

State of Wisconsin

In Circuit Court

For La Crosse County

In the Matter of the Proposed :
Incorporation of the Village of :
Medary, La Crosse County :

DETERMINATION OF THE HEAD
OF THE PLANNING FUNCTION

On August 18, 1976 there was received at the office of the Director of the Bureau of Community Development and Head of the Planning Function of the 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 La Crosse County to incorporate a village to be known as the Village of Medary, located in the Town of Medary, La Crosse County, to-wit:

The Town of Medary.

Upon receiving said petition the Head of the Planning Function 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) (e). The determination required of the Head of the Planning Function 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 findings and determination of the Head of the Planning Function.

The standards to be applied by the Head of the Planning Function in making said determination are as follows:

66.016 Standards to be applied by the Head of the Planning Function.
(1) The Head of the Planning Function 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 (1) or the most densely populated square mile specified in s. 66.015 (2) 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% 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 3 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 Head of the Planning Function 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 August 19, 1976 and August 31, 1976, in compliance with s. 66.014 (9) (b), there were received at the office of the Head of the Planning Function requests for a public hearing on the matter of the proposed incorporation from Mr. Harry Griswold, an attorney for the petitioners, and Mr. William J. Sauer, Deputy City Attorney, City of La Crosse, respectively. Accordingly, after receipt of the petition from the Circuit Court, notices were sent and published pursuant to the requirements of s. 66.014 (9) (c).

On September 21, 1976 and October 25, 1976, said hearing was held in the Auditorium of the La Crosse County Courthouse before George A. James, Director of the Bureau of Community Development and the Head of the Planning Function. The petitioners for incorporation were represented at this hearing by legal counsel, John Bosshard. Numerous local officials and citizens were present at the hearing, and all present were given an opportunity to be heard. At this hearing testimony bearing on the proposed incorporation was heard, various documents and other exhibits were introduced for consideration by the Head of the Planning Function and other related information was brought forward. Additional information was subsequently provided after the hearing, under joint agreement of all concerned, by the parties there represented.

The Head of the Planning Function has caused an investigation to be made of the information obtained at and after the hearing, from the parties there represented, from the La Crosse Area Planning Committee, from various state agencies, and from maps, records, files, statistics, photographs and related materials of the Bureau of Community Development.

Based on the above data, the following findings and determinations are made:

1. (a) Characteristics of the Territory.

The territory proposed for incorporation is bounded on the west by the cities of La Crosse and Onalaska, on the north by the towns of Onalaska and Hamilton, on the east by the towns of Hamilton and Barre, and on the south by the Town of Shelby and City of La Crosse. Its area is 18.81 square miles, with maximum dimensions of approximately six miles in a north-south direction and 3.5 miles in an east-west direction. There are approximately seven miles of common boundary with the City of La Crosse and two miles with the City of Onalaska.

Soils are primarily silty and sandy soils, which of themselves in general pose few problems for urban development except for low-land sandy soils, primarily in and near the flood plain of the La Crosse River, which may cause groundwater pollution because of rapid percolation rates. However, other characteristics such as topography, depth to bedrock, and depth to groundwater severely limit development, and particularly urban development, in much of the area. The gentlest topography is found in the central and north-central parts of the town, with the northeast corner and southern half of the town exhibiting often rugged topography.

The town is located in the drainage basin of and is bisected by the La Crosse River which flows from east to west through the center of the town and then turns southwest before entering the City of La Crosse. The associated wetlands and lowlands are substantial. The flood plain associated with the river covers a substantial area of approximately four square miles. The floodway, the area which would carry active flood flows and within which most construction is prohibited, is slightly less than half the area of the flood plain.

Interstate Highway 90 traverses the north-central part of the town in an east-west direction, but the only intersection serving the town is at State Trunk Highway 157. Other intersections are at USH 53 - STH 35 in the City of La Crosse and at County Trunk Highway B in the Town of Campbell. U. S. Highway 16 crosses the town from northeast to southwest, passing under I-90 rather than intersecting it; it is the only north-south link in the town. The railroad follows the La Crosse River but has little function as an intra-area carrier. Numerous other county and town roads also serve the area, following the flatland areas in the central part of the town and the coulees or valleys elsewhere. I-90, USH 16, and three county trunk roads provide access to the City of La Crosse.

The major planned transportation project in the area is a north-south highway west of USH 16 and the La Crosse River, the primary purpose of which seems to be to link outlying areas more effectively to downtown La Crosse.

The major developed areas are found near the state and county highways in the flatland areas with more scattered development along town roads in the coulees. The largest residential areas are in the northwest and central parts of the town near Onalaska and La Crosse. Commercial development is found primarily along USH 16 south of I-90 and is primarily of the convenience and highway-oriented types. The major exception to this pattern is the residential area atop the bluffs near CTH FA at the southern edge of the town which can be reached only by passing through the City of La Crosse or the Town of Shelby.

According to the personal observations of the Head of the Planning Function, Exhibit 44 gives a representative picture of town land in substantially urban uses. The greater part of the existing development is residential. The petitioners' Exhibit 14 greatly overstates existing residential land uses, especially in the southern half of the town.

The town is divided among three school districts. All that area north of the La Crosse River and the south line of Section 16 belongs to the Onalaska school district. Most of the remainder is in the La Crosse school district, although a smaller area along the eastern edge is in the West Salem school district. These districts would be little affected by the proposed incorporation.

Statements at the hearing outlined a fairly typical pattern of social activities for this type of area, centered around the schools and related activities.

The primary facets of economic activity considered are the shopping customs and employment location of town residents. Despite statements from town residents that they do most of their shopping in Medary, analysis of businesses in the town indicates that they are primarily of convenience and highway-oriented types. That is, town residents who wish to shop for durable goods or for a complete range of food and clothing, or who wish to avail themselves of urban and professional services such as higher education and health care, must go to La Crosse to do so.

Although, as expected, a certain amount of travel to work across governmental boundaries occurs in all directions, it is apparent that the predominant pattern of travel for employment by Medary residents is to La Crosse and Onalaska. Statements at the hearing corroborated this. Moreover, most of the economic base activities are found in those cities, while businesses in the outlying areas are of a non-basic or service nature.

Considering the concentration of development in the central part of the town and the large areas of undeveloped land elsewhere, the fact that major transportation elements are clearly oriented toward the City of La Crosse, the isolation of the southernmost part of the town from the remainder, and the pattern of employment location in the area, it is found that the area proposed for incorporation is not reasonably homogeneous and compact.

1. (b) Territory Beyond the Core.

Section 66.016 (1) (b) requires that the territory beyond the most densely populated square mile shall have the potential for residential or other urban land use development on a substantial scale within the next three years. The petitioners have designated as the one square mile core area an adjacent to and immediately southeast of the City of Onalaska.

Table 1 presents data on population changes in the LaCrosse area since 1960. Population growth in the Town of Medary has been rapid although not so rapid as in the City of Onalaska and the Town of Onalaska. All the governmental units contiguous to the City of La Crosse have grown much more rapidly than the county, while the city has actually declined since 1970 from 51,153 to 48,864.

TABLE 1
POPULATION, 1960-1976

Place	Population			Percent Change	
	1960	1970	1976	1960-1970	1970-1976
City of La Crosse	47,575	51,153	48,864	7.5%	-4.5%
City of Onalaska	3,161	4,909	7,357*	55.3%	49.9%
Town of Medary	1,563	2,333	2,643	49.3%	13.3%
Town of Campbell	2,296	3,327	3,712*	44.9%	11.6%
Town of Onalaska	1,711	2,973	4,053*	73.8%	36.3%
Town of Shelby	5,458	4,600**	5,333*	-15.7%	15.9%
La Crosse County	72,465	80,468	85,883*	11.0%	6.7%

Source: The City of La Crosse, from U.S. Bureau of the Census.

*State of Wisconsin January 1, 1976 Final Population Estimates, Wisconsin Department of Administration.

** This figure resulted from a special census after the town objected to the original count of 3,733.

One important fact not shown is revealed in Population Trends in Wisconsin Urbanized Areas and Other Cities of Over 10,000: 1970-1975 from the Department of Administration. Disregarding the areal changes between 1960 and 1970 in the City of La Crosse, that is, comparing the city in 1960 with the same area in 1970, reveals a 0.4 percent decline in population. Obviously, then, the city grew in that decade only through annexations, which also helps explain the population decline in the Town of Shelby.

Table 2 illustrates building permits issued by the Town of Medary from January, 1971 to September, 1976. This is evidence of substantial growth, especially in the residential sector. Other data supplied by the petitioners indicate that the estimated construction value for new residential permits totalled \$4,054,558. Comparing the total estimated construction with the amount of growth of equalized value from 1971 to 1975 reveals that construction activity in the town has been significant, comprising about one-third of the total 1971 valuation and about one-third of the growth of valuation in that period.

TABLE 2
BUILDING PERMITS, TOWN OF MEDARY, 1971-1976

Year	New Residential	Commercial	Other	Estimated Construction
				Value
1971	40	1	20	\$1,008,500
1972	23	2	10	614,700
1973	39	6	17	1,174,650
1974	13	1	17	1,196,773
1975	15	2	14	646,200
1976*	19	-	17	725,425
Total	149	12	95	\$5,366,248

* To September 16, 1976

Source: Petitioners for Incorporation.

Table 3 shows the growth in equalized value of real property in Medary from 1970 through 1975 and reveals that the greatest increase was in residential values and that the fastest growth was in manufacturing, although this may reflect the assumption by the state of the assessment of manufacturing properties.

TABLE 3
EQUALIZED (FULL) REAL PROPERTY VALUATIONS, TOWN OF MEDARY, 1970-1975

Year	Residential	Mercantile	Manufacturing	Agriculture	Other	Total
1970	\$11,834,300	\$786,300	\$37,300	\$1,875,600	\$93,200	\$14,626,700
1971	12,841,700	850,300	37,300	2,267,700	111,900	16,108,900
1972	14,458,700	866,000	37,300	2,376,500	117,500	17,856,000
1973	18,498,800	961,300	90,600	3,214,400	158,600	22,923,700
1974	20,108,900	1,157,600	108,550	4,192,500	205,100	25,772,650
1975	22,289,400	1,199,000	116,000	4,709,000	235,900	28,549,400
Percent Change	88.3%	52.5%	211.0%	151.1%	153.1%	95.2%

Source: Derived from Exhibits 22-27, petitioners for incorporation.

TABLE 4
COMPARATIVE EQUALIZED (FULL) REAL PROPERTY VALUATIONS,
1975, AND PERCENT CHANGE, 1970-1975

Place	Total Valuation, 1975	Percent Change 1970-1975
City of La Crosse	\$446,277,050	42.6%
City of Onalaska	44,273,800	114.7%
Town of Medary	28,549,500	95.2%
Town of Campbell	30,957,100	105.7%
Town of Onalaska	32,396,800	121.2%
Town of Shelby	53,152,900	70.5%
La Crosse County	759,608,010	64.5%

Source: Derived from Exhibits 22-27, petitioners for incorporation.

TABLE 5
COMPARATIVE EQUALIZED (FULL) REAL PROPERTY VALUATIONS, 1975

Place	Percent of Total					Total
	Residential	Mercantile	Manufacturing	Agriculture	Other	
City of LaCrosse	63.0%	24.3%	12.8%	0.0%	0.0%	100.1%
City of Onalaska	92.1%	6.8%	0.9%	0.2%	0.0%	100.0%
Town of Medary	78.1%	4.2%	0.4%	16.5%	0.8%	100.0%
Town of Campbell	90.4%	8.5%	0.1%	0.9%	0.0%	99.9%
Town of Onalaska	73.0%	2.6%	4.7%	19.5%	1.5%	100.3%
Town of Shelby	81.8%	6.7%	2.2%	8.8%	0.5%	100.0%
La Crosse County	64.6%	16.7%	8.3%	10.0%	0.3%	99.9%

Source: Derived from Exhibits 22-27, petitioners for incorporation.

Table 4 compares the growth of total equalized valuation in La Crosse County and in governmental units in the La Crosse area. Of all the units, the City of La Crosse had the slowest growth rate, while Medary valuation grew more than twice as fast, although at about the average rate for the suburban areas.

Table 5 compares the percentage of valuation in each type of land use in each of the jurisdictions. These data reinforce the place of the City of La Crosse as the economic hub of the region, as in both absolute and relative terms a much greater part of its valuation is found in manufacturing, a major element of economic base activities.

The preceding population and valuation data document substantial growth in the town in recent years, and projections of both are for continued growth. The La Crosse Area Planning Committee recognized the I-90 corridor as one of the two avenues available for substantial growth in the La Crosse area and projected a population of 4,462 in Medary in 1995, and the town's financial consultants have projected a quadrupling of total assessed value from 1975 to 1995.

A major element in the latter projection is the assumption that the town will acquire a shopping center with an equalized valuation of about \$20 million. At this time, this depends on the town constructing its own sewer and the water systems. The town has received conditional approval from the Department of Natural Resources to construct the sewage collection and treatment system, so the potential for substantial urban commercial development within the next three years exists.

The petitioners have also claimed the potential for substantial urban residential development within the next three years. Their Exhibit 14 delineates areas where they envision this occurring. The largest such area covers sections 1 and 2 and part of section 12 in the northeast corner of the town. Much of this area exhibits rugged topography. Inasmuch as this area would not be served by a central sewer system, on-site soil absorption systems would be needed. Section H62.20 of the Wisconsin Administrative Code requires that each newly developed lot have an adequate area for two soil absorption systems, requiring approximately 900 to 2,500 square feet for a three-bedroom house, depending on the circumstances of each case. It also recognizes only slopes of 20 percent or less and requires separation of the absorption system from greater slopes and from the dwelling. These requirements minimize the potential for development requiring on-site sanitary sewage disposal in areas with steep topography. The petitioners therefore expect development to consist of lots with a minimum size of five acres, with many being larger. While the area utilized in this manner may be substantial, such residential development can hardly be termed urban.

The urban development potential of the area is better shown in Exhibit 44. The developed area is about 955 acres, the area undeveloped but suitable for development about 1,000 acres. To this could be added some part of the flood fringe area which can be developed with certain precautions.

Another proposed potential residential area is atop the bluffs at the end of CTH FA. Some of the area is subject to the constraints noted above; and, as mentioned in the preceding section, this area can be reached only through the City of La Crosse or the Town of Shelby.

A third area is west of the La Crosse River and adjacent to the City of La Crosse. Much of this area is in the floodway of the La Crosse River and could only be developed for recreational use. The rest is in the flood fringe area and could be developed only after diking or some other protective measure. In addition, the General Plan for the Town of Medary, prepared by a citizens' committee for the Town Board and presented as Exhibits 5 and 20, proposes that this area be used for industrial development.

Despite this, there are areas suitable for substantial urban residential development, large enough to be significant relative to existing development in both the town and the metropolitan areas, but they are largely in the central and north-central parts of the town adjacent to the City of Onalaska, near the existing major residential developments, and near USH 16 and I-90.

In view of the physical potential and population and economic pressures described above, it is found that there is potential for substantial residential and other urban land use development in the town within the next three years, although not always in the areas proposed by the petitioners.

2. (a) Tax Revenue.

Statutory requirements state that an analysis must be made of the potential tax and financial bases of the area proposed for incorporation to determine whether or not the proposed village will have enough financial resources available to it to provide its inhabitants with the same level of services at a tax rate which compares favorably with the tax rate in a similar area.

Current services in Medary are described in the next section. The petitioners propose to continue most services at about their current level, and their proposed budget reflects this, showing moderate increases in most expenditures over those shown in the 1976 financial report. The major changes envisioned are assumption of garbage pickup (now performed by a private collector on an individual contract basis) and police protection (now a county function) and the development of public water and sewer systems.

The two major outside revenue sources are state tax sharing and state road aids. State shared taxes for Medary have trended downward from \$91,442 in 1973 to \$82,206 in 1976. Shared taxes depend on several factors. In general, the per capita distribution would increase if the local population increases faster than the state's, which has been and likely will be the case in Medary. On the other hand, because Medary now has about \$135,000 in equalized valuation per capita, compared to a state standard of \$30,000, it is not eligible for aids under the aidable revenues portion of the shared tax formula. Although there is some difficulty in estimating future shared taxes, because it involves projection of both local and state factors, little change should occur in Medary's shared tax revenues.

Based on the facts that the town received state road aids at the rate of \$438 per mile in the fiscal year 1976 and that road aids for villages averaged \$2,053, the petitioners project an increase from \$8,415 in 1976 to \$41,380 in 1977 if incorporation occurs. However, should the transportation financing package now proposed as part of the state's 1977-79 budget be adopted, road aids for villages would drop to \$831 per mile, or slightly over \$17,000. Other outside revenue sources would not change significantly.

The anticipated expenditure of \$174,180 would require a levy for local purposes of \$24,000 or almost 0.66 mill on a 1976 equalized valuation of \$36,435,900. It includes \$12,600 for police protection. The 1976 budget of the Village of Holmen, submitted by the petitioners as a comparable area, shows an expenditure for police protection of \$28,000, although Holmen has about two-thirds the population of Medary, and some equipment can be shared by its two policemen; so the proposed budget understates the police protection expenditure. Assuming Medary would be adequately served by the same expenditure, the local levy would be raised to \$39,400, or 1.08 mill on equalized valuation. Were Medary to receive \$17,000 in road aids, the levy would be \$63,780, or almost 1.8 mills. This figure still compares favorably with Holmen's full value tax rate of 3.55 mills and the average full value tax rate of 5.09 mills for all villages levied in 1975.

Over a longer period of time, additional expenditures such as a municipal building and recreation programs will be required, but the timing of such expenditures and the financial status of the proposed village at that time can not be ascertained now and therefore are not used in the determination.

Levy limits are imposed by statute, restricting the rate of growth of the local tax levy. The law makes no specific provisions for newly incorporated municipalities but would not appear to present problems for Medary. The levy limit procedures assume a tax rate of 0.25 mill in those areas without a tax for local purposes, allowing a fairly small local levy--\$9,109 on a 1976 equalized valuation of \$36,435,900 for the 1977 levy--subject, however,

to several conditions. Adjustments can be made for population growth in excess of the rate of state growth and for any decrease in the amount the town applies from surplus to its budget, and exceptions are made for assuming county functions (in this case police protection) and for bonding for capital improvements. The major exception is that the levy limit can be voided by a local referendum.

Removing the bonding (\$63,750) and police (\$12,600) expenditures from the proposed budget would produce an estimated surplus of \$52,650 (\$28,270 with the lesser rate of road aids) without levying a local property tax. With an adjustment of as much as the \$44,822 for surplus now applied to the 1976 levy and a small adjustment for population growth in excess of the state rate, Medary appears able to levy as much as \$107,600 additional in 1977 without violating levy limits or requiring a local referendum. The one-time surplus adjustment would not apply in later years, but the major additional expenditures in later years would probably be bonding for additions to sewage collection and treatment facilities, which are exempt from levy limits.

The applicable limitation on bonded indebtedness is five percent of the equalized valuation. The 1976 equalized valuation being \$36,435,900, the bonding capability would be \$1,821,795. The town has no debt to be included at the present time. This limitation would also apply separately to the town sanitary district, although, of course, any property excluded from the sanitary district would reduce the valuation and the bonding capability.

A town referendum has approved bonding in the amount of \$1,100,000 to finance the initial facilities for public sewer and water systems. The sewage collection system was not included. The town's consultant estimates the cost of the collection system in the original Medary Sanitary District No. 1 at \$602,000, of which about \$314,000 would be recovered from special assessments. Therefore, there will be about \$288,000 of bonding subject to limitation for the collection system. Not far into the future, Phase II of the sewage treatment plant, estimated to cost \$198,000, will be necessary; but the development which would require this would, of course, bring additional valuation and therefore additional bonding capacity into the area, although precise calculations are not possible at this time. Likewise, the impact of other municipal improvements such as storm drainage and street improvements is not readily calculable, although special assessments would likely be used to recover part of the cost.

The Town Chairman claims the town will receive a performance bond from the developers of the proposed shopping center which would insure their payment for part of the sewer and water facilities proportionate to their use. The town has also investigated the possibility of a grant from the Economic Development Administration and found that it is eligible for a 60 percent grant for water and sewage treatment plants and mains to the shopping center. However, even in the absence of such aids, it is found that the proposed village has the present and potential tax revenues which 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.

2. (b) Level of Services.

Statutory requirements state that the level of services desired or needed by the residents of the territory must be compared to the level of services offered by the proposed village and the level available from a contiguous municipality which has offered by resolution to annex the area. The City of La Crosse adopted such a resolution.

Statements by Medary residents at the hearing indicated the most desired service improvements are sewer service and police protection. Improvements on street maintenance, fire protection, garbage collection, and other services were considered to be less important.

Administrative Facilities: The Town of Medary has no administrative or support facilities such as a town hall or garage. The former town hall was lost during construction of I-90; Town Board and committee meetings have been held in schools; the town has no full-time employees who need a work base; and the town owns little equipment which would require storage or service in a garage. As the area grows, it is likely that such facilities will be needed as administrative and regulatory functions grow and as greater service needs make the cost of owning equipment more competitive with contracting for services as is now done. Indeed, the petitioners include in their proposed budget the assumption of police protection and waste collection. The City of La Crosse possesses a full range of administrative facilities and support services which could be provided to the Medary area.

Planning and Development Control: Adequate planning and the development controls which grow from it are vital to minimizing the costs of both public and private activities. The town has withdrawn from both the Mississippi River Regional Planning Commission and the La Crosse Area Planning Committee. The plan prepared by the Medary Citizen's Committee was very generalized and posed no alternatives to allowing development almost everywhere natural conditions permit. It did not base its land use proposals on any projections of various land use needs. It did not involve any consultation with officials from La Crosse or Onalaska. The City of La Crosse has an active planning program with full-time planning staff which also staffs the La Crosse Area Planning Committee and could once again be provided to the Medary area.

The town has ratified the county zoning ordinance and falls under county regulations governing flood plain zoning and on-site waste disposal. It also has sanitary regulations of its own, although some provisions no longer reflect state code requirements. The town employs a part-time building inspector. The petitioners propose to adopt an updated building code and a zoning ordinance and would be required by statute and administrative code to adopt flood plain zoning. The City of La Crosse has full-time staff and exercises extraterritorial plat review with more stringent lot size standards than those adopted by the county or town, aimed at minimizing on-site waste disposal problems.

Police Protection: The town now receives normal police protection from the county sheriff's department, and the need for more service was expressed at the hearing. The petitioners' proposal to hire one officer is inadequate to provide such increased service, especially in view of the anticipated rapid growth of the area. Contracting with another agency for central services such as dispatching could reduce staffing needs somewhat, but more officers would be required to improve the level of service. The needs of a local police force would press for a service base such as a municipal building. The City of La Crosse has a large police force and service base and could extend service immediately.

Fire Protection: The town now receives, and the petitioners propose to continue, fire protection from a volunteer fire department based in Onalaska. There are mutual aid agreements with surrounding fire departments. La Crosse has a full-time fire department. The petitioners claim that the La Crosse fire department would have access problems because of possible railroad crossing blockages; however, it appears that the variety of routes available from the city would minimize this problem. Certain areas such as USH 16 south of CTH B and the existing and anticipated development near CTH F and CTH FA would be more easily reached by the city department.

Installation of the proposed public water system would improve the fire insurance rating of the most densely developed part of Medary, but its lower reserve capacity and the volunteer fire department will keep fire insurance rates in the area higher than in the city.

Transportation: Medary contracts with the county for road construction and maintenance and with a private firm for snow removal and the petitioners propose to continue this arrangement. The road and street system is well developed internally and for access to La Crosse. There is no mass transit in the town. The city has its own street crews, and there is a bus system in La Crosse.

Solid Waste Collection and Disposal: Solid wastes from both residential and commercial properties in Medary are collected by a private firm under individual service agreements. The petitioners propose to institute a local collection system. The town pays for disposal privileges in a nearby disposal site. The City of La Crosse contracts for collection by a private firm. The existing town disposal site must close, so wastes will have to be taken to the new county sanitary landfill, as solid waste from the city is now.

Parks and Recreation: The only parks and recreation areas owned by the town are small areas totalling about eight acres which were dedicated to the town as part of the subdivision of the lands around them. There is a small allocation in the budget for maintenance of these areas and for the use of Neshonoc Beach at West Salem. The city has a full-time parks and recreation staff. Plans for the area by both the petitioners and the La Crosse Area Planning Committee call for substantial parks and recreational areas in the rugged southern part of the town.

Water Supply: The Medary Sanitary District No. 1 was originally formed to provide water to a relatively small area with supply problems and now provides water to 44 residences. The recent bonding referendum approval of \$600,000 for water supply would enlarge the system by adding a second well, treatment facilities, and both surface and elevated storage. It is needed primarily for fire protection for the proposed shopping center. The City of La Crosse could provide water to the same area within one construction season with a higher reserve capacity and at a lower cost. For example, the estimated annual cost to the shopping center for water supply is \$5,000 from the city and \$8,900 from the Medary system.

Sewage Collection and Disposal: There is no public sewage collection and disposal system now in the town. The needs of the proposed shopping center and problems with existing on-site sewage disposal systems, including water quality problems and finding areas for replacing disposal systems on small lots, have both contributed to the need. The City of La Crosse would require annexation as a condition for sewer service to the town; and sewer service is not available from Onalaska, since that city utilizes the La Crosse sewage treatment plant and must obtain permission before providing extra-territorial service.

The town's proposal calls for construction of a treatment plant to serve a population equivalent of about 2,000 (a design capacity of about 200,000 gallons per day), about half of which would be devoted to wastes from the proposed shopping center. The remainder, would be taken up by existing development, that is, the plant would be operating at near capacity soon after completion of the system. The collection system would cover the original area of the Medary Sanitary District No. 1, the more densely developed area south of I-90 and primarily north of the La Crosse River. The estimated costs and financing arrangements were discussed in the preceding section.

An alternative considered by the town was connection to the La Crosse collection system rather than construction. The town now estimates this alternative would cost about \$400,000 more. However, operational costs would be less with the alternative, and the connection analyzed was of such a size that expansion would not be required for many years, whereas the anticipated rapid growth in Medary would require an expansion of its proposed treatment system in the near future. It appears there would be little if any more cost in the long run for this alternative.

The city's sewage treatment plant was designed for a capacity of 22 million gallons per day, expected to be reached in 1990, and is currently treating 15 to 16 million gallons per day. It serves the City of Onalaska, the Town of Campbell, and part of the Town of Shelby. Its effluent meets water quality standards and a solids handling improvement program is underway.

The town has suggested that its sewage treatment plant could serve areas beyond its collection system by accepting septic tank pumpings; but even the city plant shows noticeable signs of such shock loadings of 1,000-1,500 gallons, indicating that some additional facilities would be required to hold pumpings and feed them to the plant gradually and therefore that the cost of the initial construction would be increased.

Likewise, the city's plant would have a greater capability for dealing with wastes which might be troublesome because of erratic flows, high biochemical oxygen demand, or contaminants.

Economic Development: Unemployment in the La Crosse area is approximately seven percent, despite employment gains in recent years. The City of La Crosse is the only government in the area to have created an industrial park and had allocated \$166,000 of block grant funds for studies and land acquisition in the Town of Medary, adjacent to the existing industrial park, but the studies of acquisition, which would be followed by annexation, halted with the filing of the petition for incorporation. Because Medary will be faced with significant service demands in the future, because the magnitude of such demands and available revenues cannot be forecast closely, and because Medary would not be eligible for the block grant program used by the city; it cannot be said that Medary would be able to make the same contribution to economic development as the City of La Crosse is prepared to make.

The development of the proposed shopping center, which would also be a major employer with some 900 to 1,000 employees, depends on the services available rather than where the services originate, and would not be affected by the success or failure of the proposed incorporation.

Other Services: The La Crosse Public Library is supported almost entirely by city funds. Medary residents are eligible to use the library by virtue of the city library's status as the central facility for a four-county library system. There is also a smaller separate collection in the county library system.

The city has a public housing authority; the town has no program for low-income and retired residents. Statements and exhibits at the hearing demonstrate that the city provides more accurate and therefore more equitable assessment. Other functions are generally available or of less importance of this determination and so are not discussed here.

The area in Medary near existing development are expected to grow fairly rapidly. These areas now need or soon will need, by virtue of population, development characteristics, and location, a full range of urban services. Although the proposed village could provide the limited range of services the petitioners propose, the discussion above demonstrates that certain other needed services would not be available and others can better be provided by the City of La Crosse.

It is concluded that the level of needed services, both existing and potential, available from the City of La Crosse is superior to those which would be provided by the proposed village and that, in most cases, those services could be provided more quickly and at a lower cost by the city.

2. (c) Impact on the Remainder of the Town.

State statute requires that the impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated be examined.

The proposal is to incorporate the entire Town of Medary, and there is thus no remainder to be affected. There is no need to consider this factor in determining the public interest.

2. (d) Impact on the Metropolitan Community.

Section 66.016(2)(d) of the statutes requires that consideration be given to the effect of the proposed incorporation 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. If such a finding cannot be made, the proposed incorporation cannot be determined to be in the public interest.

Such a finding should be based on both the principles of government as derived from the professional studies of economists, planners, geographers, public administrators, and others and the specific factors of the individual incorporation presented to the Head of the Planning Function.

The principles of government particularly applicable to metropolitan areas can be found in the reports of several national commissions and study groups which have been cited in previous determinations of the Head of the Planning Function and are reproduced here.

The U. S. Advisory Commission on Intergovernmental Relations has been concerned with these problems for many years and has produced a number of reports on various aspects of the subject. In a 1962 report, the following statement of the problem was offered:

"Generally speaking, the larger the number of independent governmental jurisdictions within a metropolitan areas the more inequitable and difficult becomes the process of financing those governmental services which by their nature are areawide in character...Even services which do not demand areawide handling, such as education, law enforcement, and health, also involve serious problems of equity with respect to financing and of awkwardness in administration where numerous local governments are involved."¹

Another statement of problems is found in the report of the National Commission on Urban Problems:

"Individual and family ties to ... residential areas are understandably strong and important. But most people in metropolitan areas also have an important stake in the public facilities and services provided in areas where they work or visit. Furthermore, local governments in metropolitan areas must serve not only their resident night-time populations, but also the differing daytime populations resulting from the ebb and flow of metropolitan activities. Yet when these local governments are very small in territory and population, only a limited part of the total population that each government thus serves has any voice in choosing the officials or determining the spending and tax policies that are involved. In turn, these scattered electorates lack an effective tie to the jurisdictions that so strongly affect them. In both directions, one finds taxation, regulation, service and protection without representation."²

Clearly, then, the present arrangement of local governments in metropolitan areas is seen as a major cause of governmental problems in metropolitan areas. The search for a workable solution to any problem is usually guided by an ideal, and the ideal in this case has also been expressed by the Advisory Commission on Intergovernmental Relations:

"In principle, local governments should have jurisdiction over a large enough area to permit them to cope adequately with the problems that their citizens expect them to handle. They should be able to raise sufficient revenue, and to do it equitably. They should retain flexibility to adjust their boundaries to meet changing conditions. They should be organized to handle a variety of functions rather than only one or two, so that they can exercise political responsibility for balancing total local needs and resources. They should be able to take advantage of economies of scale, and, at the same time, be accessible to and controllable by the people they serve."³

¹ Alternative Approaches to Governmental Reorganizations in Metropolitan Areas, Advisory Commission on Intergovernmental Relations (Commission Report A-11), June 1962, U.S. Government Printing Office, page 10.

² Building the American City, Report of the National Commission on Urban Problems to the Congress and to the President of the United States, U.S. Government Printing Office, Washington, D.C., page 329.

³ Metropolitan America: Challenge to Federalism, Advisory Commission on Intergovernmental Relations (Report M-31), 1966, page 85.

The search for workable solutions to metropolitan governmental problems is still going on, and the Commission has been examining and evaluating these efforts for many years. A 1969 Commission report summarized their findings and recommendations as follows:

"Removing the shackles that frustrate local efforts to marshal the resources required to meet local needs by clarifying the legal powers of general-purpose local governments, authorizing them to determine their own internal structure, modernizing outdated means of controlling local government tax and debt levels, and liberalizing municipal annexation procedures.

Arming local governments with an 'arsenal of weapons' for meeting the challenge of urban growth by facilitating county consolidation, authorizing counties to perform urban functions and to establish subordinate service and taxing areas, empowering major cities and urban counties to create neighborhood 'subunits' of government in order that disaffected citizens may be brought closer to and involved in the process of local government, permitting voluntary transfer of functions between cities and counties, granting authority for intergovernmental contracts and joint service arrangements, encouraging the establishment of metropolitan study commissions, providing for metropolitan functional authorities that offer services requiring areawide handling, and authorizing regional councils of elected officials.

Halting the proliferation of special districts and small nonviable units of local government in metropolitan areas."⁴

More recently, the Governor's Commission on State-Local Relations and Financing Policy echoed many of these concerns. Among their suggestions are these statements on planning.

"The Commission believes that an essential element of local growth and development is the ability of local units to collectively identify and meet future needs. Included ...is our express desire to provide for the orderly, judicious use and development of land..."⁵

"In metropolitan areas of the state, there should be a metropolitan planning agency."⁶

In addressing proposed incorporations near existing municipalities, the Commission recommended that "A city of village should have the 'right of first refusal' to annex the territory, when contiguous unincorporated territory petitions for incorporation."⁷

Governmental problems in metropolitan communities are many and varied, as evidenced by the problems raised at the La Crosse Metropolitan Area Public Hearing of the Citizens Study Committee on Metropolitan Problems, held in the La Crosse City Hall on May 16, 1972. The following partial list is taken from a summary of the testimony prepared by the Study Committee Staff, published October 25, 1972:

- Lack of cooperation among local governments.

⁴ Urban America and the Federal System, Advisory Commission on Intergovernmental Relations (Report M-47), 1969, page 4.

⁵ Final Report of the Commission on State-Local Relations and Financing Policy, January, 1977, page 181.

⁶ Ibid., page 196.

⁷ Ibid., page 203.

- Fragmentation of the urban area into many separate governmental units.
- Substantial inequities in the financing of areawide services and facilities such as sanitary sewage collection and treatment, fire protection, the regional airport, the major street network, and the park system.
- Inequalities in local assessment practices.
- Unequal distribution of the tax base.
- Scarcity of housing, particularly low and moderate income housing.
- Lack of uniform levels and practices in law enforcement.
- Inadequate parks and recreation facilities.
- Pollution control on the Mississippi.
- Protection of scenic and fragile environmental areas, such as the bluffs and the marshes.

The specific facts of the proposed incorporation of the Village of Medary show that there are existing and potential problems which relate to the general principles cited above.

Planning: The goals of planning are to direct growth where possible or to accommodate it in ways which produce a desirable living and working environment while minimizing both public and private costs. The activities growing from planning should be both promotional of desirable factors and regulatory of potentially damaging activities. The Town of Medary has withdrawn from the Mississippi River Regional Planning Commission and the La Crosse Area Planning Committee, indicating a divergence of opinion on matters of development and an unwillingness to cooperate on many matters of areawide importance. Planning efforts in Medary since then have been clearly inadequate in that they have not indicated a recognition of the full range of development factors, and therefore of potentially costly problems, and have therefore not constructed an adequate base for the promotional and regulatory activities which should follow.

Development Controls: The town does recognize the need for development controls, as evidenced by its adoption of a building code and its ratification of the county zoning ordinance and its stated intent to adopt similar ordinances as a village. However, it has been the city, through the exercise of its extraterritorial subdivision review power, rather than the town, which has been active in attempting to ensure that residential lot sizes will be adequate to minimize on-site waste disposal problems.

Development Promotion: Information presented at the hearing characterized the City of La Crosse as pursuing a responsible development policy by building a diversified economic base, by not giving concessions which are attractive to industry but costly to the rest of the community, and by pacing development so that it does not outstrip community facilities and services. Moreover, it has been effective in reducing unemployment and in raising wages nearer state-wide levels. As the largest government in the area, it has the greatest resources for attracting and controlling development, including eligibility for the Community Development Block Grant programs which the smaller governments cannot use. This development has areawide effects because of commuting by workers and shoppers. Incorporation of Medary would effectively end the city's role; because of the city's relatively unique geographical situation, hemmed in as it is by the Mississippi River, the bluffs, and the City of Onalaska, it could no longer pursue new lands for industrial development which would be subject to city control after annexation.

The city is the site of most of the area's economic base activities, the outlying areas having primarily secondary economic activities which grew in the wake of the basic activities. Systematic development of new basic activities, and multiplication of its effects through the subsequent development of secondary activities would seem to be beyond the reach, at least as demonstrated by past activities, of the other smaller governments in the area.

Financial Resources: In many ways, the problems of a metropolitan area are the problems of the central city of the area. The central city, as the hub of the economic and social life of the area, is required to provide adequate streets and highways for traffic movement, to provide for mass transit service where feasible, to provide major portions of the park system and recreation facilities, to provide public housing for low-income families and individuals, and in some cases to provide sewer and water utilities, fire protection, and other public services of areawide impact.

The City of La Crosse has shown that traffic counts have increased over the last several years as its population has declined. Likewise, service facilities such as those for educational and health services have grown. The effects are similar--tax-exempt development removes property from the tax rolls and land for residential use is lost. If, in addition, the boundaries of a municipality are fixed, little growth can occur to offset the loss, leaving it facing increased service demands with a diminished revenue capacity. This is particularly true in La Crosse where a combination of physical factors, existing development, and another municipality leave only one avenue for growth, and that is into the Town of Medary. The difficulty of growth even in the existing situation is shown in Table 4 which shows that the equalized value of real property in all the surrounding governments, including the county, grew more rapidly than the city's from 1970 through 1975.

Also relatively unique to La Crosse is the fact that it has lost population since the 1970 census, totalling 48,864 in a special census in 1976. The city claimed that dropping below 50,000 population would eventually cause the loss of eligibility for two federal grant programs which will contribute about \$1,000,000 per year to the city over the next several years.

Eligibility for the federal Community Development Block Grant Program is dependent on retention of the area's status as a Standard Metropolitan Statistical Area (SMSA). Because of a change in the definition of SMSA in 1975, the population of the City of Onalaska and other areas with a population density of 1,000 or more per square mile can be added to the population of La Crosse in determining whether the 50,000 population required for the core of the SMSA can be reached, as it can. Therefore, there would not be a loss of eligibility for this program.

The federal Urban Mass Transit Program uses a different definition-- "urbanized area"--to determine eligibility. It appears that a loss of eligibility would occur at the time of the 1980 census. As an indication of the magnitude of the possible loss, the program is scheduled to contribute \$1,328,639 in the fiscal years 1977-1980.

For these reasons, it is determined that the proposed incorporation would have an adverse effect upon the solutions to metropolitan community problems.

After applying the standards set forth in s. 66.016, Wisconsin Statutes, for the reasons heretofore cited, each of which is a sufficient basis, the Head of the Planning Function makes the following determination:

THE PETITION AS SUBMITTED SHALL BE DISMISSED

George A. James
George A. James, Director
Bureau of Community Development

GAJ/MLW:lp

123 West Washington Avenue - 8th Floor
Madison, Wisconsin 53702

Dated: March 1, 1977

Copies to: Honorable Peter G. Pappas, Circuit Judge; Mr. John Dolbier, Designated Representative; Mr. William J. Sauer, Deputy City Attorney, Attorney for Opponents; Mr. John Bosshard, Bosshard, Sundet and Associates, Attorneys for Petitioners; Mrs. Jane Kowal, Clerk, Town of Medary; Mr. Aubrey Kroner, Clerk, City of La Crosse; Mr. Donald Huggett, Clerk, City of Onalaska; Mr. Ronald Gullickson, Clerk, Village of Holmen; Mr. John Murphy, Wisconsin Department of Justice; Mr. William Bechtel, Secretary, Department of Local Affairs and Development; and Mr. William Kroll, Mississippi River Regional Planning Commission.