposed village area paralleling I-41. This route connects to the south with Oshkosh, Fond du Lac, Milwaukee and Chicago, and to the north with Green Bay. Freight transfers and switching operations occur in rail yards located at Appleton, Menasha, Neenah and Oshkosh. Approximately 25 freight trains run daily and the company projects moderate growth for the route but no planned expansion of lines.⁷

No passenger rail currently exists, however the proposed village lies directly along the route of the Wisconsin Department of Transportation's participation with the proposed Midwest Regional Rail System.⁸ If implemented, the system would optimally position the proposed village to connect Green Bay, Oshkosh, Milwaukee, and Chicago and enable residents easy passenger rail travel throughout the Midwest.

⁵ WisDOT interactive traffic count map, at <http://wisconsin.gov/Pages/projects/data-plan/traf-counts/default.aspx>

⁶ *Impact of Incorporation on the Viability and Sustainability of the Town of Menasha, Wisconsin*, by William Forrest and Forrest & Associates LLC, page 3.

⁷ *Town of Menasha Comprehensive Plan*, pages 100-102.

⁸ *Ibid.*, page 103.

Air

Town of Menasha residents may utilize the Outagamie County Regional Airport, which lies adjacent to the proposed village's northwest corner in the Town of Greenville. The airport is served by five commercial airlines that provide 66 flights daily to connect travelers to flights in Chicago, Cincinnati, Detroit, Milwaukee, and the Twin Cities. Air freight, chartered flights, car rentals, and airplane maintenance and technical services are also provided at the airport.

The airport impacts land use within the Town of Menasha because the Town lies within the airport's flight path and landing patterns. Specific land use impacts are discussed later in this section.

Transit

Transit service within the Fox Valley is provided by Valley Transit, which is owned and operated by the City of Appleton and funded by the State of Wisconsin, federal government, and by the local communities in which service is provided. Valley Transit's Route 40 serves eastern portions of the proposed village area, connecting the City of Neenah to the Fox River Mall in Appleton.⁹ Handicapped accessibility and other specialty transit options are also offered by Valley Transit and Northern Winnebago Dial-A-Ride.¹⁰

Pedestrian and bicycle

Map 6 shows the existing and future trails within the proposed village area. The map shows trails located along CTH II, CTH CB, East Shady Lane, and east across Little Lake Butte des Morts into the City of Menasha. When utilized in conjunction with the area's network of local roads, these trails are critical in enabling pedestrians and bicyclists to safely move throughout the community, particularly given a general lack of sidewalks. Residents utilize these trails in commuting to and from places of employment, education, shopping, to parks and entertainment centers, to social functions, and for recreational and fitness reasons. A recent Town survey showed 81% of respondents support continued trails development.¹¹

Anticipated Transportation Improvements

The area's most significant transportation improvement is the ongoing expansion of the USH 10/I-41 interchange at the Roland Kampo Bridge to a full interchange. This project will enable traffic to transfer and flow in all four directions. Construction is expected to be ongoing through 2018.

Political Boundaries

The following paragraphs discuss the current and historical political boundaries of the Town of Menasha and the proposed new village.

Historical Context

In 1847 the Town of Neenah was created and organized by an act of the territorial legislature. The original Town included the present Towns of Menasha, Clayton, and Vinland. The Towns of Vinland and Clayton were subsequently split off and given independent status in 1849. By 1855,

⁹ Town of Menasha Comprehensive Plan, page 105.

¹⁰ Ibid., pages 112-113.

¹¹ Ibid., pages 107.

the Winnebago County Board split the remaining Town of Neenah into two parts: the Town of Neenah on the south and the Town of Menasha on the north.

Initially occupied by farms, Town land use began to change as the Fox Valley became known for lumber and paper mill industries. Between 1940 and 1950, the Town's population increased 142% to nearly 3,000, attributable to the Town's location between the Cities of Appleton and Menasha which made it a natural site for suburban homes. Wisconsin's largest corporation at the time, Kimberly-Clark Corporation, headquartered in the Town. Because of its high population and industrial base, the Town of Menasha invested in municipal services infrastructure well beyond the scope of most towns. This investment resulted in more homes and businesses developing in the Town.¹²

Proposed Village

Boundaries of the proposed village can clearly be discerned by physical features. Its northern boundary with the Town of Greenville and Outagamie County is marked by CTH BB, its western boundary with the Town of Clayton marked by Clayton Avenue, its southern boundary with the Town and City of Neenah marked by CTHs II and O and North Street, and its eastern boundary by the waters of Little Lake Butte des Morts.

As shown by **Map 1**, petitioners chose to include the entirety of the lake's northern one-half, extending all the way to the shoreline of the Town's eastern side. Meanwhile, petitioners chose to exclude the southern one-half of the lake.

Impact of Annexations

Annexation of territory by the Cities of Appleton and Menasha has dramatically impacted the Town of Menasha, resulting in the loss of over 2.1 square miles since 2000 as well as the subsequent loss of population and property value. **Maps 7 and 8** show the Town of Menasha's boundaries in 1951 compared with 2015, and how these incremental annexations have fragmented the Town's east side, creating eight island and fragment areas, separated by vast stretches of City of Menasha and City of Appleton territory.

All parties involved, including petitioners, readily admit that the Town's east-side boundaries are problematic and cause confusion among residents and service providers, and inefficiency and duplication in delivering services.¹³ Petitioners indicate that the Town's experience on its east side, namely witnessing its territory become fragmented via piecemeal annexations, is a primary motivating factor for incorporating its west side as a village so as to prevent the same thing from happening to the west side.¹⁴

Boundary Agreements

The Town of Menasha has established boundary agreements with the Cities of Appleton and Menasha which impact future annexations and municipal boundaries of the Town's east side.

The Town's agreement with the City of Menasha was entered into in 1999 as a means to settle annexation litigation. This agreement establishes an ultimate boundary line between the communities utilizing STH 441, as shown by **Map 17**. In order to implement this boundary line, the agreement provides that annexations to the City of Menasha will be permitted south of

¹² *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, pages 9-10.

¹³ Petitioners' testimony at the Board's September 29, 2015 public hearing in the Town of Menasha.

¹⁴ *Ibid.*

STH 441, but not north of STH 441. Meanwhile, north of STH 441 detachments of City territory to the Town will be permitted. While this agreement was no doubt well-intentioned, it has not been well-implemented. Almost none of the intended territory transfers have occurred. Also, the communities failed to provide for a final or ultimate attachment of remaining territory, which means that remaining islands of Town and City territory north and south of STH 441 could continue to exist even beyond the agreement's expiration on November 2, 2018.

The Town's agreement with the City of Appleton was also developed in 1999, stemming from a series of annexations of the Town's east side, including the first enclosed mall in the United States which was originally located in the Town. The agreement establishes Appleton's growth area and the boundary line between the communities by utilizing STH 441, STH 47, and Gmeiner Road, as shown by **Map 17**. Under this agreement the City also agreed not to contest incorporation of the Town's west side. The agreement is in effect until May 20, 2029. However, as with the City of Menasha agreement, this agreement has not been well-implemented and the communities failed to provide for a final or ultimate attachment upon the agreement's expiration. Therefore, Town and City islands could continue to exist beyond the agreement's expiration.

Schools

The determination of school district boundaries has become an entirely separate process from municipal governance. This was not the case when the incorporation statute was created in 1959. Therefore, whether or not the Town's west side incorporates will have no effect on school district boundaries.

However, as the Department noted in its determination in *Pewaukee*¹⁵, schools do impact community allegiance through scholastic, social, and recreational activities and influence where people choose to live.

Map 9 shows that nearly all of the proposed village area falls within the Neenah Joint School District. Only a dozen parcels in the far northeast corner are located within the Appleton Area School District. The vast majority of school age children attend the Neenah Joint School District's Clayton or Spring Road schools for elementary school, Horace Mann or Shattuck for middle school, and Neenah High for high school. Spring Road Elementary is the only district school located within the proposed village, at the intersection of CTH II and I-41.

The proposed village is also home to several private schools such as St. Mary Central High School, a school within the Catholic school system with an enrollment of 200 students, 59% of them drawn from the Neenah-Menasha area. Immediately adjacent to the high school is the newly constructed Saint Mary Middle School, completed in 2015 to replace Seton Middle School that was in the City of Menasha. The proposed village is also home to New Hope Christian School, serving 250 children grades K-8th grade¹⁶.

Sanitary and Utility Districts

Map 10 shows that the entire proposed village area lies within the Grand Chute-Menasha Sewer Service Area, approved by East Central Wisconsin Regional Planning Commission. The Town's east side islands proposed as town remnants meanwhile lie entirely within the Neenah-Menasha Sewer Service Area. **Map 11** shows that the entire proposed village and remnants areas receive sewer and water service from the Town of Menasha Utility, as well as portions of the Cities of

¹⁵ *Pewaukee* (1991).

¹⁶ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, pages 35-36.

Menasha, Appleton, Neenah, and the Town of Neenah. Petitioners do not expect that incorporation would impact the water and sanitary sewer service currently received by customers. However, the Town of Menasha Utility would become the Village of Fox Crossing Utility District.¹⁷

Stormwater Management Plan and Stormwater Utility

The Town created its stormwater utility in 2009 in order to manage its Municipal Stormsewer (MSR) permit, ordinance, fee, and overall compliance with Wisconsin's NR 216 stormwater regulations. The entire Town of Menasha is included within the Utility's jurisdiction, both west and east sides. The Stormwater Utility's system infrastructure includes detention ponds, inlets, and mains. Petitioners indicate that upon incorporation the new village would adopt the current Town of Menasha Stormwater Management Plan.¹⁸ Division of the Utility's assets and liabilities between the new village and Town remnants under s. 66.0235 Wis. Stats. may also need to occur.

Shopping and Social Customs

The following paragraphs describe the shopping and social customs available within the proposed village territory, and examining in particular businesses, employment patterns, and social opportunities such as clubs, organizations, churches, festivals, and parks. Assessment of social and economic activity helps to establish whether or not the proposed village area has homogeneity with regard to these opportunities, or whether residents turn elsewhere for them.

Shopping and Employment

The economic center of the proposed village is located at the intersection of USH 10 and CTH CB where various businesses include Tom's Drive-In, Holiday's Sports Pub & Grill, Stuc's Pizza, State Farm Insurance, a Subway restaurant, laundromat, Kwik Trip, a coffee shop and café, SCA Tissue's North American headquarters, Miron Construction's headquarters, McMahon Group's engineering/architecture offices, Evergreen Credit Union, and the future headquarters of Community First Credit Union, which was done as part of the Town's \$25 million TID #1 approved in 2015.¹⁹

Beyond this economic center, the proposed village includes over 500 businesses, third most among communities in the Fox Cities. **Table 2** shows the Town's largest business employers. The Town's four largest employers also rank within the Fox Cities' top 25 largest employers.²⁰

The Town's economic development initially occurred on its east side from 1930-1970, such as the nation's first indoor mall. Meanwhile, the Town's west side remained predominantly agricultural due to its lack of access. This changed in 1975 with the construction and opening of the bridge crossing Little Lake Butte Des Morts, and ushered in a steady period of residential and business development. Petitioners expect that the project to expand the Roland Kampo Bridge to a full interchange will similarly have major economic impacts. In fact, the project's anticipated completion in 2018 is already spurring new development such as the new headquarters of Community First Credit Union.²¹

¹⁷ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 106.

¹⁸ *Ibid.*, page 40.

¹⁹ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 72.

²⁰ *Ibid.*, page 30.

²¹ *Ibid.*, pages. 16-17.

Table 2: Largest Employers²²

Business	Type	Employees
Acoustic Clean of Fox Valley	Ceiling Cleaners	140
Appleton Lathing Company	Contractors	175
Clearwater Paper	Manufacturing	500
Hayes Manufacturing	Manufacturing	150
Faith Technologies	Contractors	1,700
Great Northern Container	Manufacturing	212
Kimberly Clark	Manufacturing	3,200
Miron Construction	Construction	1,000
Outlook Graphics	Manufacturing	480
Pierce Manufacturing	Manufacturing	1,500
SCA Tissue	Manufacturing	1,000
Sonoco Products	Paper Products	160
Town of Menasha Utility District	Utility	162
Warehouse Specialists	Logistics	350

Social and Recreation Opportunities

Organized community events and recreational opportunities for children provided by the Town of Menasha’s Parks and Recreation Department include:

- Dance classes
- Music Classes
- Scavenger Hunts
- Tumbling classes
- Summer Camps
- Summer Safety Night
- Crafts
- Cooking
- Concerts & Entertainment
- Babysitting classes
- Tennis
- Basketball
- Theatre
- Field Trips
- Bicycling Classes
- Fun Runs
- Softball, Baseball
- Karate
- Soccer
- Easter Egg Hunt
- Movies
- Ice Cream Socials
- Cooking
- Golf
- Nature Programs
- Wilderness
- Survival
- Football
- Photography
- Fitness
- Classes
- Trick or Treating
- Christmas Activities
- Bowling
- Disc Golf
- Daddy-Daughter Winter Formal
- Mom & Son Bowling

Activities for Adults provided by the Town’s Parks and Recreation Department include:

- Digital Photography
- 5K Fun Runs
- Canoe & Kayaking
- Cooking Classes
- Concerts & Entertainers
- Volunteer Work
- Fitness Classes
- Disc Golf
- Adopt a Flower Bed
- Ageless Grace program
- Field Trips
- Christmas Activities
- Concerts & Entertainment

The Town’s outdoor park pavilions at Fritsch, Schildt, O’Hauser, Palisades, and Wittmann Parks are available for rent. The Town’s community center is actually located on its east side and would become a significant resource for the proposed Town remnants.

²² *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 31.

Other civic and social organizations with the proposed village area include:

- Rotary Club
- Lions Club
- Boy Scouts
- Pioneer Clubs
- Fox Cities Marathon
- Kiwanis Club
- Elks Club
- Girl Scouts
- Menasha Soccer Club
- Optimists Club
- Fox Valley Youth Hockey
- Fox Valley Figure Skating
- Suburban Athletics

The area's five churches also offer a variety of social opportunities, meeting spaces, and worship services. These churches include:

- Crosspoint Church
- Apple Valley Presbyterian Church
- New Hope Lutheran Church
- Valley Harvest Church, and
- The Family Church²³

Town of Menasha residents have access to 22 Town-owned parks and open spaces, listed in **Table 3** and shown in **Map 6**, as well as 21 miles of pedestrian and bicycle trails.

Table 3: Parks & Open Spaces in Town of Menasha²⁴

Facility	Acres	Ownership	West Side/ East Side	Description
Schildt Park,	10.00	Town	West	Pond, basketball court, playground equipment, volleyball court, pavilion with kitchen, restrooms, community gardens, historic granary structure.
O'Hauser Park	67.00	Town	West	Baseball and softball fields, volleyball, tennis, and basketball courts, disc golf course, wooded natural area with trails, two pavilions with kitchens, picnic area, restrooms, sledding hill, and a soccer field.
Fritse Park/Rydell Conservatory	15.26	Town	West	On Little Lake Butte des Morts and the western trailhead to the Fox Cities Trestle/Friendship Trail. Includes a boat launch, playground equipment, sledding hill, restrooms, pavilion, and 10 acres of undeveloped open space.
Woodland Prairie Park	63.00	Town	West	Undeveloped natural space adjacent to the Town's Municipal Complex, includes hiking trails.
Anunson Farm Park	3.50	Town	West	Open space, playground equipment, small basketball court
Grant Park	1.13	Town	West	Open space.
Wittmann Park	25.00	Town	East	Playground equipment, soccer fields, basketball court, picnic area, pavilion with kitchen.
Fritsch Park	18.00	Town	East	Ice rink, sledding hill and warming shelter, fire-pit, restrooms, outdoor ping pong table, fitness circuit, soccer fields, playground equipment, tennis, volleyball, and pickleball courts.
Palisades Park	16.00	Town	East	Baseball fields, batting cage, volleyball, tennis, and basketball courts, restrooms, pavilion, playground equipment.

²³ Submittal in Support of the Incorporation of the Village of Fox Crossing, September 17, 2015, page 15-16

²⁴ Submittal in Support of the Incorporation of the Village of Fox Crossing, September 17, 2015, page 21.

Butte des Morts Park	2.00	Town	East	Popular fishing spot along Little Lake Butte des Morts, includes a natural area and trail and playground equipment..
Strohmeier Park	1.42	Town	West	Playground equipment, basketball court.
Roy Kuehn Park	.23	Town	West	Playground equipment, sandbox.
Westfield Park	.52	Town	West	Playground equipment.
Kippenhan Park	.33	Town	West	Playground equipment, picnic area.
Glenview.Park	.55	Town	West	Playground equipment, picnic area.
Meadow Heights Park	.15	Town	West	Playground equipment.
Brighton Beach Park	9.00	Town		Wetlands and woodlands open space.
Gateway Meadows	13.50	Town	West	Wetlands and woodlands open space.
Stroebe-Pearl-Cox	12.30	Town	West	Wetlands and woodlands open space preserve on Stroebe Island.
Wildlife Heights	4.00	Town	West	Wetlands
High Plain Meadows	.68	Town	West	Meadow open space
Annex Lane	.58	Town	East	Environmentally sensitive open space.
Bike/Pedestrian Facilities	21 mi.	Town	East/West	Bike/Pedestrian trails throughout the Town.
Total Recreation Land	285.10			

The majority of the Town’s parks are located within the proposed new village.

In addition to Town-owned parks and open spaces, residents of the proposed new village may utilize recreational opportunities and facilities maintained by other jurisdictions and entities, which are either located within or near to the proposed village. Such opportunities include:

- *Butte des Morts Country Club* - located along CTH BB north of the Town, the country club provides an 18-hole golf course, driving range, tennis courts, swimming pool, pro-shop, and clubhouse facilities;
- *Heckrodt Wetland Reserve* – located in the City of Menasha, this 65 acre nature reserve includes wetlands, marsh, open water, open field, woodlands, trails, and a nature center;
- *Menasha Area Soccer Club - Prairie Creek Open Space* – 1.92 acres of open space was set aside when the Prairie Creek Subdivision was platted in the Town;
- *Stroebe Island Marsh* - 34.58 acres held in public trust by the Northeast Wisconsin Land Trust;
- *Tri-County Ice Arena* –located on the west side of the Town, used for ice-skating, hockey, and figure skating;
- *Menasha Area Soccer and Youth Sports* - 10.5 acres of youth sports space, located on the Town’s east side, facilities include a shelter and concession stand, restrooms, baseball and softball diamonds, a basketball court, and soccer fields;
- *Wildlife Heights Private Open Space* – 6.70 acres of wetlands and woodlands set aside when the Wildlife Heights subdivision was platted;
- *Wild Ones Ecological Center* – Wild Ones’ national headquarters is located within the Town along Little Lake Butte des Morts, which includes a 12 acre natural site and extensive educational opportunities for individuals interested in natural landscaping;

- *University of Wisconsin Fox Valley Campus* - located in the City of Menasha, recreational facilities include an arboretum, soccer fields, tennis courts, a gymnasium, and performing arts center.
- *St Mary's Central High School* – located within the proposed village, recreational facilities include a football stadium, baseball diamonds, tennis courts, a natural area, and gymnasium;
- *Maplewood Middle School* - located within the City of Menasha, recreational facilities include open playfields, basketball courts, and a gymnasium;
- *Gegan Elementary School* – located within the City of Menasha, recreational facilities include an open playfield, playground equipment, basketball courts, and a gymnasium;
- *Spring Road Elementary School* - located within the proposed village, recreational facilities include softball diamonds, an open playfield, paved play court, playground equipment, and a gymnasium, and
- *Nathan Calder Stadium* – located within the City of Menasha, the stadium is used by both the Menasha Joint School District and St. Mary's High School for football games, track meets, and other events.

Considering only the parks owned and managed by the Town, shown in **Table 3** and **Map 6**, residents have 16.39 acres of parkland per resident, well exceeding the national standard of 9-14 acres per resident established by the National Recreation and Parks Association (NRPA).²⁵ Furthermore, when also considering the numerous other recreational lands and facilities within or proximate to the Town of Menasha which residents may also enjoy, the amount of parkland per resident greatly exceeds NRPA standards.

Population Distribution

The Department initially began examining the distribution of population as a result of the Wisconsin Supreme Court's opinion in *Pleasant Prairie*²⁶. The court in that case examined the nature and distribution of population, noting that higher population density tends to be indicative of compactness, and urban rather than rural characteristics.

Map 12 shows the population distribution of the Town of Menasha's 18,542 residents and shows that population concentrations occur throughout the area. Generally, parcels showing a lack of population are those devoted to major industrial, commercial, and manufacturing operations, such as the Kimberly Clark facility along CTH CB, and the other more than 500 business operations in the area.

²⁵ *Town of Menasha Five Year Parks and Open Space Plan: 2011-2015*, page 34.

²⁶ *Pleasant Prairie v. Department of Local Affairs & Development*, 108 Wis. 2d 465 (Ct. App. 1982), affirmed, 113 Wis. 2d 327 (1983).

Parcels in the northwest corner of the proposed village also show sparse population. This area has historically been agricultural in nature. However, the Town’s future land use map, **Map 13**, designates much of this area as future industrial area. In fact, development is already occurring in this area, as described in the following section.

Table 4 shows that the population density of the proposed village compares favorably to the density of recently reviewed incorporation petitions, trailing only the communities of Harrison and Brookfield. Furthermore, petitioners indicate that of the 405 villages in Wisconsin, the proposed village of Fox Crossing would rank 82nd in density, placing it in the top 25%.²⁷

Table 4: Population Density Comparison of Previous Incorporation Petitioners²⁸

	Fox Crossing	Bloomfield	Bristol	Summit	Harrison	Brookfield
Land Area	9	12	10	25	4	4
Population	10,649	5,095	2,547	11,385	7,373	6,255
Pop. Density (sq.mi.)	1,174	424	254	316	1,572	1,482

Within Winnebago County, the proposed village would become the 4th largest municipality, trailing only the City of Oshkosh, City of Neenah, and the City of Menasha.²⁹

Land Uses

As with population, the Department began analyzing land uses as a result of the Wisconsin Supreme Court’s decision in *Pleasant Prairie*³⁰. The court in that case examined the nature and distribution of land uses, noting that urban land uses such as residential, commercial, industrial, and institutional tend to be indicative of compactness and urban form rather than rural characteristics.

The west side of the Town of Menasha proposed for incorporation is a mix of industrial, manufacturing, health care, commercial, retail, institutional, recreational, and residential land uses. **Table 5** shows these specific land uses within the existing Town and proposed village and **Maps 14** shows these land uses geographically.

The top three land uses are residential (40.87%), agricultural/open space (19.66%), and industrial (10.77%). The largest block of vacant agricultural/open space land is found in the northwest corner of the proposed village. As mentioned, industrial development of this area’s vacant lands is ongoing and expected to continue. The Town’s future land use map, **Map 13**, shows no agricultural land uses at all.

²⁷ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 13.

²⁸ *Ibid.*, page 13.

²⁹ *Ibid.*, page 69.

³⁰ *Pleasant Prairie v. Department of Local Affairs & Development*, 108 Wis. 2d 465 (Ct. App. 1982), affirmed, 113 Wis. 2d 327 (1983).

Table 5: Land Uses in Existing Town and Proposed Village³¹

Land Use Category	Existing Town		Proposed Village	
	Acres	%	Acres	%
Residential	3,306.24	43.05%	2,354.11	40.87%
Commercial	339.46	4.42%	200.45	3.48%
Industrial	803.33	10.46%	620.35	10.77%
Public/Institutional	101.38	1.32%	43.20	0.75%
Parks/Recreational	693.50	9.03%	555.84	9.65%
Transportation	22.27	0.29%	13.82	0.24%
Transportation/Utilities	107.52	1.40%	84.67	1.47%
Agricultural/Open Space	1,376.26	17.92%	1,132.42	19.66%
Woodlands/Wetlands	381.70	4.97%	271.87	4.72%
Surface Waters	548.35	7.14%	482.69	8.38%
Total Acres	7,680.00	100.00%	5,760.00	100.00%

Land Use Regulations

Zoning

In 2012 Winnebago County completed a comprehensive revision to its zoning ordinance, which the Town of Menasha chose not to adopt, enabling the Town to write and adopt an ordinance of its own. Petitioners anticipate that upon incorporation the new village would adopt the Town of Menasha current zoning ordinance and map, as well as assume responsibility for shoreland zoning from the county.³² The new village would continue to be governed by Winnebago County ordinances relating to private on-site sewerage systems, private wells, county highway access control, and Outagamie County Regional Airport’s *Airport Overlay Zoning Ordinance*. Although only a small portion of the airport is actually located in Winnebago County, it nonetheless impacts land use in the northeast corner of the proposed village because this area is within the airport’s aerial approach area. However, the Town of Menasha was granted authority to administer this ordinance and petitioners anticipate that the new village would assume administrative responsibility upon incorporation.³³

Subdivision Control/Land Division Ordinance

The Town of Menasha first adopted its *Subdivision Control Ordinance* in the mid-1960s, later amending it in 1975 to include open space fees to help fund new park and recreation facilities. In 2004 the ordinance was again amended to include parkland dedication or fees in lieu of land dedication and additional lot grading requirements. The ordinance was entirely rewritten in 2006 to add technical requirements for drainage, preliminary and final plats, certified survey maps, design standards, and street tree requirements.³⁴

Stormwater and Erosion Control Ordinances

Described previously in this section, the Town created a stormwater management program and ordinances in 2009.

³¹ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 18.

³² *Ibid.*, page 43.

³³ Town of Menasha Comprehensive Plan (2003-2023), page 110.

³⁴ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 39.

Official Map

The Town of Menasha established an official map in 1997 to conserve natural features for future parkland and generally ensure that development is orderly and planned. The official map is maintained via periodic updates.³⁵

Comprehensive Plan

The Town of Menasha's first comprehensive plan was adopted in 1986. Subsequently in 1996 a new plan was developed and approved by East Central Wisconsin Regional Planning Commission to enable the Town to expand its sewer service area. In 2003 the Town adopted a new comprehensive plan to be compliant with Wisconsin's 1999 Comprehensive Planning Law, commonly known as *Smart Growth*, and to guide community development for the next twenty years. Upon incorporation, petitioners anticipate the new village adopting this most recent comprehensive plan.³⁶

³⁵ Ibid., page 47.

³⁶ Ibid., page 38.

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DETERMINATION

According to *Pleasant Prairie*³⁷, the various factors enumerated in section 66.0207(1)(a) Wis. Stats., the *Compact and Homogenous* standard are to be viewed not as individual determinants, but as considerations to be weighed together along with the other factors. In this way, a petition may be weaker with certain factors or considerations and stronger with others, but a petition must show that on balance it supports a finding of compactness and homogeneity. All of the factors are to be used by the Board to arrive at a final determination.

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 Little Lake Butte des Morts;
- Boundaries that fall almost entirely within the Fox River watershed, Neenah Joint School District, and Grand Chute-Menasha West Sewer Service Area;
- A transportation system that contains a dense network of highways, local roads, bicycle and pedestrian paths, and public transit opportunities;
- A high population density;
- Numerous economic and business opportunities for local and regional residents, including the corporate headquarters for 5 major companies and organizations;
- A strong sense of community, as shown by the many community events, clubs, organized activities; and
- Land uses that tend to be urban in nature such as residential, commercial, industrial, institutional, and recreational land uses.

The City of Menasha, a Party of Interest to this petition, points out that the new Village of Fox Crossing will not be compact or homogenous were it to immediately annex or attach the town remnant east of Little Lake Butte des Morts. However, the Board is not statutorily authorized to evaluate this standard on the new village's future activities, such as annexations and intergovernmental agreements with other jurisdictions. The Board does recommend that the Town and City of Menasha cooperate to proactively resolve the Town remnants resulting in boundaries that are ultimately compact and rational.

Because the territory that *is* petitioned for incorporation strongly supports a showing of compactness and homogeneity, the Board finds that the petition as submitted meets the standard in s. 66.0207(1)(a), Wis. Stats.

³⁷ *Pleasant Prairie v. Local Affairs Dept.*, 113 Wis.2d 327, 340 (1983).

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SECTION 1(B), TERRITORY BEYOND THE CORE

The standard to be applied for metropolitan communities is found in §66.0207(1)(b), Wis.Stats, and reads as follows:

The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) 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.

Most Densely Populated Square Mile

As can be seen with **Map 12**, the most densely populated square mile within the proposed village is the large area adjacent to the Menasha Municipal Complex and bounded by STH 10, I-41, and CTH CB.

Lands Subject to Waiver

The statute permits the Board to waive certain lands from the ‘substantial development within three years’ standard to the “extent that water, terrain or geography prevents such development.” The types of lands which the Board has found in the past to be appropriate for waiver include wetlands, lakes, streams, or other surface water, and steep slopes.

The proposed village has few acres that might be appropriate for waiver. Only 271 acres of wetlands are found within the territory, and just 482 acres of surface waters. The 1,132 acres of agricultural lands, primarily located in the northwest part of the territory, is considered to be developed. These lands represent roughly 19% of the total area.

Future Growth

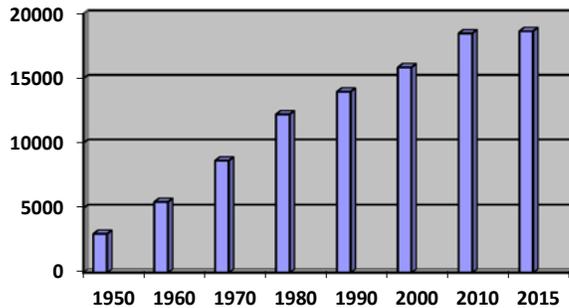
The Town of Menasha has experienced significant residential and business development during the 1990s and 2000s as evidenced by its rapid population growth, from 14,368 persons in 1990 to 18,498 in 2010. **Map 14** shows the location of the major residential, commercial, industrial, institutional, and parks land uses. The map shows that east of CTH CB and south of USH 10 only isolated pockets of developable agricultural and open space lands remain. Really the only remaining block of developable land is found in the northwest corner of the proposed village territory.

The paragraphs below examine the future growth potential of the proposed Village of Fox Crossing, and in particular the remaining block of undeveloped lands in the northwest corner of territory. Population trends are examined as well as data regarding building permits, subdivision platting, and rezonings. Recommendations made by planning documents are also discussed.

Population

The Town of Menasha has the second largest population among Wisconsin Towns. **Figure 1** shows that the Town of Menasha’s population growth has historically been strong and steady, even despite losing many square miles of land to annexations by the Cities of Appleton and Menasha. For example, during the past 15 years alone the Town has lost over 2.1 square miles of land to annexation.

Figure 1: Town of Menasha Population³⁸



The population in the Town of Menasha in 1950 was 3,075, growing to 18,498 in 2010 which represents a 520% increase. During the same time period, Winnebago County’s population grew by 56% and the State of Wisconsin’s grew by 44%. The Town’s west side constitutes over 90% of this growth.³⁹ **Table 6** compares the proposed village’s population to other Fox Valley cities and villages, and shows that the proposed village would fall within the top 1/3 in population.

Population projections for the Town for 2015-2040 predict a continued steady growth of several thousand persons per decade, reaching 23,160 by 2040.

Table 6: Population Comparison⁴⁰

Place Name	Population
C. Appleton	73,737
C. Oshkosh	65,451
C. Neenah	25,871
C. Menasha	17,633
C. Kaukauna	15,848
V. Little Chute	10,778
V. Fox Crossing (proposed)	10,649
V. Harrison	10,323
V. Kimberly	6,677
C. Chilton	3,909
C. Omro	3,560
V. Combined Locks	3,477
C. Seymour	3,436
C. New Holstein	3,216
C. Brillion	3,211
V. Sherwood	2,879
V. Hortonville	2,700
C. New London	1,623
V. Black Creek	1,321
V. Hilbert	1,171
V. Shiocton	930
V. Stockbridge	636
V. Bear Creek	450
C. Kiel	315
V. Nichols	271
V. Potter	251

³⁸ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 11.

³⁹ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 13.

⁴⁰ *Ibid.*, page 70.

Building Permits

Building permits are a direct measure of building activity – past and current, as well as possible future activity. **Table 7** captures the Town of Menasha’s building permit activity since 2000, showing strong and steady new single-family residential, multi-family residential and commercial building activity. Petitioners indicate that approximately 96% of the Town’s new single-family homes were built within the proposed village area.⁴¹

Table 7: Town of Menasha Building Permits⁴²

Year	New Single-Family Residential	New Multiple-Family Residential	Residential Additions	Total Residential Permits	New Commercial & Industrial	Commercial & Industrial Additions	Total Commercial & Industrial
2015	41	3	23	67	5	7	12
2014	32	7	4	43	4	4	8
2013	27	0	7	34	5	3	8
2012	23	0	7	30	7	3	10
2011	19	1	10	30	3	6	9
2010	26	0	25	51	2	7	9
2009	35	0	15	50	2	0	2
2008	29	2	19	50	4	5	9
2007	44	3	13	60	3	4	7
2006	52	6	22	80	9	8	17
2005	75	9	20	104	10	5	15
2004	121	0	21	142	13	7	20
2003	163	1	23	187	6	1	7
2002	114	9	29	152	5	4	9
2001	76	6	30	112	13	10	23
2000	31	23	29	83	14	9	23
Total	908	70	297	1275	105	83	188

The Town of Menasha has issued 55 permits per year on average between 2000-2015, which includes the economic recession in 2008. Assuming this average continues, the proposed village could see upwards of 165 new homes built over the next three years.⁴³

Re-zonings, Variances, Conditional Use Permits, CSMs, Plats

Rezoning, variances, conditional use permits (CUP), certified survey maps (CSMs), and subdivision platting activities are often the first steps in the development process, and data on these activities can indicate current and future building activity. **Table 8** shows steady levels of activity in each of these areas since 2008, occurring almost exclusively within the area proposed for incorporation.

⁴¹ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 11.

⁴² *Ibid.*, page 50.

⁴³ *Ibid.*, page 72.

Table 8: Parcel Rezones/Variiances/Conditional Use Permits/CSMs/Plats⁴⁴

Year	Rezones	Variiances	CUP	CSM	Plat
2015	2	1	3	11	1
2014	5	1	1	13	4
2013	1	2	2	7	0
2012	3	0	1	5	0
2011	2	1	2	2	2
2010	3	1	1	8	2
2009	2	0	1	9	0
2008	2	1	6	6	0
Totals	20	7	17	61	9

Table 9 shows that approximately 34 new subdivisions have been developed since 2000, an average of nearly 4 new subdivisions per year, with a total of 1077 new lots created. Petitioners indicate that this platting activity is occurring within the proposed village area. Only 2 single-family subdivisions and 2 condominium developments were located on the Town's east side, and only a handful of these lots remain available.⁴⁵ In contrast, all of the remaining new subdivisions and lots have been on the Town's west side, with 146 lots still available. Assuming historical trends continue, the proposed village could see the creation of 12 new subdivisions and 200 new lots, in addition to the 146 existing lots already available. **Map 15** shows the location of existing subdivisions within the proposed village.

Table 9: Subdivision Platting⁴⁶

Year	No. of New Subdivisions	No. of New Lots
2015	1	13
2014	1	27
2013	1	8
2012	0	0
2011	1	3
2010	0	0
2009	4	89
2008	3	6
2007	7	68
2006	12	204
2005	10	65
2004	1	23
2003	6	233
2002	3	42
2001	5	221
2000	4	75
Avg	3.7	67
Totals	59	1,077

⁴⁴ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page s 50-2.

⁴⁵ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 48.

⁴⁶ *Ibid.*, page 51.

Sewer Service Area

As mentioned, the proposed village area falls almost entirely within the Grand Chute–Menasha West Sewer Service Area, shown by **Map 10**, and is served by the Town of Menasha Utility District, shown by **Map 11**. Only a small area in the far northwest corner of the proposed village lies outside of the current sewer service area boundary. However, Petitioners indicate that the utility can serve this area with existing infrastructure when East Central Regional Planning Commission does extend the boundary to include this area.⁴⁷

Accessibility

The proposed village is part of the Fox Valley metropolitan area, and near to the Green Bay metropolitan area. Clearly the new village would benefit from opportunities generated by the region as a whole such as economic development, education, shopping, recreation, and employment.

The proposed village is easily accessible by major federal, state, and county highways. The ongoing expansion project of the USH 10/I-41 interchange at the Roland Kampo Bridge to make it a full interchange will further increase access. As mentioned, already this project is creating new development and is increasing the number of development inquiries to Town staff.⁴⁸

Also, the proposed village lies along the Wisconsin Department of Transportation's proposed Midwest Regional Rail System route for passenger rail.

Plans

Review of comprehensive plans provides insight into a community's future development intentions. **Map 13** shows the Town of Menasha's future land use map, which anticipates that the Town's remaining agricultural land will entirely transition to developed land uses by 2023, including the northwest corner of the Town.

Development Activity in Northwest Corner

As mentioned, only the northwest corner of the proposed village remains undeveloped. However, this area is already experiencing significant development activity and inquiries. For example, the 509-acre Northwest Industrial Park added Roehl Trucking as a new tenant, which will develop a 35-acre warehouse site. Town staff recently received 3 development inquiries for sites in this park and Secura Insurance Company recently stated that they will develop a new corporate headquarters building within the new village, possibly in the Town's northwest corner.⁴⁹

⁴⁷ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 71.

⁴⁸ *Ibid.*, page 17 and petitioners' testimony at the September 29, 2015 public hearing in the Town of Menasha.

⁴⁹ Correspondence from George Dearborn, Town of Menasha Director of Community Development, January 13, 2015.

DETERMINATION

This standard examines the vacant developable land present within an incorporation petition, and whether or not this vacant land may potentially be developed within the next three years.

In this case, the proposed village is primarily already developed in urban land uses. Petitioners have included 1,132 acres of vacant and developable lands, which are located together in the northwest corner of the territory.

Past trends in population growth and building activity, as well as approved sewer service area and comprehensive plans, strongly support the likelihood of continued urban development and re-development of the proposed village lands, including the block of territory in the northwest. Expansion of the USH 10/I-41 Roland Kampo Bridge interchange to a full interchange will likely further accelerate development and re-development.

For the above reasons, the Board determines that the petition as submitted meets the *Territory Beyond the Core* standard set forth in §66.0207(1)(b), Wis. Stats.

SECTION 2(A) TAX REVENUE

The standard to be applied is found in §66.0207(2)(a), Wis. Stats., and provides as follows:

"The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services."

Prior to the incorporation standards in s. 66.0207 Wis. Stats. being developed, a number of incorporations occurred in Wisconsin that were very small. Containing just a few hundred households, these new villages struggled to function as a village. They lacked a sufficient population to fill village board and committee positions, and also lacked sufficient tax base to raise the revenue required to provide village services. Therefore, when the legislature created the incorporation standards in 1959, the tax revenue standard was included to address smaller proposed incorporations and ensure that they would have the financial resources to function as a city or village.

The Town of Menasha already functions as a village with a range of services typically provided by an incorporated community. These services will be described in detail in the following section regarding the *Services* standard.

The following paragraphs describe the Town's current financial situation, as well as its proposed budget.

Equalized Value

Table 10 shows the Town of Menasha's equalized value by land use class, while **Table 11** shows how the proposed village compares to similarly-sized Wisconsin communities. The Town's equalized value in 2014 was \$1,434,553,900, with \$1,023,123,841 coming from proposed village territory or 71% of the total.

Table 10 shows that the Town of Menasha's equalized value has increased slightly, even despite a weak economy. Petitioners attribute this to the Town's urbanization, its location within the Fox Valley region, and its proximity to major transportation facilities. Petitioners expect equalized value to continue to grow steadily as vacant territory in the northwest develops and begins to add to the total.⁵⁰

Table 10: Equalized Value in the Town of Menasha⁵¹

Land Use	2010	2014	% Change
Residential	\$849,577,300	\$868,414,200	2.2%
Commercial	\$328,080,200	\$353,396,000	7.7%
Manufacturing	\$165,477,100	\$141,590,800	-14.4%
Agricultural	\$131,800	\$121,400	-7.9%
Undeveloped	\$258,000	\$145,900	-43.4%
Agriculture/Forest	\$494,400	\$376,000	-23.9%
Forest	\$0	\$0	0.0%
Other	\$1,743,300	\$1,706,900	-2.1%
Total Real Estate	\$1,345,762,100	\$1,365,751,200	1.5%
Total Personal Property	\$68,318,200	\$68,802,700	.7%
Total	\$1,414,080,300	\$1,434,553,900	1.4%

⁵⁰ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 81.

⁵¹ *Ibid.*, page 80.

Table 11 illustrates that the proposed village would compare favorably to other similarly-sized Wisconsin cities and villages regarding equalized value.⁵²

Table 11: Comparison of Equalized Values⁵³

Municipality	Population	Equalized Value
Kimberly (V)	6,620	\$456,335,200
Pewaukee (V)	8,154	\$899,143,000
Portage (C)	10,238	\$543,572,100
Little Chute (V)	10,539	\$677,706,100
Fox Crossing (V proposed)	10,649	\$1,023,123,841
Sussex (V)	10,669	\$1,202,160,100
Marinette (C)	10,930	\$595,480,100
Port Washington (C)	11,439	\$879,395,800
Cedarburg (C)	11,479	\$1,187,131,800
Grafton (V)	11,490	\$1,148,445,000
Kaukauna (C)	15,765	\$922,944,000
Menasha (C)	17,550	\$999,088,600
Neenah (C)	25,833	\$1,918,342,200

Debt

State statutes limit the amount of general obligation debt a municipality may issue to 5% of its total equalized value. The Town currently has \$21,391,822 in outstanding debt. Its debt limit is \$71,727,695, indicating that the Town is at less than 30% of its statutory debt limit.⁵⁴ This debt will be apportioned between the new village and remaining town according to s. 66.0235 Wis. Stats.

Proposed Budget

Table 12 shows the proposed budget for the future village, as well as the budgets for the proposed Town remnant and existing Town of Menasha. Because the Town already operates like a city or village, petitioners do not anticipate that incorporation will necessitate new departments, staff, equipment, or buildings.

Petitioners indicate that this budget does not include contracted services. Also, financing for some budgeted public works projects utilizes borrowing instead of using levy funds. In all other respects the proposed budget is consistent with the current 2015 Town of Menasha budget.⁵⁵

⁵² *Ibid.*, page 79.

⁵³ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 79.

⁵⁴ *Department of Revenue Debt Margin Report* (2014).

⁵⁵ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 76.

Table 12: Proposed Village Budget⁵⁶

Revenues	Proposed Village Budget	Percent of Existing Town Budget	Town Remnant Budget	Percent of Existing Town Budget	2015 Existing Town Budget
Taxes	\$5,693,925	71%	\$2,289,129	28%	\$7,982,249
Other Taxes	\$359,400	61%	\$16,200	3%	\$585,600
Special Assessments	\$40,812	78%	\$11,268	21%	\$52,080
Intergovernmental Revenue	\$1,098,422	79%	\$409,121	29%	\$1,394,901
Licenses and Permits	\$344,673	76%	\$106,854	23%	\$451,527
Fines, Forfeitures and Penalties	\$103,754	57%	\$77,246	42%	\$181,000
Public Charges for Services	\$156,701	65%	\$86,758	36%	\$238,459
Intergovernmental Charges for Service	\$292,232	78%	\$61,894	16%	\$374,721
Miscellaneous Revenues	\$201,156	88%	\$26,169	11%	\$227,325
Total Revenue	\$8,291,075	72%	\$3,084,639	27%	\$11,487,862
Expenditures	Proposed Village Budget	Percent of Existing Town Budget	Town Remnant Budget	Percent of Existing Town Budget	2015 Existing Town Budget
General Government	\$1,313,516	72%	\$544,930	30%	\$1,805,384
Public Safety	\$3,332,024	73%	\$1,229,054	27%	\$4,561,078
Public Works	\$1,386,195	69%	\$445,630	22%	\$2,005,325
Culture, Recreation, and Education	\$741,881	76%	\$233,749	24%	\$970,630
Conservation & Development	\$114,711	75%	\$41,793	27%	\$153,214
Debt Service	\$1,578,659	72%	\$614,249	28%	\$2,192,908
Total Expenditures	\$8,466,986	72%	\$3,109,405	26%	\$11,688,539

*Note – percentages do not sum to 100% for every budget category.

Petitioners also indicate that the proposed budget assumes that all current Town employees will work for the new village, with the Town remnants contracting for services from the village. The village will discount the cost of providing services to the Town remnant to ensure that the same tax rate continues to apply for both communities.⁵⁷ There is no guarantee for how long the new village would continue to discount the service cost for residents of the Town remnants, but petitioners indicate that they will be discounted for at least as long as the current Board remains in office.⁵⁸

The proposed budget also assumes that all vehicles are owned by the village, and all recreation programs are operated by the village, and the village will pay rental fees for using facilities located within Town remnant.

⁵⁶ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 75.

⁵⁷ *Ibid.*, pages 75-76.

⁵⁸ Testimony by Dale Youngquist at the Incorporation Review Board’s December 15, 2015 meeting.

Tax Rate

Table 13 shows the tax rates for the existing Town, proposed village and town remnant. Based upon the proposed budgets, the property tax rate for the proposed village and town remnant would remain at the existing Town’s current \$5.48 level.

Table 13: Tax Rates⁵⁹

	Proposed Village	Town Remnants	Existing Town
Assessed Value	\$1,038,116,600	\$417,437,200	\$1,455,553,800
Property Tax Levy	\$5,693,925	\$2,289,129	\$7,982,249
Mill Rate	.00548486	.00548377	.00548399
Tax Rate per \$1000 of Assessed Value	\$5.48	\$5.48	\$5.48

Table 14 shows that this proposed \$5.48 village tax rate compares favorably with other similarly sized cities and villages in the Fox Valley region and throughout the state. Clearly, residents are able to fund their town’s current service levels, and since no significant additional services are anticipated, the proposed village should be able to accommodate any higher service levels needed or wanted by residents in the future without financial hardship or by imposing an unreasonable tax burden.

Table 14: Comparable Tax Rates⁶⁰

Community	Population	Tax Rate per \$1000 Assessed
Kimberly (V)	6,620	\$6.78
Pewaukee (V)	8,154	\$5.42
Portage (C)	10,238	\$9.22
Little Chute (V)	10,539	\$6.91
Fox Crossing (Proposed Village)	10,649	\$5.48
Sussex (V)	10,669	\$5.17
Marinette (C)	10,930	\$8.16
Port Washington (C)	11,439	\$5.81
Cedarburg (C)	11,479	\$6.97
Grafton (V)	11,490	\$7.11
Kaukauna (C)	15,765	\$8.83
Menasha (C)	17,550	\$10.71
Neenah (C)	25,833	\$9.18

Anticipated Future Capital Needs

Petitioners anticipate no new capital needs due to incorporation. The new village would continue to operate from the current Municipal Complex utilizing existing equipment and staff.

⁵⁹ Submittal in Support of the Incorporation of the Village of Fox Crossing, September 17, 2015, page 78.

⁶⁰ Submittal in Support of the Incorporation of the Village of Fox Crossing, September 17, 2015, page 138.

DETERMINATION

For the preceding reasons, it is the Board's finding that the proposed Village of Fox Crossing will have substantially sufficient revenue to effectuate typical home-rule powers and services. The proposed village territory has a high equalized value, low tax rate, reasonable debt level, and adequate remaining debt capacity. Also, the fact that existing Town already operates like a city or village means that incorporation will not necessitate new departments, staff, equipment, buildings, or other major expenditures. Petitioners' proposed budget is essentially the budget that the existing Town of Menasha operates with, notwithstanding the budgetary amounts subtracted to account for the Town remnants.

Generally petitioners allocate a 75% - 25% split between the new village and remnants for most budget categories, based on the assessed valuation of the remnants and proposed village areas. However, petitioners have committed to providing services to the remnants at a discounted rate. This will ensure the same costs for remnants' residents but could represent an ongoing budget liability for the new village which village residents would need to bear. However, the territory has sufficient revenue resources to adequately handle this ongoing liability.

For all of the preceding reasons, the Board determines that the petition meets the *Tax revenue* standards set forth in §66.0207 (2) (a), Wis. Stats.

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SECTION 2(B) LEVEL OF SERVICES

The standard to be applied is found in §66.0207(2)(b), Wis. Stats., and provides as follows:

The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in §66.0203(6), Wis. Stats.

The Cities of Menasha and Neenah adopted resolutions indicating their willingness to annex the entire territory proposed for incorporation.⁶¹ These cities' resolutions trigger the services standard in s. 66.0207(2)(b) Wis. Stats. which requires the Board to compare the services proposed by petitioners for the new village with those offered by the Cities of Menasha and Neenah.

Just prior to the Board's September 29, 2015 public hearing, the City of Neenah and Town of Menasha developed a draft MOU agreement that resolved the City of Neenah's concerns. As a result, the City dropped its opposition to the incorporation, including its willingness to annex and serve the proposed village territory. Therefore, the analysis in the following paragraphs compares only the services proposed by the petitioners and the City of Menasha – not the City of Neenah.

Petitioners indicate that the Town of Menasha already currently provides its residents with a full range of urban services at a lower cost than other Fox Valley communities, and could continue providing this same service level to the proposed Village of Fox Crossing far more efficiently and effectively than could the City Menasha or any other Fox Valley community. The Town's Municipal Complex is located in the heart of the proposed village area, while the City of Menasha would need to cross Little Lake Butte des Morts to serve the territory, or alternatively establish satellite facilities in the territory which would be costly and redundant.

The City of Menasha disagrees, believing that it can provide Town residents with either the same level of services as those currently provided by the Town, or a higher service level in some cases such as police and fire protection and municipal electric service. Because the City believes that both it and the new village are in a position to serve residents, consolidation of the communities into one Menasha community may be the smartest alternative. A consolidated community could benefit from merged services, increased territory and resources, and increased population, all of which could benefit Menasha and the Fox Valley as the area strives to compete in a global economy. In contrast, the City is concerned that adding yet another new municipality to the region simply adds complexity and increases costs and service inefficiency.⁶²

The following paragraphs describe specific services, comparing the level proposed by petitioners with that of the City of Menasha.

Fire Protection Service

The Town of Menasha is served by a paid on-call fire department consisting of 5 full-time firefighters, including the Fire Chief, 8 part-time firefighters, 46 paid on-call firefighters, and 1 part-time administrative assistant. The department operates two fire stations, one on the Town's

⁶¹ City of Menasha resolution R-15-18 and City of Neenah resolution R-2015-27.

⁶² Testimony by City of Menasha Mayor Donald Merkes and Planner Greg Keil at the Board's September 29, 2015 public hearing in the Town of Menasha.

west side at 1326 Cold Spring Road and one on the east side at 1000 Valley Road. All firefighting staff are also certified as EMS First Responders.

The Fire Department maintains a budget of approximately \$1.2 million per year, and provides residents the following services:

- Local and state fire and life safety code inspections and education;
- Flammable and combustible liquid storage inspections;
- Fire investigations;
- Life safety and public education;
- Fire suppression services;
- Environmental response and protection;
- Hazardous materials response;
- Recreational water assistance;
- Emergency Medical Service (EMS), and
- Rope rescue.

To assist the Department in the event of structure or vehicle fires, the Fire Department has Automatic Aid Agreements with the Towns of Neenah, Grand Chute, Greenville, and the Clayton/Winchester Fire Department. In addition, the Town of Menasha Fire Department has joined with other Winnebago County fire departments in MABAS (Mutual Aid Box Alarm System), which is a mutual aid system where the location of the alarm determines which departments will respond.⁶³

The Fire Department maintains a full inventory of fire apparatus that includes the following:

- 2 Fire Stations;
- Engine 240 1993 Engine 241 1999;
- Engine 40 2006 Engine 41 2010;
- Ladder 40 1996 Rescue 41 2004;
- Utility 40 2015 Squad 41 2008;
- Command 40 2007 Command 41 2014, and
- Rescue Boat.

The Insurance Services Office's (ISO) rating of the Town of Menasha Fire Department is 3 for urban areas of the Town and 3X for rural areas. Petitioners indicate that 3/3X is an exceptional rating for a paid on-call fire department, and places the department among the highest in both Wisconsin and the nation. The Neenah/Menasha Fire Rescue, a joint fire department of the Cities of Neenah and Menasha, also received a 3 rating from ISO.⁶⁴

In addition to its strong ISO rating, the Town of Menasha Fire Department was fully accredited in 2000 by the Commission on Fire Accreditation International (CFAI). In fact, it was the first paid on-call fire department in the United States to be fully accredited. Subsequently it was re-accredited in 2005 and 2011, and will be up for re-accreditation again in 2016.⁶⁵ Petitioners indicate that the only other fully accredited fire departments in Wisconsin are the City of La Crosse and City of West Allis fire departments.

⁶³ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 91.

⁶⁴ *Ibid.*, page 92.

⁶⁵ *Ibid.*, page 92.

Petitioners anticipate no changes to the fire department due to incorporation. Service would be provided by the new village of Fox Crossing to the Town remnants via a joint services agreement between the two communities.

The City believes that its Neenah-Menasha full-time paid fire department can provide a higher level of service to the proposed Town remnants than could the new village without adding additional equipment or personnel. In contrast, the City contends that the new village could only serve these islands at additional cost, either subsidized by the new village or borne by the Town remnant's residents. In addition to duplication, increased service costs and decreased service levels, service fire protection service from the new village would result in continued confusion among residents and service providers.⁶⁶

Police Protection

The Town of Menasha Police Department consists of a full-time police chief, 6 full-time Lieutenants, 17 full-time police officers, 2 full-time detectives, 5 full-time communication technicians, 1 part-time Administrative Assistant, and 1 part-time code compliance officer. The Town's police station is located within the heart of the proposed village at the Municipal Complex. The Town also maintains a satellite office on the east side within the Community Center at 1000 Valley Road.

The department's fleet of vehicles includes 5 patrol squads, 2 detective squads, 1 lieutenant squad, 1 MEG drug unit squad, and 3 administrative/staff vehicles. The department's budget is approximately \$3.2 million annually.

The department works closely with the Winnebago County Sheriff's Department, having entered into numerous intergovernmental agreements with the County, which are described later in the section on *Metropolitan Impact*.

The Town of Menasha Police Department also integrates with other Fox Valley law enforcement agencies, having developed mutual aid agreements with the Cities of Appleton, Kaukauna, Menasha, and Neenah, and the Villages of Combined Locks, Kimberly, and Little Chute, and the Town of Grand Chute.

Petitioners do not anticipate that incorporation will bring any changes to the police department, except that the Town remnants would receive service pursuant to a joint services agreement between the two communities.

The City indicates that it can provide police protection service to east side Town remnants more efficiently than could the new village. The City describes the substantial confusion among east side Town and City residents due to the numerous Town islands and fragments. For example, during a 50 day period starting on August 14, 2015, there were 238 mistaken calls to the City of Menasha's police department that were meant for the Town of Menasha's police department and 13 mistaken open records requests.⁶⁷ In addition to confusion among residents, the current municipal boundaries create service inefficiencies because officers must drive through a patchwork of Town and City jurisdiction when taking calls. For example, calls from a border

⁶⁶ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Donald Merkes, City of Menasha Mayor, October 9, 2015.

⁶⁷ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Timothy Styka, City of Menasha Police Chief, October 8, 2015.

area may later be discovered to have actually taken place in the jurisdiction receiving the original dispatch. When this happens the dispatch call is repeated, or “cloned”, from the original jurisdiction to the other jurisdiction. From January 1, 2015 to June 30, 2015 there were 152 cloned calls between the City and Town police departments.⁶⁸

Public Works Services

Road maintenance, snow plowing, ditch and culvert work, signage, stormwater management, and brush removal and chipping services are delivered by the Town of Menasha Street Department. The department has a budget of approximately \$2 million per year, employs 10 full-time employees and numerous part-time and seasonal employees, and maintains nearly 100 miles of Town roads. The Department’s fleet of service vehicles includes:

- 7 Dump trucks
- 6 Pickup trucks
- 2 Street sweepers
- 2 Loaders
- 2 Brush chippers
- 1 Backhoe
- 1 Grader
- 1 Bucket truck
- 1 Asphalt roller
- 1 Asphalt reclaiming
- 1 Jetter
- 1 Skid Steer

All of these vehicles are housed in a 33,000 square foot garage located at the Town of Menasha Municipal Complex, with other Town equipment being housed across the road in the Town’s 7000 square foot cold storage facility.

Petitioners anticipate that incorporation will not impact the street department’s services – no changes are expected with snow plowing routes, culvert work, road repair, or other services – except that the Town remnants will receive service via a shared service agreement between the two communities.

The City of Menasha believes that it can provide public works services to east side Town remnants much more efficiently than could the new village. The remnant islands and fragments span a large geographical area, stretching more than 3 miles from northwest to southeast, and are divided by significant territory within the Cities of Menasha and Appleton. Their geographic isolation would make service from the new village extremely inefficient and cost prohibitive, and would do nothing to eliminate the current confusion among area residents. For example, the City of Menasha’s public works department counted over a dozen instances of mistaken calls by residents from July-September of 2015.⁶⁹

⁶⁸City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing, Affidavit of Timothy Styka, City of Menasha Police Chief, October 8, 2015.

⁶⁹City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing, Affidavit of Mark Radtke, City of Menasha Director of Public Works, October 9, 2015.

Refuse and Recycling Services

The Town of Menasha currently contracts with Advanced Disposal Solid Waste Midwest, LLC as the solid waste collector and hauler for the Town. Garbage is collected curbside on a weekly basis with recycling collected every other week.

The Town contracts with the Winnebago County Solid Waste Management System for landfill and recycling services. Presently, Winnebago County partners with Outagamie County and Brown County to provide for a tri-county coalition (known as the Brown-Outagamie-Winnebago (BOW) coalition) for solid waste disposal. The BOW coalition recently closed a refuse landfill located in Winnebago County near Oshkosh and opened a new landfill in Outagamie County. All refuse from the partnering communities in the three counties now goes to this new landfill. The coalition is already working on plans for the anticipated closure of the Outagamie landfill and the opening of a future landfill in Brown County.

In 2009, the BOW coalition opened a state-of-the-art recycling facility, which can process up to 80,000 tons of material a year. All Town recyclables are hauled to the recycling facility for processing. Each year the Town receives a portion of the proceeds of the commodity sales from the recycling facility.

The Town of Menasha has a drop-off site for waste oil located at the Town Municipal Complex, and the Town also participates in Winnebago County's annual Clean Sweep events, enabling residents to dispose of hazardous waste items at no cost.

To provide for easy removal of large branches and limbs from residential properties, the Town conducts curbside brush chipping during the spring and fall, and also collects fallen branches and debris after large wind storms. Residents may also drop off brush items at the Town's brush collection site near the Municipal Complex.

The Town offers electronic recycling events twice per year in which Town residents can dispose of unwanted electronic waste for little to no charge.⁷⁰

Incorporation as a village may require adjustment of the contract with Advanced Disposal Solid Waste Midwest, LLC in order to account for the existence of the new village.

The City of Menasha provides its own refuse and recycling collection service for residents, and indicates that it can immediately serve the proposed Town remnants. However, the City collects recyclables on a monthly basis while the Town's contracted service collects twice monthly. In order to provide the remnants' residents with twice-monthly service, the City indicates that it will need to hire additional staff and an additional sanitation truck.⁷¹

Administration Services

Town administration staff includes:

- Full-time Administrator;
- Full-time Human Resource Coordinator;
- Contracted Assessor;
- Full-time Clerk;

⁷⁰ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, at page 94.

⁷¹ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Adam Alix, City of Menasha Director of Municipal Operations, October 9, 2015.

- Part-time Deputy Clerk;
- Full-time Director of Information Technology;
- Full-time PC/Network Technician, and
- Full-time Finance Director, overseeing 4 full-time employees and seasonal tax clerks.

Petitioners anticipate that the new Village of Fox Crossing would continue this same level of administration service and staff, with the Town remnants receiving administrative services via a joint services contract.

Library Services

There are no library facilities located in the Town of Menasha. However, like many other communities not operating their own libraries, the Town of Menasha participates in the Winnefox Library System which consists of 30 libraries throughout Winnebago, Waushara, Marquette, Green Lake, and Fond du Lac counties. Town of Menasha residents may use any of the public libraries in these counties, but most residents use the libraries in the Cities of Neenah and Menasha. In 2014, Town residents were taxed \$558,692.43 by the Winnefox system for public libraries. Petitioners intend that the new village would continue participating in the Winnefox Library System rather than constructing a library of its own.

The City of Menasha's Elisha D Smith Library already serves both City and Town residents, and could continue to do so in the future. The library is located at Racine and 2nd Streets, adjacent to the City's police department.

Sewer & Water

As mentioned, nearly the entire proposed village area lies within the Grand Chute-Menasha Sewer Service Area, as shown by **Map 10**, with sewer and water service provided by the Town of Menasha Utility. The Utility serves the entire Town of Menasha, both west and east sides, as well as portions of the Cities of Menasha, Appleton, Neenah, Village of Harrison, and Towns of Neenah and Grand Chute.

The Utility's Water Department operates on a \$6.1 million budget and maintains two separate water systems, one on the east side of the Town and one on the west side. Together the two systems have over 132 miles of water mains, 1,324 fire hydrants, 6 wells, 3 treatment plants, 3 reservoirs, and 3 water towers.

The Utility's Wastewater Department operates on a \$4.1 million budget and maintains over 120 miles of sewer mains located within the Town and adjacent communities. East side sewage flows to the Neenah-Menasha Sewerage Plant, while west side sewage flows to the Grand Chute-Menasha West Sewerage Plant for treatment.

The Utility is managed by a full-time superintendent who oversees 10 full-time employees, 2 seasonal employee, and 1 full-time administrative assistant.⁷² Petitioners indicate that the Utility can serve all areas of the proposed village, the Town remnants, as well as territory in adjacent communities. Following incorporation petitioners indicate that residents in other communities desiring new service may need to annex into the new village to receive service. Petitioners do not expect that incorporation would impact the water and sanitary sewer service received by current customers, although incorporation may necessitate restructuring the Utility and its assets.⁷³

⁷² *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, pages 96-97.

⁷³ *Ibid.*, page 97.

Parks and Recreation

As mentioned previously, the Town of Menasha Parks and Recreation Department maintains 14 parks and 6 open space areas encompassing 284 acres, and 21 miles of separated bicycle and pedestrian facilities, as well as providing extensive recreation programs for residents.

The department manages a budget of \$970,000, staffed by a full-time director, a full-time recreation supervisor, 3 full-time laborers, and numerous part-time instructors and seasonal positions. Petitioners do not anticipate that incorporation will impact the parks and recreation services Town residents receive, although the department's assets may need to be re-apportioned between the new village and town remnant because numerous parks and infrastructure are located within the Town's east side remnants.

The City of Menasha also provides parks and recreation services to its residents, similar to the Town. However, the City believes that it could more efficiently maintain the Town remnants' parks. For example, the City's Clovis Grove and Koslo Parks and its public works facility are mere blocks from the Town's Fritsch Park, Wittmann Park, and Palisades Park, and also adjacent to the Town's east side bicycle and pedestrian trails. Additional staff and an additional mower would be required, however the City believes that substantial time, fuel, and transportation savings for area residents will result from the City maintaining the remnants' parks.⁷⁴

Community Development

The Town provides planning and zoning and building inspection services through its community development department, comprised of a full-time community development director, full-time associate planner, full-time building inspector, full-time assistant building inspector, and seasonal interns. The department provides the following services:

- Subdivision review, zoning administration and enforcement, conditional use permits, sign permits, variances, and site plan review;
- Permitting and inspection of all construction activities and enforcement of building, housing, plumbing, HVAC and electrical codes;
- Stormwater Utility administration;
- Economic development, including business retention, development incentives, grants, loans, development promotion and regional participation in economic development efforts;
- Comprehensive planning, planning for sustainability, and bike and pedestrian planning;
- Land information services, including GIS (Geographic Information System) and land information records;
- Non-metallic mining administration;
- Tax Increment Financing District review;

⁷⁴ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavits of Brian Tungate, City of Menasha Director of Parks, October 7, 2015, and Adam Alix, City of Menasha Director of Municipal Operations, October 9, 2015.

- Staffing the Town's 7-member Planning Commission, which reviews rezonings, future land use map amendments, plats, certified survey maps, planned development districts, and conditional use permits;
- Staffing the Town's 5-member Zoning Board of Appeals, which reviews zoning appeals and variances, and
- Staffing the Town's 7-member Sustainability Committee, which reviews sustainable practices within the Town and has established community gardens, an electronic waste recycling program, and a bicycle and pedestrian plan.

In 2013, the Town opted out of Winnebago County zoning and established its own zoning ordinance. The Town's shoreland areas remain under Winnebago County zoning jurisdiction. However, petitioners anticipate assuming responsibility of shoreland zoning within the proposed village area. Petitioners do not expect that incorporation will substantially affect planning and community development services. They anticipate maintaining the current level of service within the proposed village, with the Town remnants receiving service via a shared service agreement between the communities.

Municipal Court

The Town currently operates a Municipal Court overseen by an elected municipal judge. The Judge is assisted by a full-time court clerk. In 2014 the court held 263 trials, 1,906 hearings, and collected \$285,175 in fines and forfeitures.

DETERMINATION

Review of petitioners' submissions and testimony clearly show that the Town of Menasha is currently providing its residents with a high level of services at a favorable tax rate, both the west side of the Town proposed for incorporation as well as the Town's east side island areas which are proposed to be Town remnants. Were residents not satisfied with Town services, they could have sought annexation into the neighboring Cities of Menasha and Appleton, as outlined in their respective boundary agreements, or the City of Neenah. However, the petitioned area on the west side has remained stable.

Were incorporation to occur, no additional services would be required. Petitioner's already have urban level services such as police and fire protection, planning and zoning, parks and recreation, public works, sewer and water, stormwater management, among others. As a result, petitioners anticipate continuing to provide the same service level to the proposed village territory at substantially the same cost. As indicated previously, the area has more than adequate tax base to continue to provide these services.

As mentioned, the City of Neenah passed a resolution indicating its willingness to annex and service the proposed village territory. However, the City and Town of Menasha subsequently entered into an MOU which resolved the City's concerns and the City no longer objects to the incorporation or desires to annex and serve the territory.

The City of Menasha did pass a resolution indicating its willingness to annex and serve the proposed village territory, however the City acknowledges that the Town is currently providing adequate services to this west side territory, and could continue to do so in the future. The City does suggest that consolidation of the City and Town could be a benefit to the area's residents and the Fox Valley as a whole, rather than adding yet another jurisdiction to the region.⁷⁵ While consolidation may have many advantages, it is a process that is outside the scope of the Board's statutory review standards in s. 66.0207 Wis. Stats.

Primarily the City focuses on the Town's east side islands and fragments proposed to continue as Town remnants. The City asserts that it is much better positioned to provide services to these remnants because it physically surrounds them.

For purposes of the Board's review of this services standard in s. 66.0207(2)(b) Wis. Stats., the statute directs the Board to compare the "level of governmental services *desired or needed*"⁷⁶ by the residents of the proposed village area with those offered by the City of Menasha. Because residents already appear to be receiving the services that they *desire* and *need* from the Town of Menasha at a reasonable rate, the Board finds that the standard in s. 66.0207(2)(b) Wis. Stats. is met.

⁷⁵ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, page 2, October 9, 2015.

⁷⁶ Section 66.0207(2)(b) Wis. Stats.

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SECTION 2(C) IMPACT ON THE REMAINDER OF THE TOWN

Section 66.0207(2)(c), Wis. Stats., requires that the Board consider “the impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated”. This standard ensures the well-being of those town residents who are not included within the proposed village area, safeguarding that incorporation will not negatively impact them by making continued governance of their remaining community difficult.

In this case, Petitioners believe that incorporation of the Town’s west side as a village will not negatively impact the Town’s east side islands and fragment territories which are proposed to continue as Town remnants. Petitioners believe that incorporation’s primary impact on these residents will be the need to elect a new town board and enter into service contracts with the new Village of Fox Crossing or a neighboring municipality.

Physical Remnant Boundary and Shape

Town remnant lands consist of 8 unconnected islands and fragments totaling 3.43 square miles in size. The distance from the proposed remnant’s northwestern-most island adjacent to the City of Appleton to the southeastern-most island adjacent to the Village of Harrison is over 3 miles, with large sections of the Cities of Menasha and Appleton lying in between and isolating the remnants from one another. Unlike the proposed Village of Fox Crossing, the Town remnants cannot be considered homogenous and compact in shape. However, incorporation would not be the cause of these remnants. They exist as a result of many years of annexations to the Cities of Menasha and Appleton.

Map 16 shows that land uses within the Town remnants is primarily residential, with a scattering of park, institutional, industrial, and commercial land uses. The remnants are essentially fully developed, with little to no vacant land available. As a result, any development of remnant lands will be re-development in nature. The Town remnants will retain a fire station, community center, a youth sports complex, and Town parks such as Palisades, Butte des Morts, Wittmann, and Fritsch Parks.⁷⁷

Population

Population is an essential factor in determining whether a community can continue to operate because sufficient population is needed to fill required town elective and appointive offices and sustain needed boards, committees and commissions. The proposed Town remnants would include 7,849 persons, making it the most populous town in Winnebago County and the 15th most populous town in Wisconsin.⁷⁸

The City of Menasha asserts that these east side residents, while populous in number, have no separate community identity. Instead they feel a greater social connection to the City of Menasha. For example, east side Town residents attend the City of Menasha’s Labor Day, Independence Day, and Memorial Day parades, the City’s July 4th fireworks, the City’s farmers markets, among others, due to a lack of these celebrations and events in the Town and the fact that these residents are surrounded by City of Menasha territory. Also, most of the facilities that

⁷⁷ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 3.

⁷⁸ *Ibid.*, page 100.

invite social interaction such as schools, churches, library, municipal pool, and senior center are located within the City.⁷⁹

Financial Capacity

Valuation is also an essential factor in determining whether a community can continue to operate because sufficient valuation enables the community to generate the taxes necessary to provide needed and desired services. As indicated previously, 71% of the existing Town of Menasha's \$1,455,553,800 assessed value, or \$1,038,116,600, is attributable to the proposed village territory, with \$417,437,200, or 29%, attributable to the Town remnants.

Based on petitioners' proposed tax rate of \$5.48 per thousand dollars of value, the Town remnants would generate \$2,289,223 in revenue, not including revenue from other sources such as state shared revenue, transportation aids, intergovernmental revenue, license and permit fees, and charges for services.

To more specifically examine the proposed Town remnant's financial sustainability, Petitioners retained William Forrest, AICP, of Forrest & Associates to examine the issue and prepare a report. Mr. Forrest's report concludes that following incorporation of the Town of Menasha's west side, the remaining Town remnants on the east side would still retain sufficient population and financial resources to maintain the present level of operations, particularly given that petitioners anticipate that the new village and Town remnants will enter into shared service agreements to maintain existing service levels and cost. The report, petitioners' submittal, as well as petitioners' testimony at the Board's public hearing and meetings, all indicate that the new village is committed to providing the Town remnants' residents with the same service level and cost they currently enjoy, even though the new village may need to discount these services.⁸⁰

Table 12 shows petitioners' proposed budget for the Town remnants. Because the new village will provide the remnants with the same level of services at their same cost, the remnants' budget is primarily unchanged.

The City of Menasha believes that the Town remnants lack sufficient property value to operate as a community on a long-term basis and state that while the remnants contain roughly 42% of the population of the current Town of Menasha, they contain only 29% of its value. Also, both the housing stock and infrastructure within the Town's east side remnants is older than within the Town's west side proposed village, and will require increasing expenditures for maintenance and rehabilitation. Without access to the resources and tax revenues from new growth within the Town's west side, the City questions whether the Town remnants can manage this needed maintenance and rehabilitation. The City is concerned that without maintenance and rehabilitation, the Town remnants could become blighted and harm property values within adjacent City lands.⁸¹

Map 16 shows the assessed values for each of the specific remnants islands and fragments. The map shows the highest value area is the island running alongside Little Lake Butte des Morts shown in green color with an assessed value of \$162,990,000, representing 65% of the Town

⁷⁹ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Donald Merkes, Town of Menasha Mayor, October 9, 2015.

⁸⁰ *Impact of Incorporation on the Viability and Sustainability of the Town of Menasha, Wisconsin*, by Bill Forrest, August 2015, page 3.

⁸¹ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Greg Keil, Town of Menasha Planner, October 9, 2015, page 3.

remnants' total. The City is concerned that the new Village of Fox Crossing may annex across Little Lake Butte des Morts to take this island.⁸² They feel the effect of losing this territory would negatively affect remaining Town remnant residents. The City doubts whether a community like this with high population, low value, and major housing and infrastructure maintenance and rehabilitation needs can succeed.⁸³

Finally, the City notes that petitioners' commitment to provide ongoing services to the Town remnants' residents at a discounted rate is not in any way a legally binding commitment. Newly elected village board members could decide to discontinue the subsidy. Coupled with the factors described above, the City believes that the Town remnants pose a real threat to becoming a failed and blighted community.⁸⁴

Existing Special Purpose Districts

Incorporation of the Town of Menasha's west side is unlikely to negatively impact special purpose districts because generally Little Lake Butte des Morts serves as a boundary line for these. For example, **Map 9** shows that the proposed village falls within the Neenah Joint School District, while the east side Town remnants fall within the Menasha Joint School District. Similarly, for Sewer Service Areas, **Map 10** shows that the proposed village falls within the Grand Chute-Menasha West sewer service area, while east side Town remnants fall within the Neenah-Menasha sewer service area.

Because the Town of Menasha Utility currently provides sewer and water service to both west and east side Town areas, as well as to other area municipalities, incorporation may necessitate an adjustment of the Utility's jurisdiction and infrastructure via the process for adjusting assets and liabilities set forth in s. 66.0235 Wis. Stats.

⁸² *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, Exhibit 1. See also correspondence from petitioner Richard Jones, January 2, 2016 and petitioners' testimony at the Board's September 29, 2015 public hearing in the Town of Menasha.

⁸³ *City of Menasha Submittal in Opposition of the Incorporation of the Village of Fox Crossing*, Affidavit of Greg Keil, Town of Menasha Planner, October 9, 2015, page 3.

⁸⁴ *Ibid.*, page 3.

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DETERMINATION

Even after incorporation of the Town's west side as a new village, the proposed Town remnants still contain substantial population and value. In fact, the Town remnants would rank among the most populous towns in Wisconsin, and among the highest in assessed value. These factors indicate that the Town remnants could continue to operate as a community.

There currently is no service agreement specifying how long the new village will continue providing services at the current rate for the Town remnants'. The remnants' residents may need to pay a higher rate to maintain existing services and address infrastructure maintenance, a cost which can be managed based upon their current assessed value.

The Town remnants cannot be considered compact or homogenous in shape. The remnants' consist of 8 islands and fragment areas separated by vast stretches of City of Menasha and Appleton territory. As mentioned throughout this determination, the irregular shape and separation of the remnants' causes numerous problems for service provision and community identity. However, incorporation of the new Village of Fox Crossing would not create this problem; instead it stems from many decades of annexations to the Cities of Menasha and Appleton.

While incorporating the Town's west side does not create the problems associated with the east side town remnants, the new Village of Fox Crossing, town remnant, City of Menasha and City of Appleton could work to resolve these problems by amending the current boundary agreements or by creating a new agreement.

The City of Menasha is concerned that upon incorporation the new village will annex or attach Town remnants lands. The Board is not statutorily authorized to evaluate this standard on the new village's potential activities, such as annexations and intergovernmental agreements with other jurisdictions. The Board does recommend that the new Village of Fox Crossing, Town of Menasha, City of Menasha and City of Appleton work together to amend the current agreement or develop a new intergovernmental boundary agreement under ss. 66.0301 or 66.0307 Wis. Stats. to proactively resolve the Town remnants so the resulting boundaries are ultimately compact and rational.

Because of the Town remnants' substantial population and value as it would exist upon incorporation of the proposed village, the Board finds the *Impact on the Remainder of the Town* standard set forth in §66.0207 (2) (c), Wis. Stats. to be met.

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SECTION 2(D), IMPACT UPON THE METROPOLITAN COMMUNITY

The standard to be applied is found in s. 66.0207(2)(d) Wis. Stats. and is as follows:

The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The “metropolitan community” term in the above standard is defined in s. 66.013(2)(c), Wis. Stats., to mean:

[T]he territory consisting of any city having a population of 25,000 or more, or any two incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 or more persons per square mile, or which the department has determined on the basis of population trend and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

This standard evaluates 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 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 metropolitan communities for this petition are the Cities of Appleton, Menasha, and Neenah, the Village of Harrison, and the adjoining Towns of Clayton, Neenah, Grand Chute, and Greenville.

The Petitioners believe that an incorporated Village of Fox Crossing will benefit the metropolitan community because its expanded powers and authority as a village will enable it to play a more significant role in the region. For example, growing the village’s commercial and industrial base will enable the community to better help finance regional recreational, cultural, and social opportunities, as well as play a larger role with metropolitan issues such as stormwater management, transportation projects, and regional recreational and cultural projects.⁸⁵

Petitioners also believe that incorporation will elevate their community to the same municipal status as that of metropolitan neighbors such as Appleton, Menasha, Neenah, Harrison, and Kaukauna, which will remove the divisive annexation issue which has historically been a barrier to intergovernmental trust and cooperation.⁸⁶ Also, having extraterritorial authority will enable the new village to encourage new development that enables efficient future extension of water and sewer services, something that it currently lacks.

⁸⁵ *Submittal in Support of the Incorporation of the Village of Fox Crossing*, September 17, 2015, page 105.

⁸⁶ *Ibid.*, page 107.

Highlights of the Town of Menasha's cooperation efforts with its municipal neighbors includes development of intergovernmental agreements, participation in regional projects, and membership on regional committees and boards, as described in detail below:

Intergovernmental Agreements

- *Inter-municipal Agreement between the City of Menasha and Town of Menasha (1999)* – as mentioned previously the Town and City of Menasha established this boundary agreement to resolve annexation litigation and establish STH 441 as an ultimate boundary line between the communities, as shown by **Map 17**. However, little of the intended territory has transferred and the parties did not include a final attachment process for island territory remaining after the agreement's expiration on November 2, 2018;
- *Agreement between the Town of Menasha and City of Appleton (1999)* – this agreement also resolved annexation disputes and established an ultimate boundary line utilizing STH 441 and STH 47, as shown by **Map 17**. The City also agreed not to contest incorporation by the Town. However, this agreement also did not include a final attachment process for island territory remaining after the agreement's expiration on May 20, 2029;
- *Town of Menasha and City of Neenah Utility Agreement (2000)* – agreement enabling the Town of Menasha Utility to serve landowners located within the City of Neenah;
- *Town of Menasha and Town of Neenah Utility Agreement (2000)* – agreement enabling the Town of Menasha Utility to serve landowners located within the Town of Neenah;
- *Automatic Aid Agreements* with the Towns of Neenah, Grand Chute, Greenville, Clayton, and Winchester to provide emergency fire and medical assistance upon request;
- *MABAS (Mutual Aid Box Alarm System) Agreement* with area municipalities;
- *Winnebago County Sheriff's Office Warrant Transport Agreement (2010)* – agreement between Winnebago County and the City and Town of Menasha, Cities of Oshkosh, Neenah, and Omro, and the Village of Winneconne regarding the transport of incarcerated individuals;
- *Joint Agreement for Traffic Jurisdiction Boundaries on STH 441 and its Ramps (2010)* – agreement between the City and Town of Menasha and Winnebago County detailing and identifying the jurisdictions responsible for policing specific portions of STH 441;
- *Joint Powers Agreement with Winnebago County (2013)* – agreement between Winnebago County and the Town of Menasha regarding the county's 911 service;
- *Lake Winnebago Area MEG Drug Unit* - the Town of Menasha Police Department provides 1 full-time police officer and vehicle to serve in the Lake Winnebago Area MEG Drug Unit;
- *Winnebago County Special Weapons and Tactics (SWAT) Team* – the Town of Menasha Police Department provides 2 police officers to participate with the SWAT Team;

- *TIME System Agency Agreement (2015)* – agreement between Winnebago County and the Town of Menasha providing that the county will utilize TIME system information (criminal justice data) on behalf of the Town of Menasha;
- *Fox Valley Mutual Aid Agreement (2013)* – Agreement between the Cities of Appleton, Kaukauna, Menasha, and Neenah, the Villages of Combined Locks, Kimberly, and Little Chute, and the Towns of Grand Chute and Menasha to provide emergency law enforcement service;
- *Draft Memorandum of Understanding (MOU) between the Town of Menasha and City of Neenah (2015)* – draft MOU establishing future boundaries between the City of Neenah and new village of Fox Crossing, should incorporation be successful;
- *Draft Memorandum of Understanding (MOU) between the Towns of Menasha and Neenah (2016)* – draft MOU establishing future boundaries between the Town of Neenah and new village of Fox Crossing, should incorporation be successful;

Regional Projects

- *Friendship Trestle Trail Bridge* – this bicycle and pedestrian bridge jointly created and maintained between the City and Town of Menasha, enables users of the Friendship Trestle Trail to cross Little Lake Butte des Morts;
- *Joint Stormwater Pond* – the Town and City of Menasha cooperated to create a regional stormwater management pond to enable the communities to meet stormwater management goals, and
- *Joint Ravine Erosion Mitigation* – the Town of Menasha and City of Appleton cooperated to stabilize a sensitive steep slope area.

Regional Boards and Committees

Staff and elected officials participate on many regional boards and committees, such as:

- *Valley Transit Commission*
- *Winnebago County Industrial Development Board;*
- *Visitors and Convention Bureau,*
- *Fox Cities Regional Business Partnership;*
- *Northeast Wisconsin Stormwater Consortium (NEWSC), and*
- *Grand Chute-Menasha West and Neenah-Menasha Sewage Commissions.*

Plans

Examination of the comprehensive plans, policies, and ordinances of the Town of Menasha and its municipal neighbors does not reveal any conflicts with the proposed village. In fact, some of the plans, such as the City of Appleton’s, anticipate incorporation of the Town’s west side. None of its municipal neighbors’ plans suggest that the proposed village territory lies within their future growth area or future annexation area.

Sewer and Water

As mentioned, petitioners anticipate that should incorporation be successful, the new village's water and sewer utility would continue to provide services to the new village, the Town remnants, and portions of the cities of Appleton, Menasha and Neenah, the Town of Neenah and the Village of Harrison.

Impact of Town Remnants

As detailed in the previous section, the City of Menasha expresses concern that incorporation of the Town's west side will create problems for the Town's east side which could ultimately cause harm to the larger metropolitan community.

As discussed in the previous section, the City is concerned that following incorporation, the new Village of Fox Crossing may immediately annex or attach contiguous Town remnant islands along the shoreline of Little Lake Butte des Morts. The City states that this would leave the Town remnants as a high population, lower value community with aging housing and infrastructure that need maintenance and rehabilitation. The City is concerned that these remaining remnants may become blighted and harm to the City of Menasha, adjacent communities, and the larger Fox Valley region. Attaching all of the remnants may harm the region by locking in permanently the problems associated with the town remnant islands.

DETERMINATION

Petitioners and the Town of Menasha have demonstrated an extensive history of cooperating with municipal neighbors to accomplish projects that benefit the larger Fox Valley region. Petitioners also demonstrate that the Town of Menasha is an important member of its Fox Valley region, being home to hundreds of businesses, including the headquarters of 5 major companies and organizations. The new village has significant population, value, development potential, all of which will provide direct benefits to the Fox Valley region.

This petition came to the Board originally with the circuit court having recognized five interested parties as intervening in the case – the Cities of Neenah, Menasha, and Appleton, and the Towns of Neenah and Clayton. However, during the Board’s review process, the City of Appleton declined to participate, and the City and Town of Neenah subsequently developed MOUs with the Town of Menasha and dropped their opposition because their concerns had been resolved. As a result, only the City of Menasha and Town of Clayton remain as having concerns about the proposed incorporation.

The Town of Clayton worries about future annexations from the new village and requests that upon incorporation the new village develop a boundary agreement with the Town to proactively address future annexation and municipal boundary issues.

The City of Menasha’s concerns are not with the west side proposed incorporation, but the east side islands and fragments proposed as Town remnants. In 1999 the Town of Menasha and Cities of Menasha and Appleton appeared to have resolved these east-side Town islands, having developed intergovernmental boundary agreements that established a clear and rational future boundary line that utilized STH 441, STH 47, and Gmeiner Road as an unambiguous physical borderline between the communities. However, no provision for a final attachment of territory was made to assure the islands’ ultimate resolution upon the agreements’ expiration in 2019. This incorporation does not prevent the communities from amending the existing agreements or entering into a new cooperative boundary plan, and may actually encourage it. It represents another opportunity for the City and Town of Menasha to successfully and finally resolve the east side islands.

The Board recognizes that the Town of Menasha has been a beneficial member of its larger Fox Valley region, and believes that an incorporated Village of Fox Crossing would also prove to be beneficial to the Fox Valley. Therefore the Board finds that the petition meets the Metropolitan Impact standard set forth in s. 66.0207(2)(d), Wis. Stats.

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APPENDIX

Appendix A: Incorporation Review Board

The Incorporation Review Board was created by 2003 Wisconsin Act 171. It is charged with reviewing incorporation petitions forwarded by the circuit court in order to ensure that these petitions meet the public interest standards in s. 66.0207 Wis.Stats. The board advises the circuit court on whether incorporation petitions should be granted, dismissed, or resubmitted with new boundaries. The Board is also authorized to set and collect an incorporation review fee to pay for the costs of reviewing the petition. The Board has currently set the fee at \$25,000.

Members

Department of Administration Member and Chair

Ed Eberle, Chair of Incorporation Review Board
Assistant Deputy Secretary, Wisconsin Department of Natural Resources

Wisconsin Towns Association Member #1

Terry J. McMahon, Supervisor
Town of Yorkville (Racine County)

Wisconsin Towns Association Member #2

William Goehring, Chairperson
Town of Sherman (Sheboygan County)

Wisconsin League of Municipalities Member

Paul Fisk, Mayor
City of Lodi

Wisconsin League of Municipalities Member

Rich Eggleston

Staff

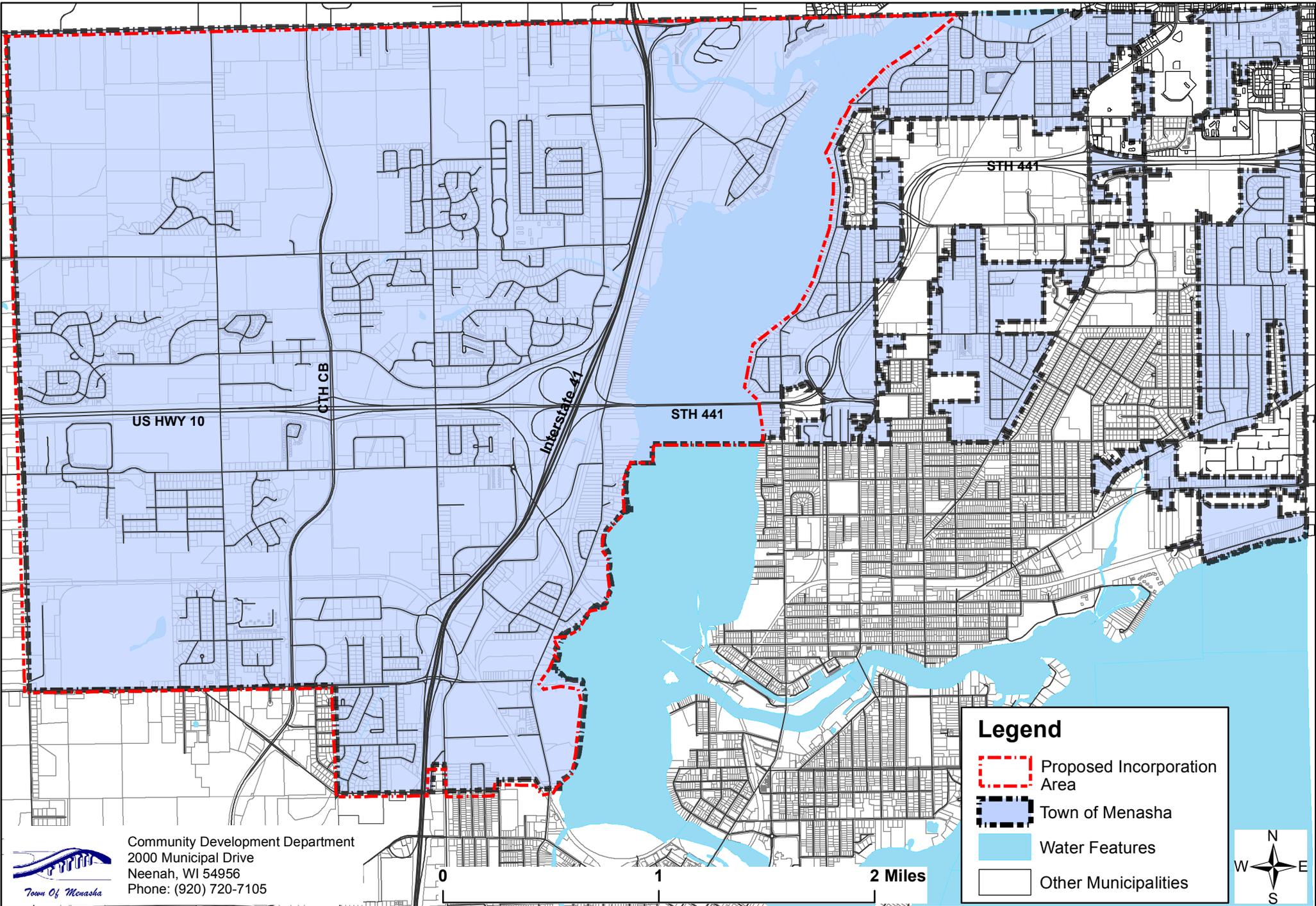
Erich Schmidtke
Renee Powers
Phil Wells

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APPENDIX B: Maps

Map 1	Proposed Village and Town Remnants
Map 2	Fox Valley Metropolitan Communities
Map 3	Lakes Wetlands & Streams
Map 4	Watersheds
Map 5	Streets & Highways
Map 6	Parks, Open Spaces, and Trails
Map 7	Town of Menasha 1951 Boundary
Map 8	Town of Menasha 2015 Boundary
Map 9	School Districts
Map 10	Sewer Service Areas
Map 11	Menasha Utility District
Map 12	Menasha Population Distribution
Map 13	Future Land Use
Map 14	Existing Land Uses
Map 15	Menasha Subdivisions
Map 16	Town Remnants Valuation
Map 17	Intergovernmental Agreements Boundary

Proposed Village of Fox Crossing



Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105

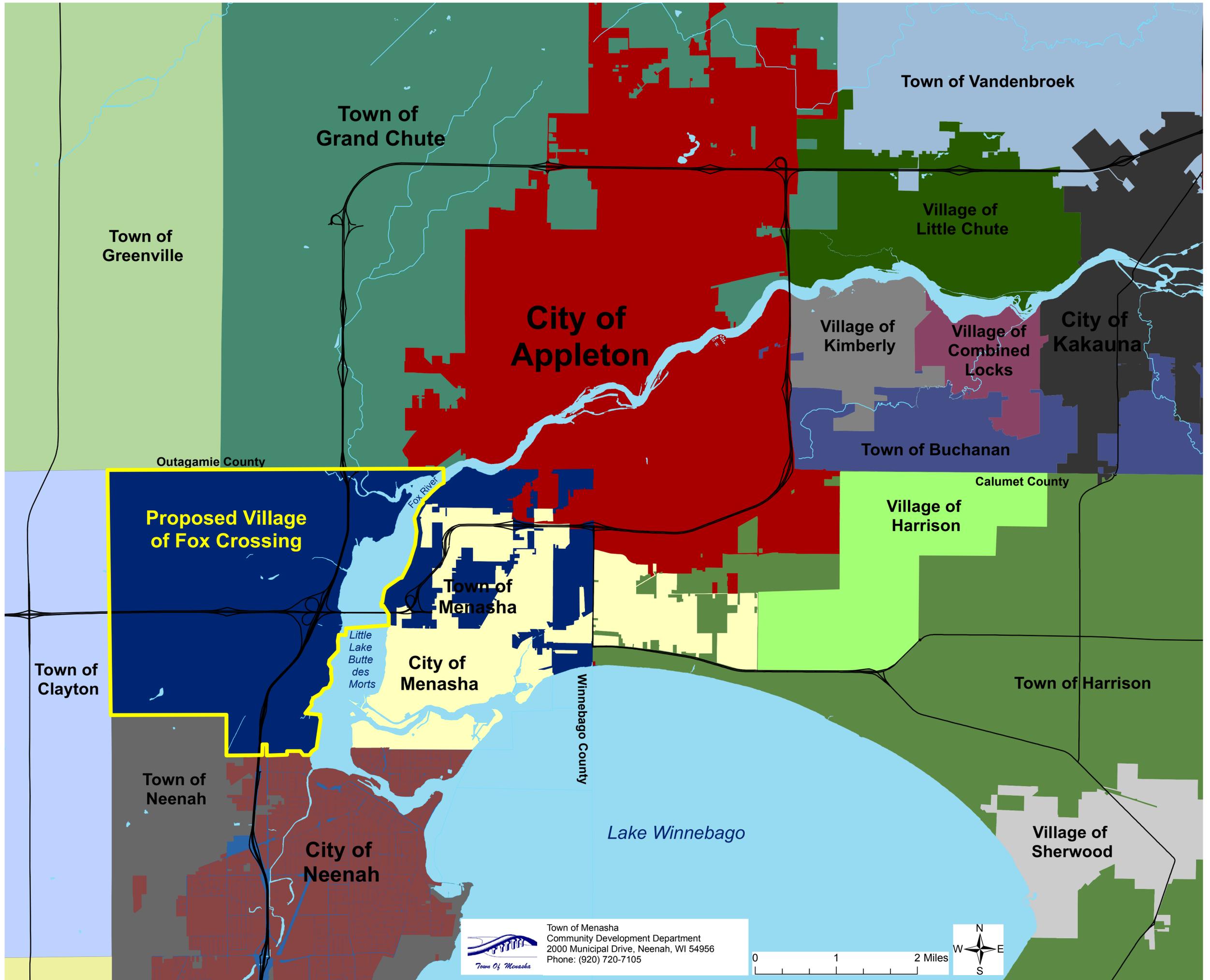


Legend

- Proposed Incorporation Area
- Town of Menasha
- Water Features
- Other Municipalities



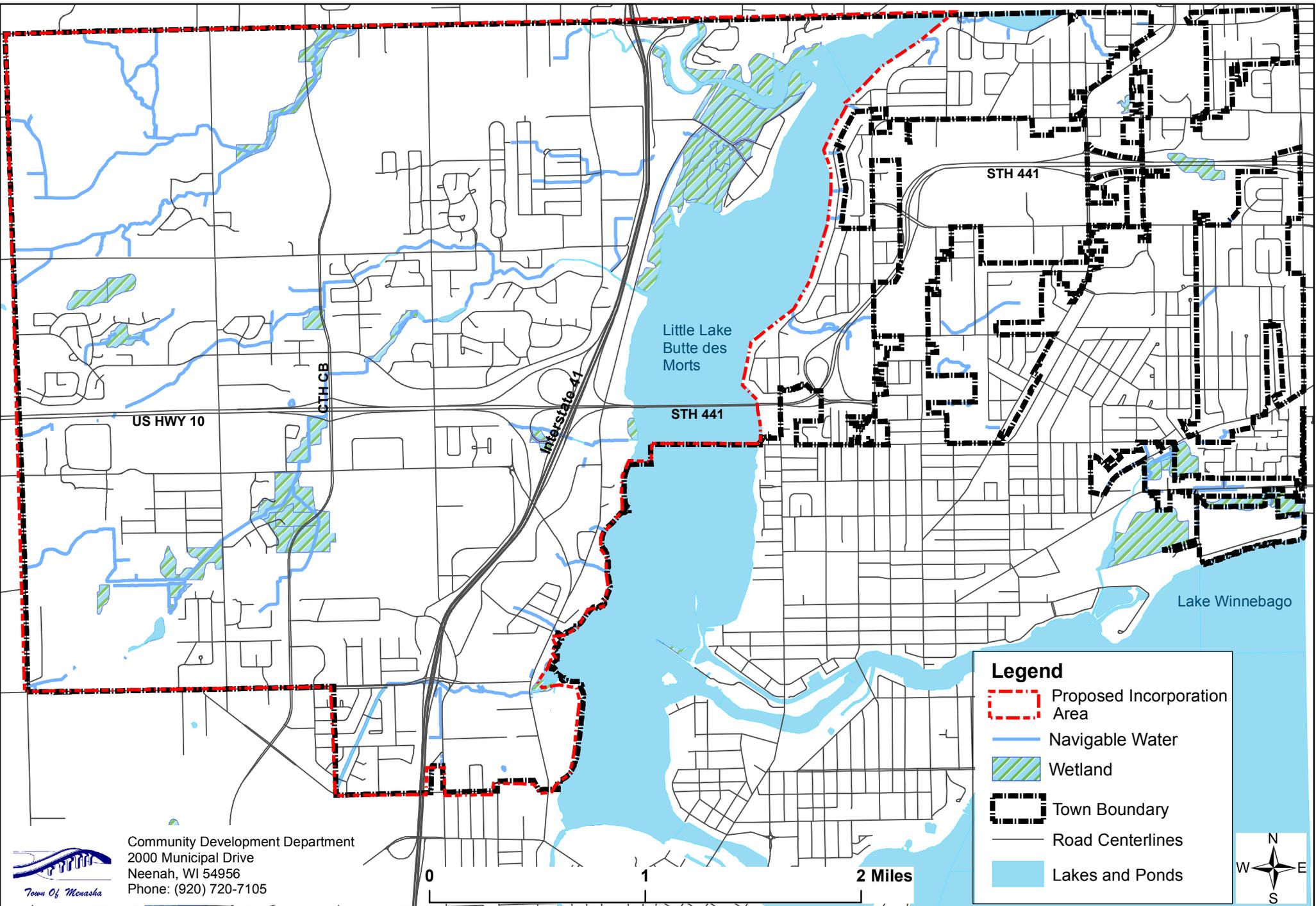
Metropolitan Community



 Town of Menasha
Community Development Department
2000 Municipal Drive, Neenah, WI 54956
Phone: (920) 720-7105



Wetlands and Streams



Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105



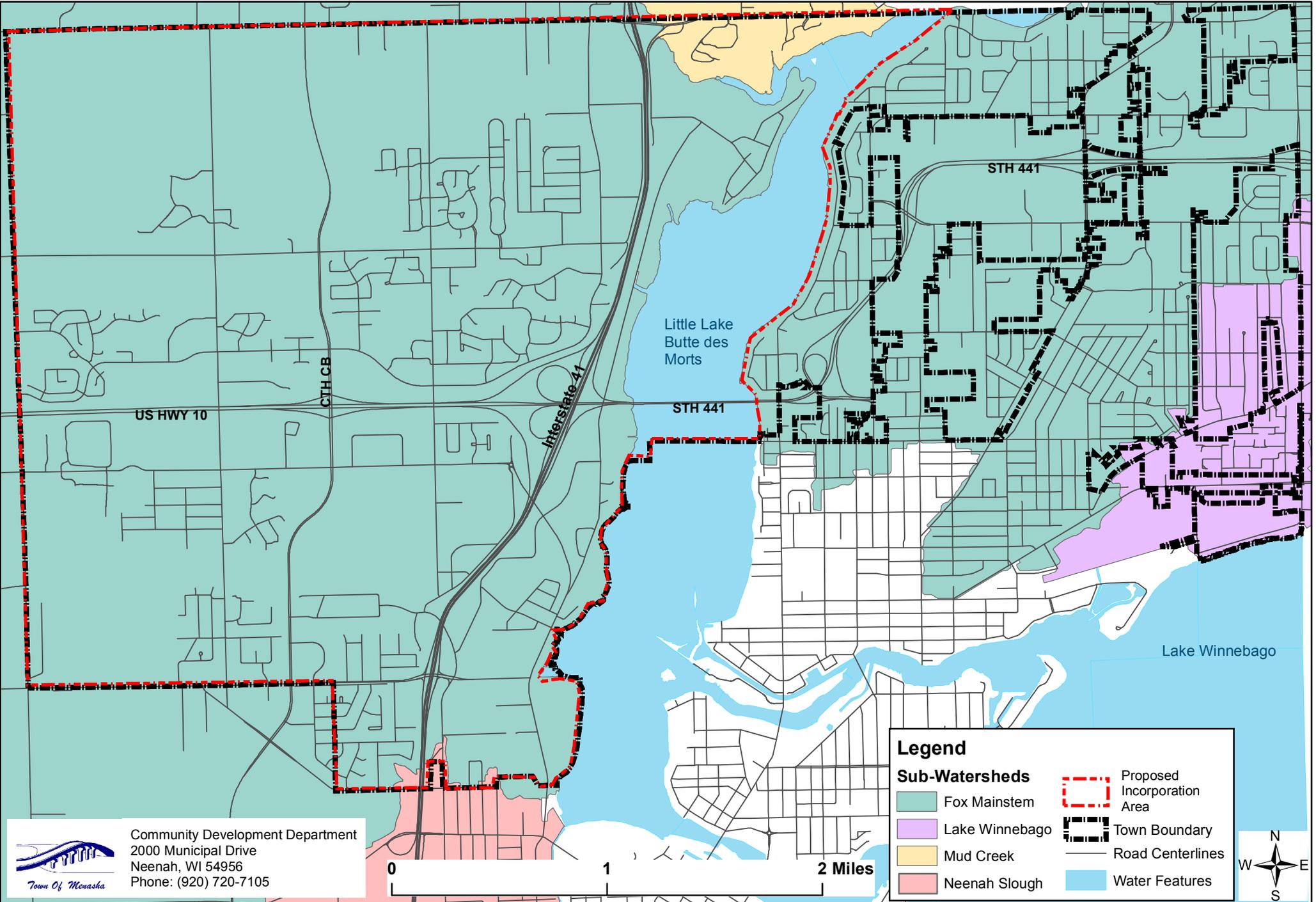
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Legend

- Proposed Incorporation Area
- Navigable Water
- Wetland
- Town Boundary
- Road Centerlines
- Lakes and Ponds



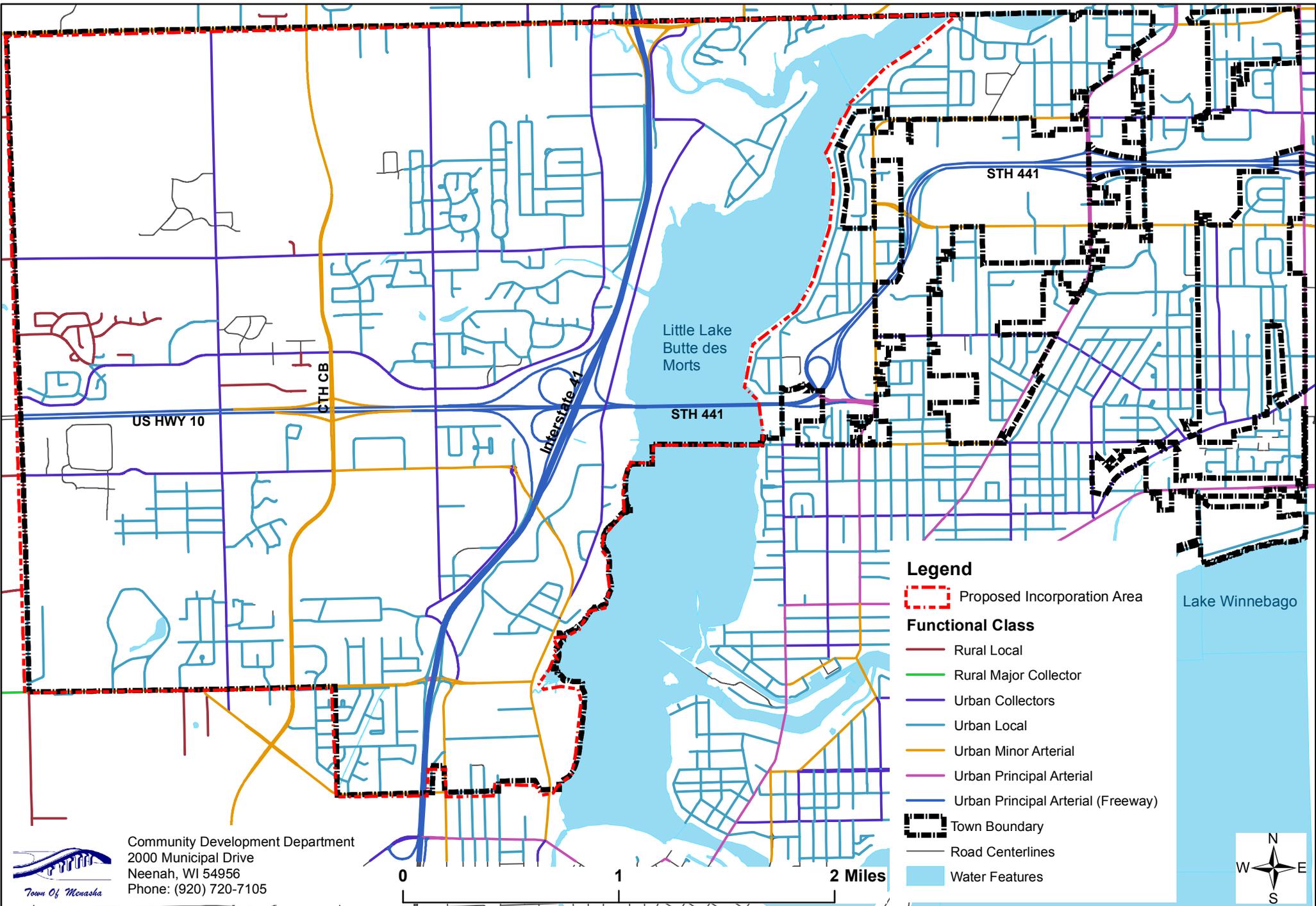
Sub-Watersheds




Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105

Legend

 Fox Mainstem	 Proposed Incorporation Area
 Lake Winnebago	 Town Boundary
 Mud Creek	 Road Centerlines
 Neenah Slough	 Water Features



Legend

-  Proposed Incorporation Area
- Functional Class**
-  Rural Local
-  Rural Major Collector
-  Urban Collectors
-  Urban Local
-  Urban Minor Arterial
-  Urban Principal Arterial
-  Urban Principal Arterial (Freeway)
-  Town Boundary
-  Road Centerlines
-  Water Features

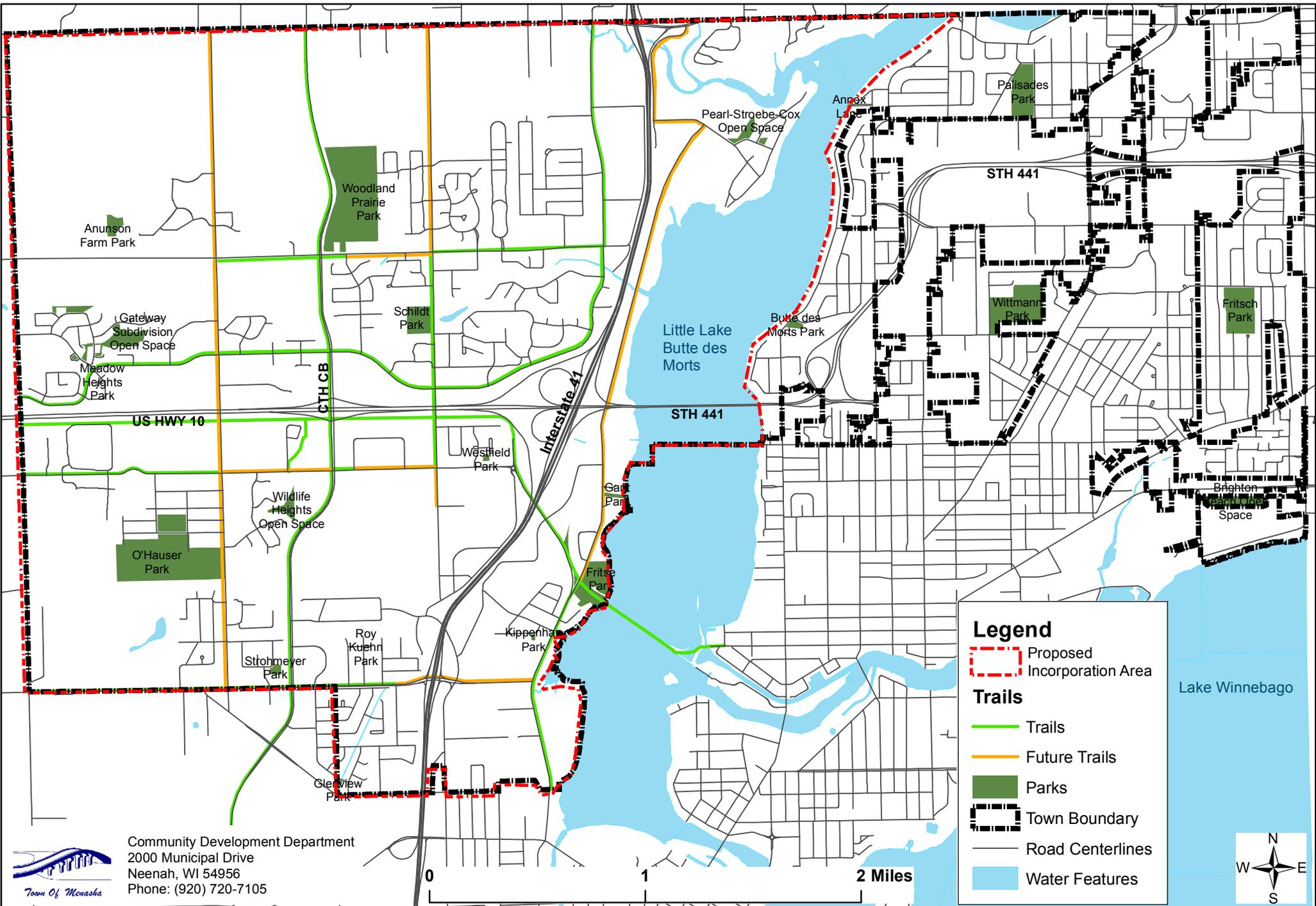
Community Development Department
 2000 Municipal Drive
 Neenah, WI 54956
 Phone: (920) 720-7105



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Existing and Future Parks, Open Spaces and Trails



Community Development Department
 2000 Municipal Drive
 Neenah, WI 54956
 Phone: (920) 720-7105



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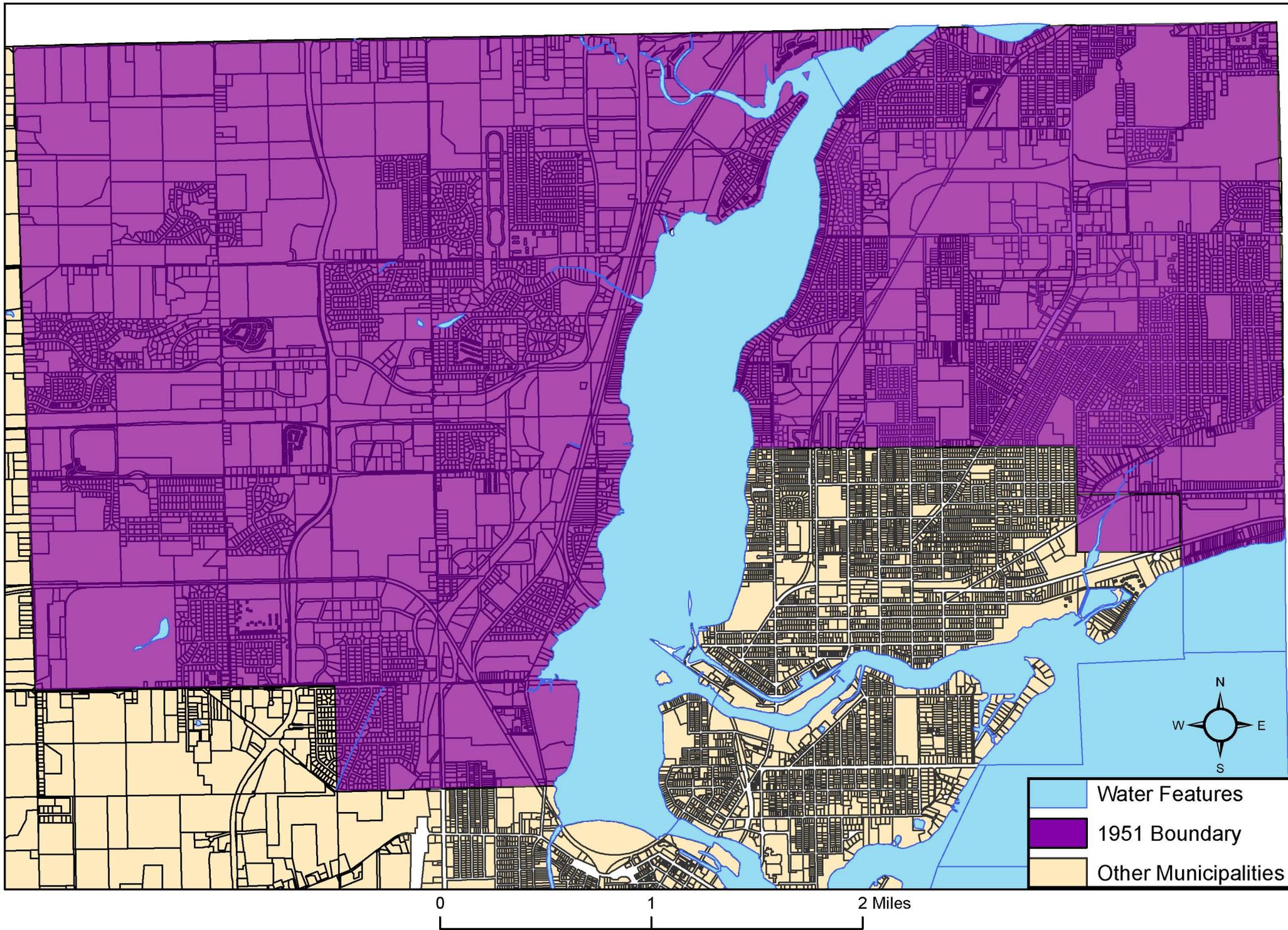
- Proposed Incorporation Area
- Trails**
- Trails
- Future Trails
- Parks
- Town Boundary
- Road Centerlines
- Water Features



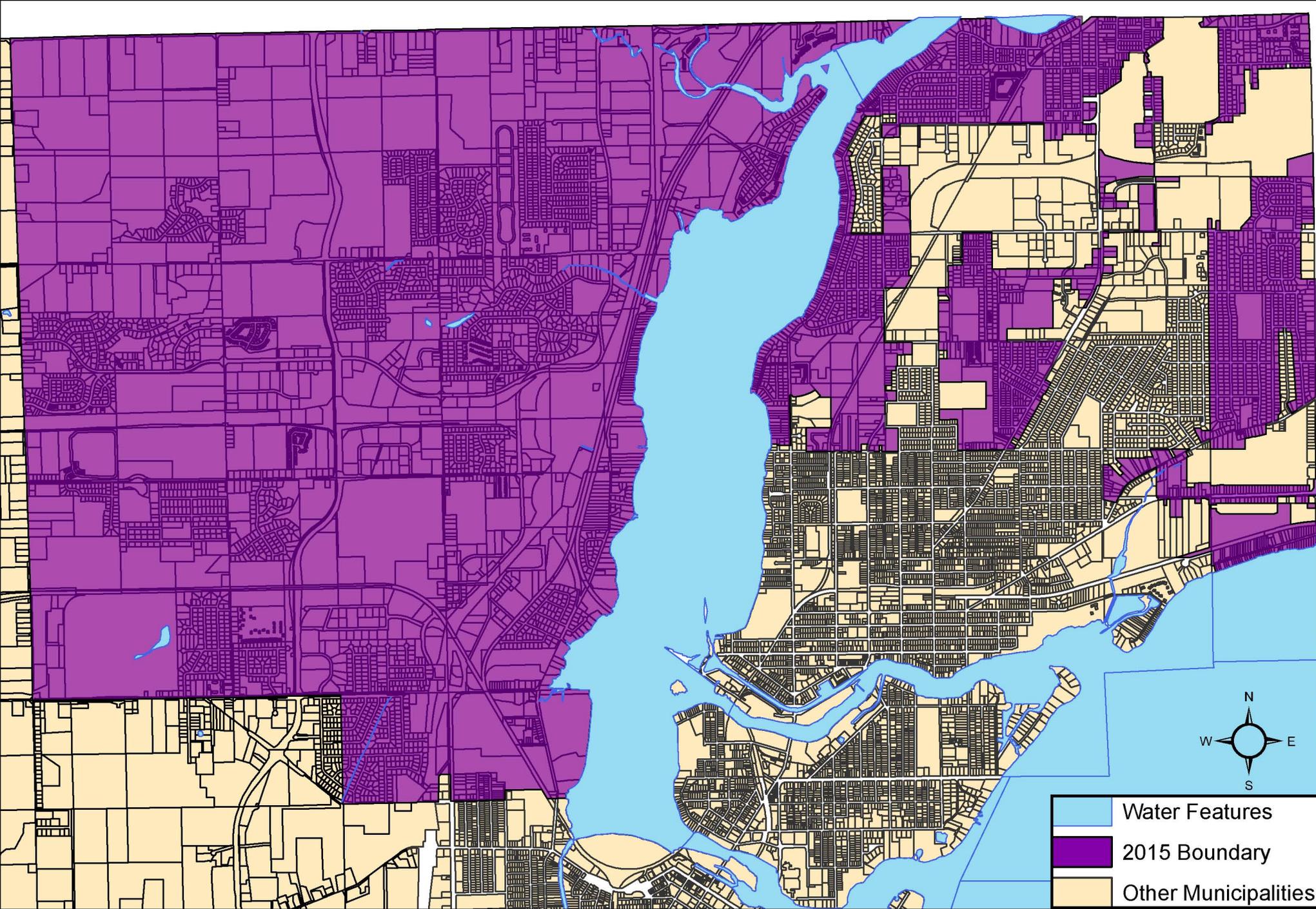
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Town of Menasha 1951 Boundary

MAP 7



Town of Menasha 2015 Boundary



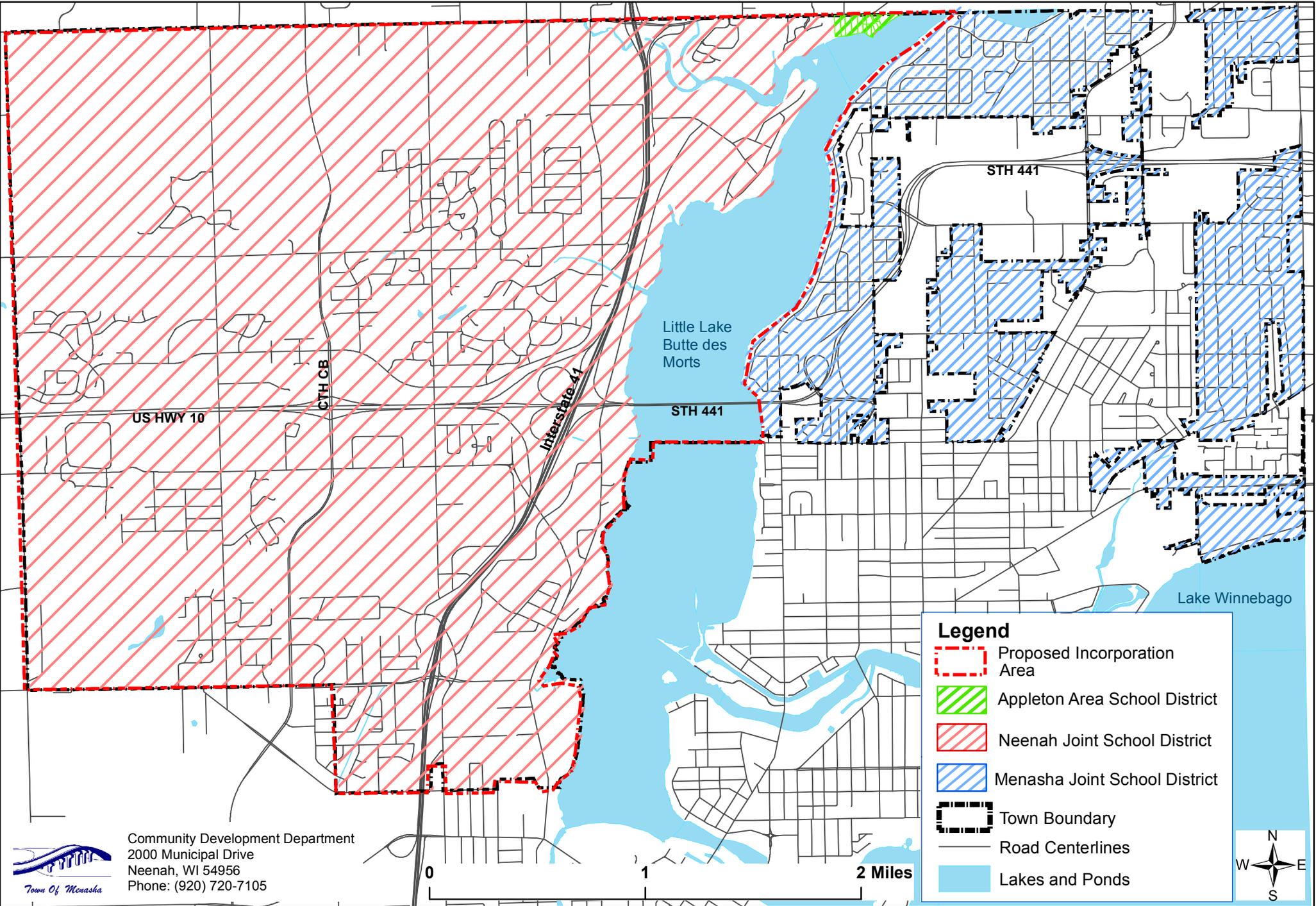
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2 Miles

- Water Features
- 2015 Boundary
- Other Municipalities

School Districts Serving the Town of Menasha



Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105

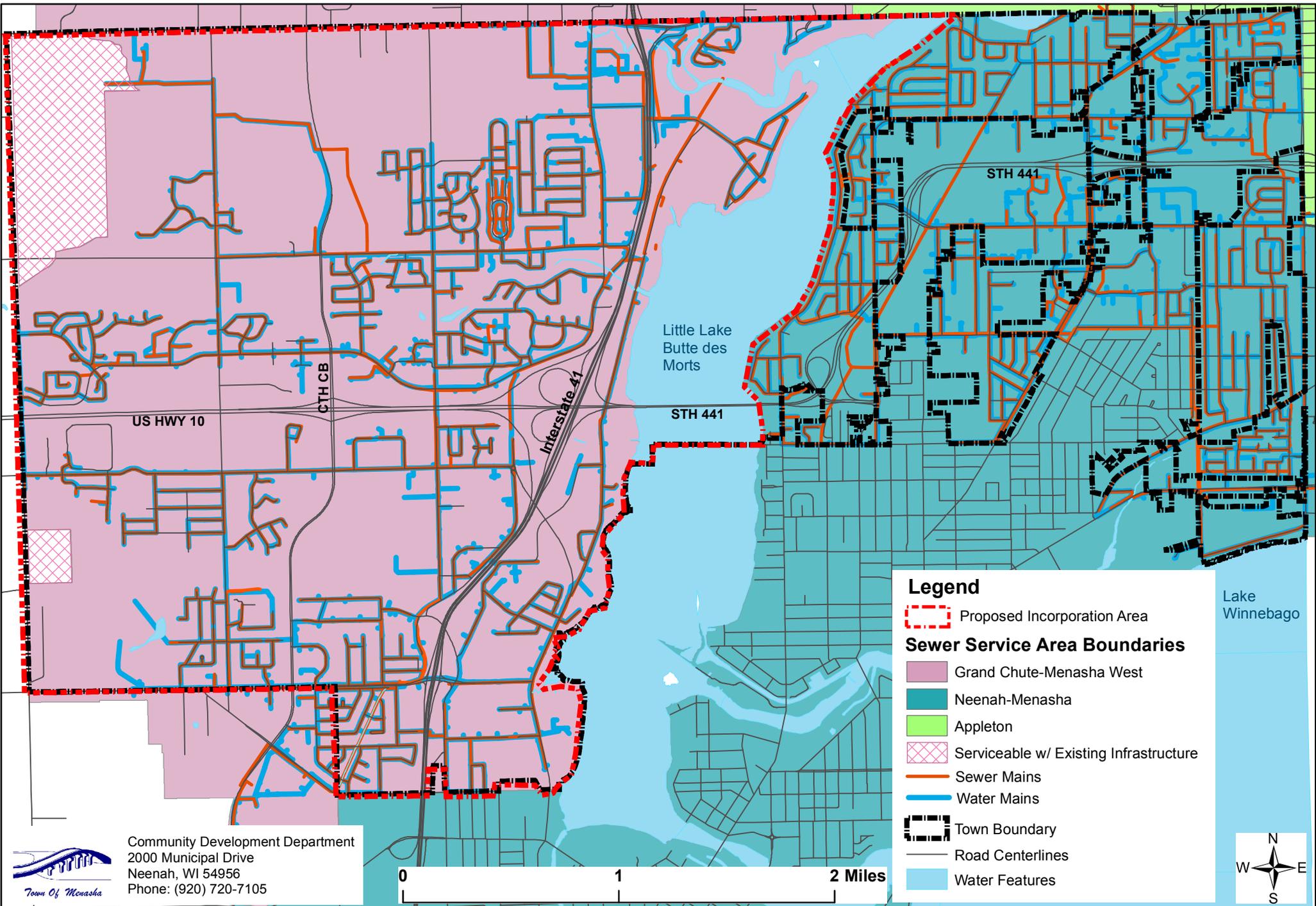


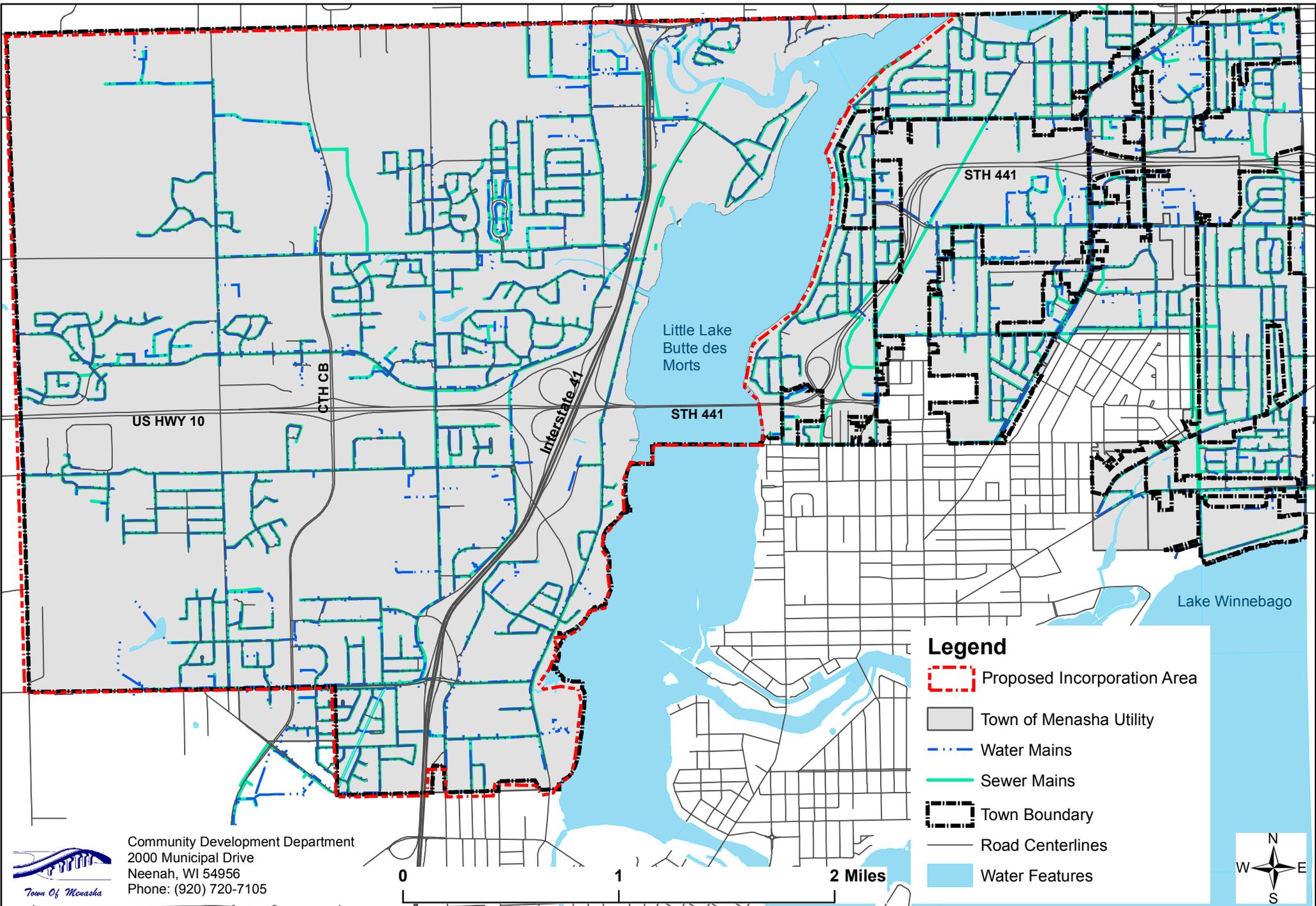
Legend

- Proposed Incorporation Area
- Appleton Area School District
- Neenah Joint School District
- Menasha Joint School District
- Town Boundary
- Road Centerlines
- Lakes and Ponds



Sewer Service Areas





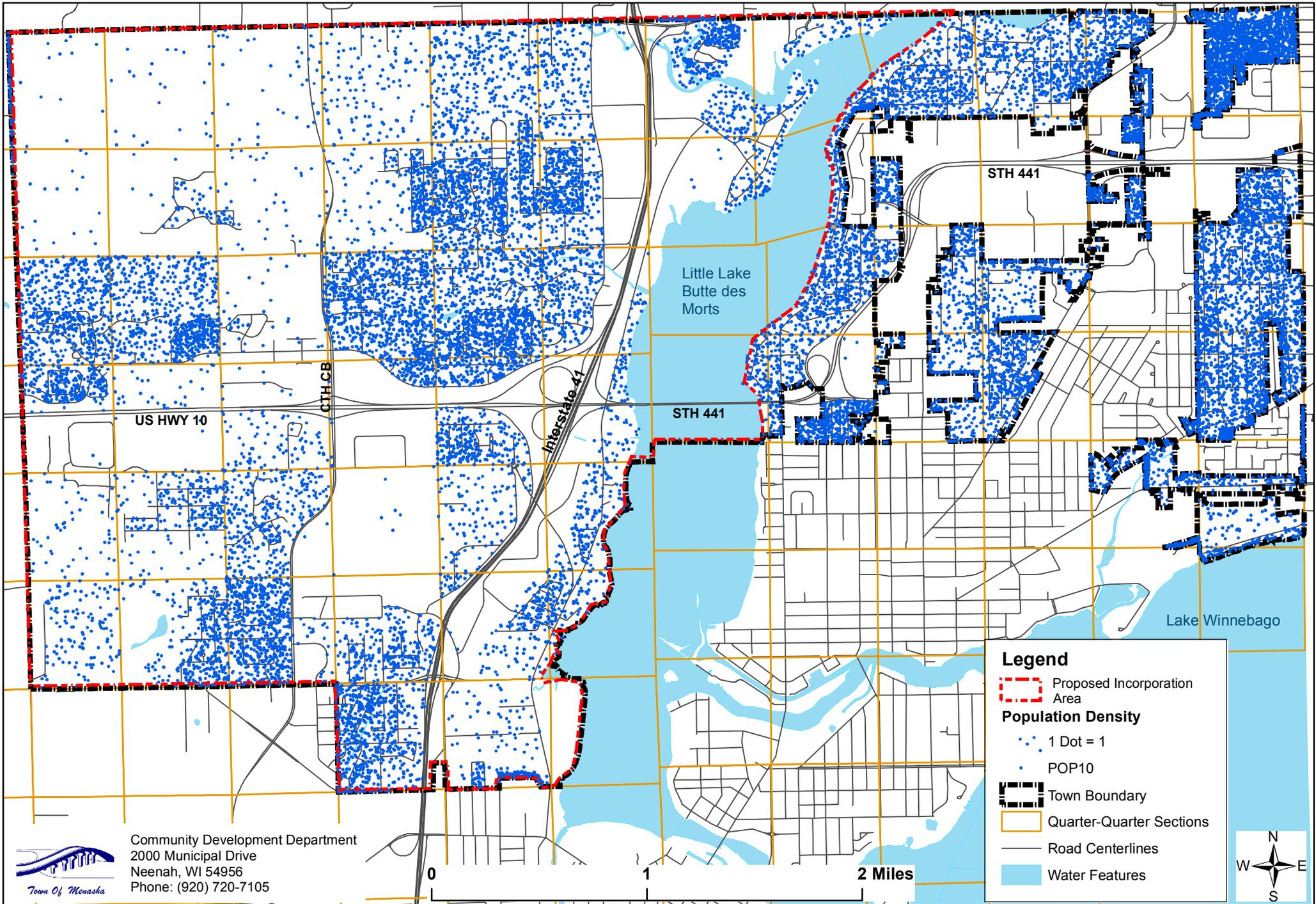
Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105



- Legend**
- Proposed Incorporation Area
 - Town of Menasha Utility
 - Water Mains
 - Sewer Mains
 - Town Boundary
 - Road Centerlines
 - Water Features



2010 US Census Population Density Distribution



Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105



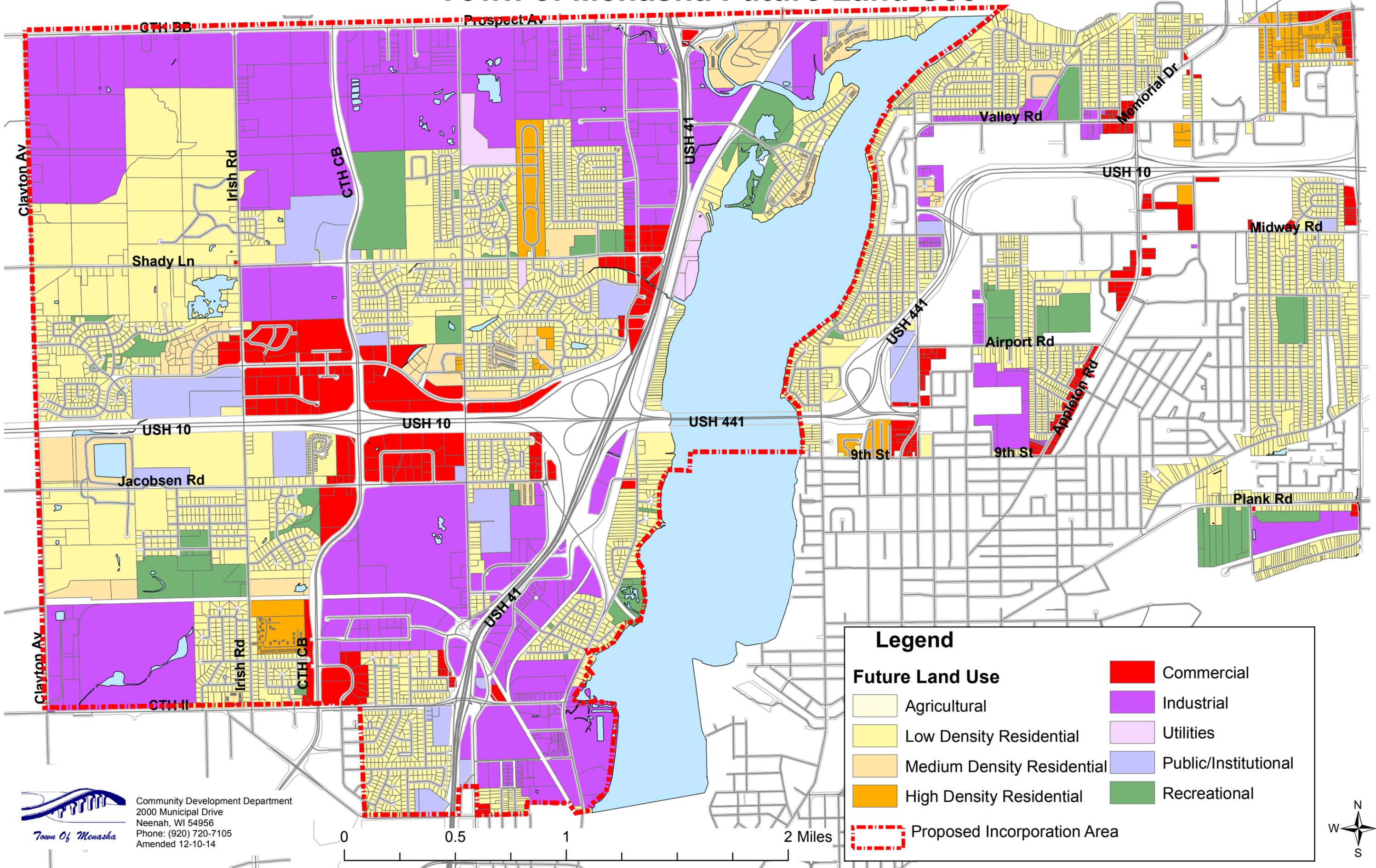
Legend

- Proposed Incorporation Area
- Population Density
 - 1 Dot = 1
 - POP10
- Town Boundary
- Quarter-Quarter Sections
- Road Centerlines
- Water Features



Town of Menasha Future Land Use

MAP 13



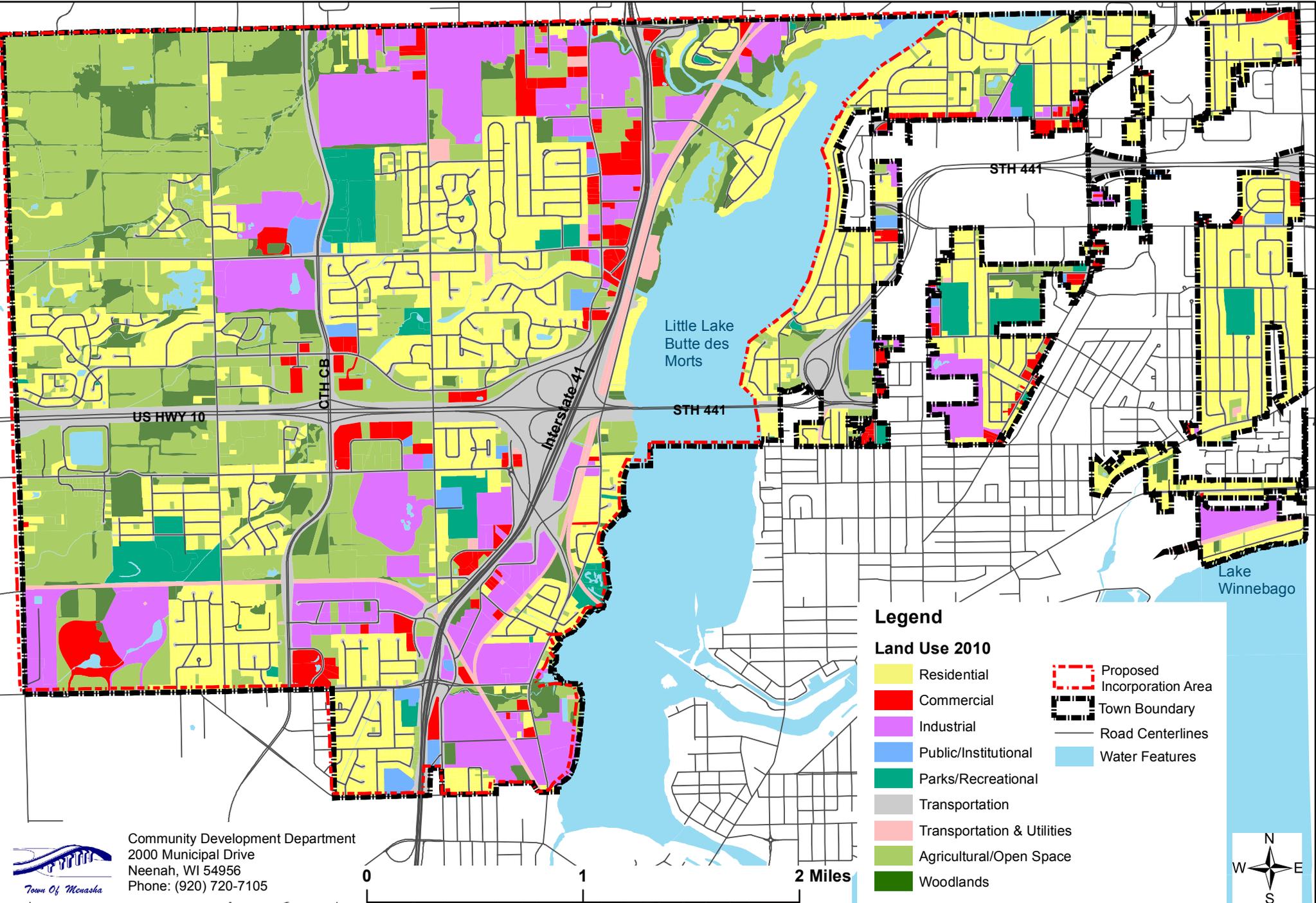
Legend

 Agricultural	 Commercial
 Low Density Residential	 Industrial
 Medium Density Residential	 Utilities
 High Density Residential	 Public/Institutional
 Proposed Incorporation Area	 Recreational


 Community Development Department
 2000 Municipal Drive
 Neenah, WI 54956
 Phone: (920) 720-7105
 Amended 12-10-14



Existing Land Uses (2010)



Legend

Land Use 2010

- Residential
- Commercial
- Industrial
- Public/Institutional
- Parks/Recreational
- Transportation
- Transportation & Utilities
- Agricultural/Open Space
- Woodlands

- Proposed Incorporation Area
- Town Boundary
- Road Centerlines
- Water Features



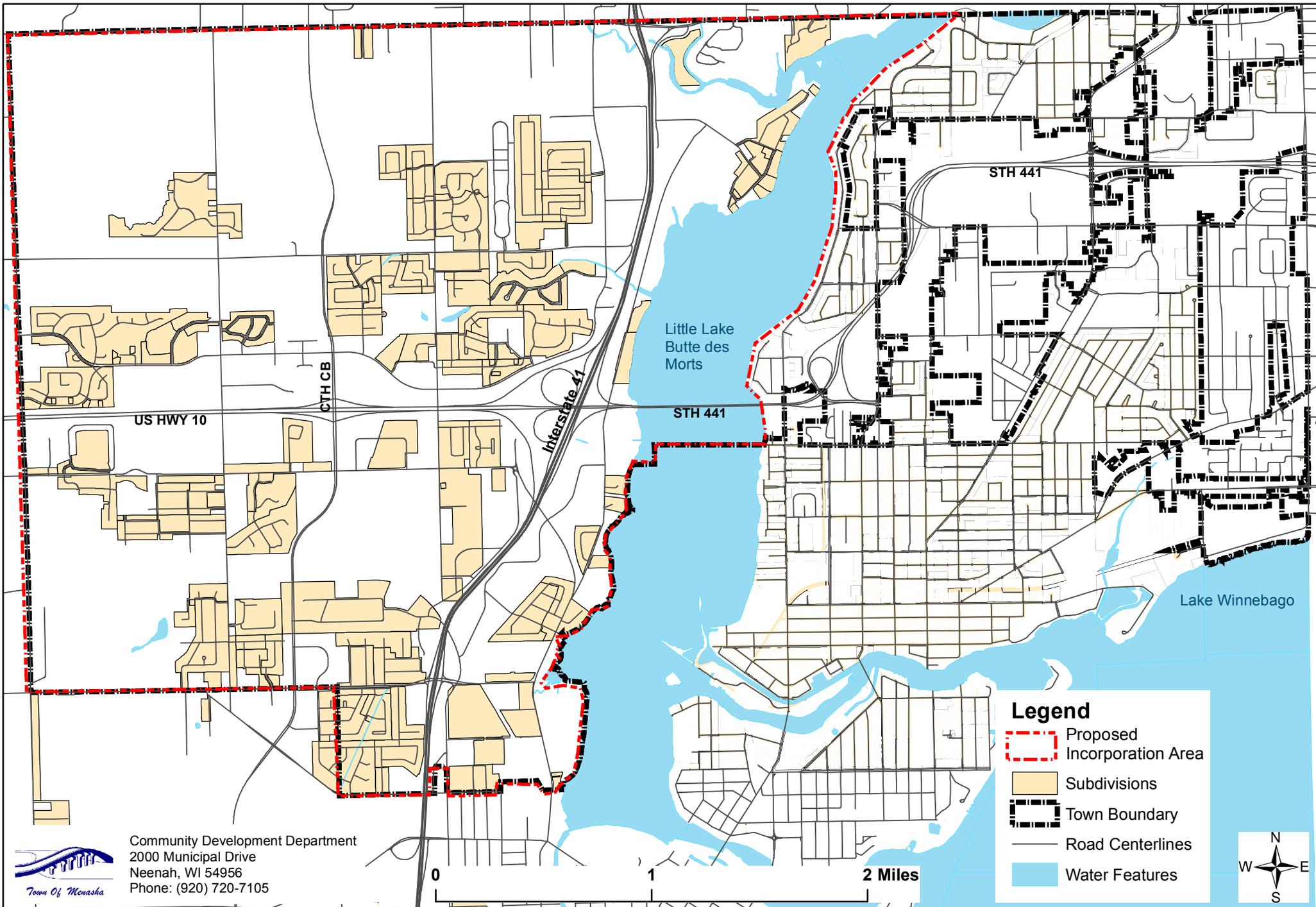
Community Development Department
2000 Municipal Drive
Neenah, WI 54956
Phone: (920) 720-7105

0 1 2 Miles



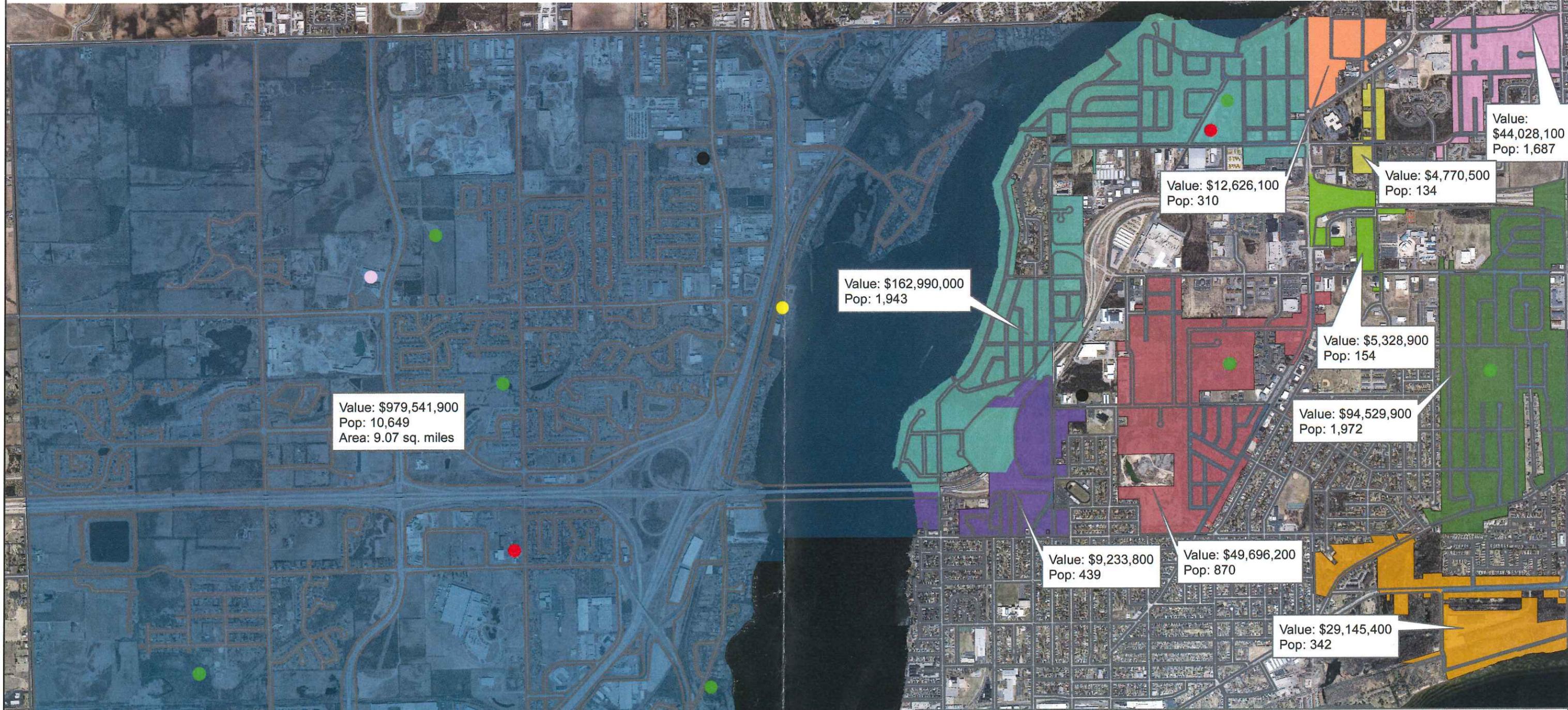
Existing Subdivisions within Proposed Village Area

MAP 15



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Town of Menasha Population* and Property Values

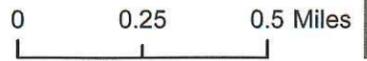
Legend

- Major Parks ●
- Municipal Complex ●
- Fire ●
- Sewage Treatment Facility ●
- Utilities ●

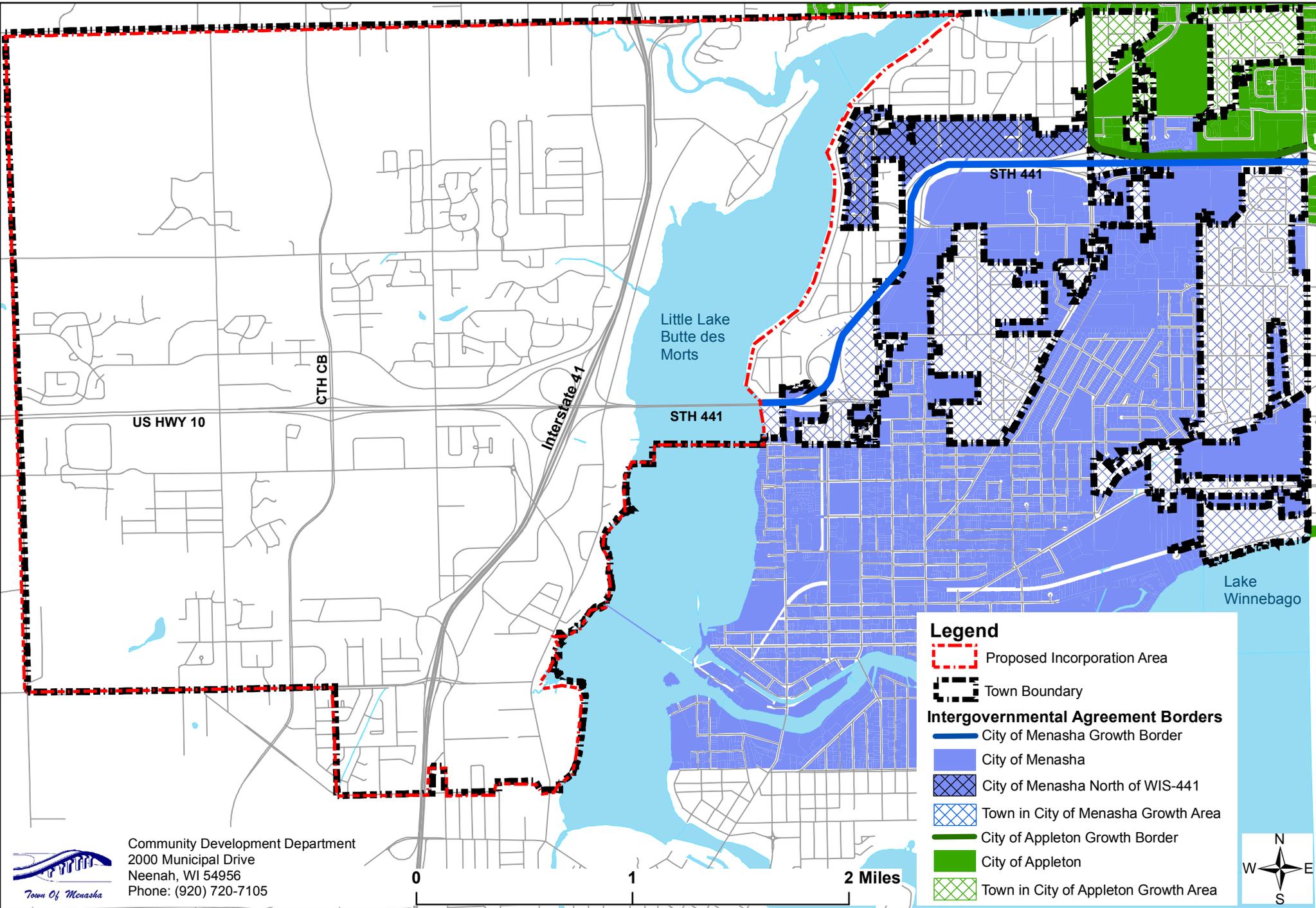


Town of Menasha
Community Development Department
2000 Municipal Drive, Neenah, WI 54956
Created 4/8/2014

*Population based on 2010 Census data



Intergovernmental Agreement Borders



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