

In the Matter of the Proposed :
Incorporation of the Village of:
Kellnersville, Manitowoc County:

DETERMINATION OF THE
PLANNING DIRECTOR

On November 13, 1970, there was received at the office of the Director of the planning function of the Bureau of Local and Regional Planning, Department of Local Affairs and Development, State of Wisconsin, in accordance with the provisions of s. 66.014(8), Wisconsin Statutes, a record relating to a proceeding in the Circuit Court for Manitowoc County to incorporate a village to be known as the Village of Kellnersville, located in the Townships of Franklin and Kossuth, Manitowoc County, with the following described limits:

Northeast One-quarter of the Northeast One-quarter of the Southeast One-quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) contg. 10.00 acres;
Southeast One-quarter of the Northeast One-quarter of the Southeast One-quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) contg. 10.00 acres;
Southeast One-quarter of the Southeast One-quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) contg. 40.00 acres;
Southeast One-quarter of the Southwest One-quarter of the Southeast One-quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) contg. 10.00 acres;
Southwest One-quarter of the Southwest One-quarter of the Southeast One-quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) contg. 10.00 acres;
The East One Hundred fifteen and five-tenths feet (115.5) of the Southeast One-quarter of the Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 1.75 acres;

All of Section One (1), Township Twenty (20) North, Range Twenty-two (22) East (Town of Franklin).

Northwest One-quarter of the Northeast One-quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) contg. 40.00 acres;
Northeast One-quarter of the Northeast One-quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) contg. 40.00 acres;
Northeast One-quarter of the Southeast One-quarter of the Northeast One-quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) contg. 10.00 acres;
Southeast One-quarter of the Southeast One-quarter of the Northeast One-quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) contg. 10.00 acres;
All of Section Twelve (12), Township Twenty (20) N., Range Twenty-two (22) East (Town of Franklin).

Northwest One-quarter of the Northwest One-quarter of the Southwest One-quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 10.00 acres;
Southwest One-quarter of the Northwest One-quarter of the Southwest One-quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 10.00 acres;
Southwest One-quarter of the Southwest One-quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 40.00 acres;
Southwest One-quarter of the Southeast One-quarter of the Southwest One-quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 10.00 acres;
Southeast One-quarter of the Southeast One-quarter of the Southwest One-quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) contg. 10.00 acres;
All of Section Six (6), Township Twenty (20) North, Range Twenty-three (23) East (Town of Kossuth).

Northeast One-quarter of the Northeast One-quarter of the Northwest One-quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Northwest One-quarter of the Northeast One-quarter of the Northwest One-quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Northeast One-quarter of the Northwest One-quarter of the Northwest One-quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Northwest One-quarter of the Northwest One-quarter of the Northwest One-quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Southwest One-quarter of the Northwest One-quarter of the Northwest One-quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Northwest One-quarter of the Southwest One-quarter of the Northwest One-quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
Southwest One-quarter of the Southwest One-quarter of the Northwest One-quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) contg. 10.00 acres;
All of Section Seven (7), Township Twenty (20) North, Range Twenty-three (23) East (Town of Kossuth).

Containing 331.75 acres.

Upon receiving said petition the Director proceeded to make an investigation, in accord with the provisions of section 66.014 (9) (a), necessary to enable him to apply the standards of section 66.016, and to make the determination required of him by section 66.014 (9) (a). The determination required of the Director is one of the following:

1. The petition as submitted shall be dismissed;
2. The petition as submitted shall be granted and an incorporation referendum held;
3. The petition as submitted shall be dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the director's findings and determination.

The standards to be applied by the Director in making said determination are as follows:

66.016 Standards to be applied by the director. (1) The director may approve for referendum only those proposed incorporations which meet the following requirements:

(a) Characteristics of territory. The entire territory of the proposed village or city shall be reasonably homogeneous 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. An isolated municipality shall have a reasonably developed community center, including some or all of such features as retail stores, churches, post office, telephone exchange and similar centers of community activity.

(b) Territory beyond the core. The territory beyond the most densely populated one-half square mile specified in s. 66.015 shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.021 (1) (b) for real estate tax purposes, more than 25 percent of which is attributable to existing or potential mercantile manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.015 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next three years. The head of the planning function may waive these requirements to the extent that water, terrain or geography prevents such development.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.015, any proposed incorporation in order to be approved for referendum must be in the public interest as determined by the director upon consideration of the following:

(a) Tax revenue. 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.

(b) Level of services. 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 s. 66.014 (6).

(c) Impact on the remainder of the town. The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

(d) Impact on the metropolitan community. 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.

On March 3, 1971, in compliance with s. 66.014 (9) (a) the Director caused a public hearing to be held in the territory, after publication and mailing of notices pursuant to the requirements of s. 66.014 (9) (c). The hearing was held in Kubsch Hall in the territory at 10:30 a.m. before Al J. Karetzki, the Director of the Planning Function. The petitioners for incorporation were represented at the hearing by their counsel, Attorney Victor A. Miller. Also present were representatives of the petitioners and of the towns of Franklin and Kossuth. At this hearing testimony bearing on the proposed incorporation was heard, various documents and other exhibits were provided for the Director's consideration, and the public in attendance was given the opportunity to be heard. In accordance with an agreement at the hearing, additional information was provided subsequent to the hearing by the petitioners, the towns of Franklin and Kossuth, and Brey, Stueve and Braun, Inc., consulting engineers for the petitioners.

The Director has caused an investigation to be made of the information obtained at and after the hearing, from the parties there represented, from the State Department of Revenue, and from Bureau of Local and Regional Planning maps, records, statistics, and related material.

Based on data provided at the aforesaid public hearing, and on other above-mentioned data, the following findings and determination are made:

1. (a) Characteristics of the Territory

The territory proposed to be incorporated constitutes an area of approximately 331.75 acres, or slightly more than one-half square mile. The territory has reasonably regular boundaries; said boundaries follow for the most part quarter-section lines in the towns of Franklin and Kossuth. The territory is surrounded on all sides by open farmland, and contains farmland within its boundaries beyond the built-up portion of the territory. The territory is contained within sections one and twelve, Town of Franklin, and sections six and seven, Town of Kossuth. It is intersected at its center by County Trunk Highway "A," and County Trunk Highway "H." The estimated June 1, 1970 population of the area is 293 persons.

Land use in the territory ranges from urban-type residential, commercial and public to open agricultural; the latter constitutes a majority of the territory. The territory contains at its center and along the two above-mentioned country trunk highways a reasonably developed urban core, which consists of several urban land uses typically found in a community center. There is evidence to indicate that this urban development has proceeded in a compact and logical manner, without creating "islands" of open land between scattered urban land uses.

The territory is within the Manitowoc River drainage basin and is characterized by loam and silt loam soils types. These soils generally do not present problems for urban-type development. The proposed village is basically an agricultural service center with strong internal social ties; economic ties to nearby cities, such as Manitowoc and Green Bay, also exist in the area. The territory is a part of the Reedsville school district, and contains no public schools within its boundaries, although a private parochial school has been operating there for a number of years.

There are 80 private residences throughout the territory, as well as the following:

- 7 retail and service establishments
- 2 auto service stations and garages
- 1 restaurant and banquet hall
- 1 U. S. Post Office
- 1 church and parochial school
- 2 public parking lots
- 1 cemetery
- 1 playground and ball park
- 1 fire station (volunteer)

These uses are all situated in the developed center of the territory, which is adequately served by present and potential transportation facilities.

Accordingly, it has been concluded that the territory contains a reasonably developed community center, and that although there are economic linkages with other larger communities in the region, residents of the territory have a strong physical and social identity with the Kellnersville area.

It has also been concluded that the territory is reasonably homogeneous and compact. Although a portion of the proposed village is presently being used for agricultural purposes, the amount of this land is not considered excessive in view of possible eventual growth of urban-type land uses in the future. The central portion of the territory is, as has been noted, tightly integrated and compact, and shows no evidence of excessive sprawl, with the exception of some minor residential development along the county trunk highways to the west, north and south of the center of the area. Such development does not appear to be detrimental to the general physical condition of the community. It should be noted also that all nonresidential urban-type land uses are located at or very near the center of the area.

(b) Territory Beyond the Core

Section 66.016 (1) (b) requires that the territory beyond the most densely populated one-half square mile shall have an average density of 30 housing units per quarter section, or a real estate assessed valuation of which more than 25 percent is attributable to existing or potential mercantile, manufacturing or public utility uses.

The territory being proposed for incorporation contains 11.75 acres beyond one-half square mile; this area is therefore considered to be the territory beyond the core. This area is the westernmost 11.75 acres lying north of County Trunk Highway "A" in Section 1, T. 20 N., R. 22 E. Within this small area, four housing units are located, which exceeds the average of 30 per quarter section required by statute. It is therefore the finding of the Director that the territory beyond the core of the proposed village meets the standards of s. 66.016 (1) (b) in that it has an average density of 30 housing units per quarter section.

2. (a) Tax Revenue

A review of tax data provided by the State Department of Revenue indicates that the towns of Franklin and Kossuth have experienced reasonable growth in property values during the last five years, as is shown in the following tables:

ASSESSED PROPERTY VALUATIONS, TOWN OF FRANKLIN, 1967-1970

<u>Year</u>	<u>Residential</u>	<u>Mercantile and Manufacturing</u>	<u>Agricultural and Other</u>	<u>Personal</u>	<u>Total</u>
1967	\$ 838,180	\$274,750	\$4,095,295	\$987,885	\$6,196,110
1968	900,200	274,350	4,100,980	982,980	6,258,510
1969	943,450	265,875	4,092,770	996,030	6,298,125
1970	1,024,400	266,375	4,295,850	984,185	6,570,810

Source: Clerk, Town of Franklin.

ASSESSED PROPERTY VALUATIONS, TOWN OF KOSSUTH, 1967-1970

<u>Year</u>	<u>Residential</u>	<u>Mercantile and Manufacturing</u>	<u>Agricultural and Other</u>	<u>Personal</u>	<u>Total</u>
1967	\$ 634,735	\$311,680	\$2,278,985	\$ 467,124	\$3,746,109
1968	666,185	327,680	2,287,325	557,232	3,838,422
1969	1,676,300	664,500	4,659,542	1,273,137	8,273,137
1970	1,825,850	643,700	4,699,838	1,190,411	8,359,799

Source: Clerk, Town of Kossuth.

It should be noted that the above tables reflect local assessed property valuations rather than equalized property valuations, for purposes of comparing locally-estimated property valuations within the territory to those of the towns (the State Department of Revenue estimates that locally-assessed property valuations for 1970, by way of example, amount to about 86 percent of equalized valuation for the Town of Franklin and about 83 percent of equalized valuation for the Town of Kossuth). The tables indicate an overall growth in property valuations for the two towns, particularly in the residential and agricultural real property classifications; there is reason to believe that these and other classes of real and personal property will continue to grow in value in the future. The Town of Franklin received in the 1969-1970 period about \$16,961 in state-shared income tax receipts and another \$16,197 in shared utility taxes; during the same period, the Town of Kossuth received \$28,940 and \$12,248, respectively. The Town of Franklin levied a local tax in 1970 at a rate of \$6.1168 per thousand of assessed value; the Town of Kossuth levied a rate for that time of \$4.278 per thousand of assessed value. Full-value tax rates would, of course, be proportionately lower, indicating that at present neither town suffers from an undue local tax burden or poor tax base.

The proposed budget for the first year of operation of the proposed Village of Kellnersville notes an estimated local tax rate of \$7.13 per thousand of assessed valuation; estimated property valuations for the territory amount to about \$1,440,000. The budget also estimates state-shared income tax receipts of \$5,200 and shared utility taxes of \$200. The proposed village would take over management of about one-half mile of town roads, for which it would receive about \$1,300 in state highway aids and highway privilege taxes; this amount of roadway is insignificant in light of the many miles of roadway and proportionately high aid and tax figures now under management of the towns of Franklin and Kossuth.

It should be noted that the proposed budget does not include (other than \$1,500 for a survey) large anticipated outlays for a sanitary sewerage system and public water system that proponents of the incorporation wish to construct, should incorporation occur. These projects have a current estimated cost of \$400,000 and are proposed on the basis of substantial state and federal grants and loans totaling that amount. Should these aids not become available, it would be necessary for the proposed village to levy relatively high local taxes to finance all or a portion of the projects, if construction under those conditions were to be considered at all.

Proponents of the incorporation have estimated total village expenditures for the first year of operation at about \$7,915 and total revenues at about \$23,882, creating a large surplus during the first year. These figures compare favorably with the estimated 1971 revenues and expenditures for the nearby Village of Francis Creek (\$36,610 and \$35,984, respectively, including sanitary sewerage system accounts) and the Village of Whitelaw (\$24,245 and \$38,704, respectively, also including utility accounts); in fact, it may well be that both revenues and expenditures for the proposed village will be greater than anticipated,

especially after the first year of operation. However, it does not appear that the proposed village will be unable to finance an adequate level of services, with the possible exception of early construction of sanitary sewerage and water systems without benefit of state and federal aids.

Since schools are administered as a separate governmental function, school costs would remain unchanged as between the towns and the proposed village, and would not be materially affected by the proposed incorporation.

In sum, it is the conclusion of the Director that the proposed village does have sufficient potential tax and other revenues to defray the anticipated costs of governmental expenses. Should incorporation bring with it increased urbanization, potential revenues will very likely increase proportionately. Further, the proposed budget indicates a local tax rate that is not an undue burden on potential residents in comparison to the tax rates now levied upon them by the towns of Franklin and Kossuth.

(b) Level of Services

Since no resolution of intent to annex all or a portion of the territory being proposed for incorporation has been filed pursuant to s. 66.014 (6), a comparison of services available from a municipality filing such resolution and the proposed village is not necessary. It may be briefly stated, however, that the general level of services to be provided by the proposed village appears to be sufficient to meet the needs of the potential residents. The most critically-needed service at present is a sanitary sewerage system, which would replace the presently-used open drainage ditch running through the community, and would substantially reduce the current hazards to public health of ground-water pollution and/or contamination produced by the ditch. A municipal form of government would appear to be beneficial in obtaining the necessary state and federal aids in constructing such a system, and would seem to be a reasonable alternative to a special-purpose form of government, such as a sanitary district, that would likely be required for such construction aids were incorporation not to occur.

(c) Impact on the Remainder of the Town

If incorporation were to take place, the towns of Franklin and Kossuth would lose about 9.6 percent of their combined tax bases, at locally-assessed values. The public facilities and lands of the towns are sufficient to continue effective servicing of the remainders of the towns after incorporation, even though certain divisions of assets and liabilities would be made after incorporation. Neither town has large outstanding debts as of March 1970, and the revenue-producing potential of both would remain nearly the same after incorporation as it is as present.

The proposed incorporation would to a small extent affect the town's shape and thus its ability to provide equivalent services to all of its area; however, because the proposed village is located on the common boundary line of both towns at its northernmost extremity, its physical impact on the ability of the town to service its remaining residents should be minimal indeed. Officials of both the Town of Franklin and the Town of Kossuth have stated publicly that they do not regard the proposed incorporation as injurious to the welfare of their constituencies, and that they recognize the need for the residents of the territory to obtain a higher level of governmental services than the towns can provide.

It is therefore the conclusion of the Director that the financial and physical impact of the proposed incorporation upon the towns of Franklin and Kossuth would be minimal, and would not present any undue problems for either unit to continue providing an adequate level of services to town residents. There is every reason to believe that the proposed village and the two towns could coexist in a cooperative, mutually-beneficial manner were incorporation to take place.

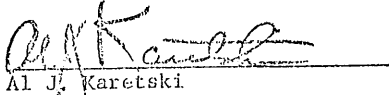
(d) Impact on the Metropolitan Community

Since it is clearly evident that the territory is not, for purposes of this determination, located in a metropolitan community as defined by s. 66.013 (2) (b), an examination of this criterion is considered unnecessary. The proposed Village of Kellnersville is located in a predominantly rural area, with the nearest area meeting the statutory definition of a metropolitan community (Manitowoc-Two Rivers) located well beyond the limit specified in the statute. The nearest communities to the territory are small, relatively isolated municipalities, and should not be adversely affected by the addition of another municipality to their number. The incorporation of the proposed village will enable local residents to (1) effectively work together, using municipal powers, to resolve their problems (problems which have a distinctly urban character) and (2) prepare to meet additional urban growth and development that seems assured in the future.

DETERMINATION

For the reasons heretofore cited, and applying the standards set forth in s. 66.016, Wisconsin Statutes, the Director makes the following determination:

1. THE PROPOSED INCORPORATION IS IN THE PUBLIC INTEREST.
2. THE PETITION, AS SUBMITTED, SHALL BE GRANTED AND AN INCORPORATION REFERENDUM HELD.



Al J. Karetzki
Director, Bureau of Local and Regional Planning
Department of Local Affairs and Development

AJK:MC:rrs

123 West Washington Avenue - Room 753
Madison, Wisconsin 53702

Dated: April 8, 1971

Copies to: Mr. Harvey F. Strouf, Clerk of Circuit Court, Manitowoc County
Mr. John E. Deets, Designated Representative, Kellnersville, Wisconsin
Mr. Norman Kubsch, Alternative Representative, Kellnersville, Wisconsin
Mr. Victor A. Miller, Attorney, St. Nazianz, Wisconsin
Mr. Charles E. Nate, Jr., Clerk, Town of Franklin, Reedsville, Wisconsin
Mr. Thomas E. Slattery, Clerk, Town of Kossuth, Manitowoc, Wisconsin