



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor  
Joel Brennan, Secretary  
Dawn Vick, Division Administrator

June 15, 2021

Honorable Daniel Bissett  
Winnebago County Circuit Court Branch VI, Room 531  
415 Jackson Street  
PO Box 2808  
Oshkosh, WI 54903-2808

**RE: Incorporation of the Village of Larsen, Winnebago County, Case #2018-CV-000990**

Dear Judge Bissett:

The Incorporation Review Board has completed its review of the petition to incorporate a portion of the Town of Clayton as the Village of Larsen. The Board was established to review petitions for compliance with standards set forth by the legislature in s. 66.0207, Wis. Stats.

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

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

Based on testimony received at a public hearing and two meetings of the Incorporation Review Board, as well as submittals and correspondence received from the Petitioners, and the neighboring Village of Fox Crossing and City of Neenah, which you recognized as a Parties in Interest, the Board finds that this petition as submitted does not meet any of the required standards in s. 66.0207, Wis. Stats. As a result, the Board is dismissing the petition.

The Department of Administration will retain all supporting documents and records pursuant to Record Disposal Authorization for 10 years, after which they are transferred to the State Historical Society. These files are part of the Department's municipal incorporation record series and are available upon request.

Sincerely,

Dawn Vick, Chair of the Incorporation Review Board, and  
Administrator of the Division of Intergovernmental Relations

Enclosure: Determination of the Incorporation Review Board

cc:

Bill Goehring, Incorporation Review Board  
Justin Nickels, Incorporation Review Board  
Rich Eggleston, Incorporation Review Board  
Sharon Leair, Incorporation Review Board

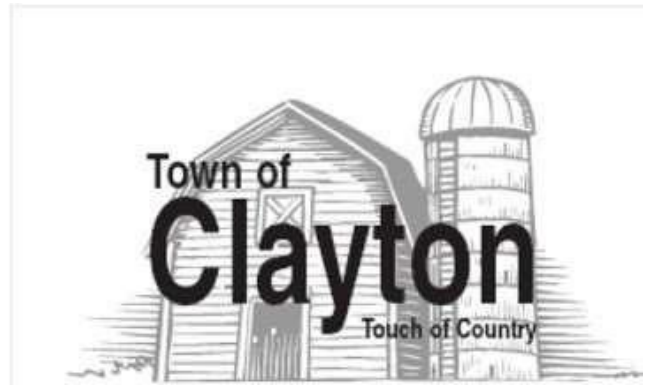
Bill Forrest, Petitioners' Planning Consultant  
Arden Schroeder and Mark Luebke, Petitioners  
Russ Geise, Town of Clayton Chair  
Stan Riffle, Petitioners' Attorney

(The following entities are not receiving a full determination document. However, the determination document is available upon request, and may also be viewed at:

<http://doa.wi.gov/municipalboundaryreview>

Tori Straw, Town of Clayton Administrator  
Melissa Kraemer-Badtke, ECWRPC Director  
Adam Westbrook, City of Neenah Attorney  
Chris Haese, City of Neenah Planner  
Jeff Sturgell, Village of Fox Crossing Admin  
Andy Rossmessl, V. Fox Crossing Attorney  
Darla Fink, Village of Fox Crossing Clerk

Holly Stevens, Town of Clayton Clerk  
Jon Doemel, Winnebago County Executive  
Dean Kaufert, City of Neenah Mayor  
Tony Mach, City of Neenah Water Utility  
George Dearborn, Village of Fox Crossing Planner  
Stephanie Cheslock, City of Neenah Clerk



DETERMINATION OF THE INCORPORATION REVIEW BOARD

June 15, 2021

In Re:

THE INCORPORATION OF A PORTION OF THE TOWN OF CLAYTON,  
WINNEBAGO COUNTY, WISCONSIN AS A VILLAGE

Case No. 18-CV-990

Arden Schroeder and Mark Luebke, Representatives of the Petitioners

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TONY EVERS  
GOVERNOR

JOEL BRENNAN  
SECRETARY

**Municipal Boundary Review**

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It is the function of the Incorporation Review Board to prepare findings and determine whether the territory petitioned for incorporation meets the applicable standards prescribed in Section 66.0207, Wis. Stats. The Incorporation Review Board members are appointed by Wisconsin's municipal associations. Membership of the Board is provided at 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), Characteristics of the Territory – Not Met

STANDARD 1 (b), Territory Beyond the Core – Not Met

STANDARD 2 (a), Tax Revenue – Not Met

STANDARD 2 (b), Level of Services – Not Met

STANDARD 2 (c), Impact on the Remainder of the Town –Not Met

STANDARD 2 (d), Impact on the Metropolitan Community – Not 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 dismissed.

Dated this 15<sup>th</sup> day of June 2021,

Dawn Vick  
Chair of the Incorporation Review Board

## 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**

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This document constitutes the Findings and Determination of the Incorporation Review Board on the petition that was filed by residents of the Town of Clayton (Clayton) to incorporate a portion of the Town, shown on **MAP 1** in **APPENDIX F**, as the Village of Larsen.

The Town of Clayton is located in the northern part of Winnebago County, situated 5-miles west of Appleton and 8-miles north of Oshkosh. Due to its proximity to communities within the Fox Valley and its location adjacent to Interstate (I) -41 and I-45 and U.S. Highway (USH) 10, the Town anticipates development to occur along its eastern side adjacent to the Village of Fox Crossing. As part of a recent intergovernmental agreement between Fox Crossing and Clayton, this area will receive municipal sewer and water service. Petitioners believe that incorporation would give the new village tools to better manage the anticipated development, such as expanded land use authority and greater financial flexibility,

The area proposed to be incorporated as the Village of Larsen measures 18.67-square miles in size and includes approximately 3,336 residents. **MAP 1** also shows that a portion of Clayton is proposed to remain as Town territory following incorporation (Town Remnant). This Town Remnant territory would be roughly 17.73 square miles in size with 850 residents.

Clayton's incorporation process began with a newspaper notice on June 16, 2018 indicating Petitioners' intent to circulate an incorporation petition. After gathering enough signatures, a Court hearing on the petition was held in Winnebago County Circuit Court on May 9, 2019 where Judge Daniel Bissett found the petition met the minimum area and population standards required by s. 66.0205, Wis. Stats. The Court recognized the neighboring Village of Fox Crossing and City of Neenah as *Parties of Interest* opposed to the proposed incorporation.

On September 23, 2020, Petitioners submitted their materials and review fee which commenced the Board's 180-day review period. On December 1, 2020, Judge Bissett approved Petitioners' request to extend the Board's review period to June 15, 2021.

As part of its review, the Board held a public hearing on March 23, 2021 to hear from Petitioners, residents, the Village of Fox Crossing, City of Neenah, and others. The Board also held meetings on May 12, 2021 and June 8, 2021 to discuss and analyze how the petition relates to the statutory standards.

In reviewing incorporation petitions, the Board has three statutory 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, or
- 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 statutory public interest standards in s. 66.0207 Wis. Stats.:

1). Characteristics of the Territory – Not Met.

This standard requires the petitioned territory to be sufficiently compact and homogenous to function as a city or village. Factors include natural boundaries, the transportation network, employment, business, social and recreational opportunities, population distribution, and land use patterns.

The proposed village is primarily a rural community with vast amounts of undeveloped farmland, with a low population density. Existing residential development is primarily unconnected subdivisions. This represents a lack of compactness. Economic and social patterns indicate that residents rely on neighboring Fox Valley communities for shopping, employment, social, and recreational opportunities rather than from within the proposed village. This indicates that homogeneity of residents within the proposed village territory is with neighboring Fox Valley communities such as the Village of Fox Crossing and City of Neenah.

Petitioners testified at the Board's March 23, 2021 public hearing about the urban development they anticipate will occur in the future. However, this statutory standard requires that urban characteristics already exist at that time the Petition is filed, not at some point in the future.

In addition, the proposed village boundaries do not align well with the boundaries of watersheds, school districts, or the sanitary district. Dividing these existing boundaries shows a lack of homogeneity.

2). Territory Beyond the Core – Not Met.

This standard requires that vacant and developable territory beyond the most densely populated square mile have the potential for substantial urban development within the next 3 years.

Petitioners included almost 14 square miles of vacant and developable land within the proposed village's boundaries. Of these, Petitioners requested that the Board waive approximately 8 square miles from this standard. However, after careful review of the request, the Board finds that it cannot waive these undeveloped lands from the statutory standard.

Examining recent building activity, current and ongoing development projects, projected population growth, accessibility, availability of services, and completed plans and studies for the area, the Board finds that urban growth is expected to be modest initially within the statutory standard's 3-year time frame. This modest level of growth falls short of showing the potential to substantially develop the vast amounts of vacant and developable territory subject to this standard.

3). Tax Revenue – Not Met.

This standard ensures that the proposed village has the capacity to raise sufficient tax revenue to function as a village without unduly burdening residents. The Legislature included this standard to avoid the creation of new communities that would immediately struggle financially. Factors considered include the proposed village's equalized value, current debt, the proposed budget, and the proposed tax rate.

Clayton has taken on a significant amount of debt to prepare for urban development on its eastern side, particularly making sewer and water service available to this area. It has agreed to pay Fox Crossing and other jurisdictional entities over \$13 million, with additional costs to design and build the system. As a result, Clayton is currently utilizing much of its statutory debt capacity. To fund all these expenses, at least initially, Clayton will need to substantially raise the tax levy and tax rate. Clayton hopes that over time, the development will begin to pay for itself. While it is not uncommon for Wisconsin communities to borrow money to pay for infrastructure, the statutory standard requires the Board to find that the proposed village has sufficient revenue to provide anticipated services at a favorable tax rate.

4). Level of Services – Not Met

This standard applies because the Village of Fox Crossing filed a resolution with Winnebago County Circuit Court indicating a willingness to annex and provide services to the proposed village territory. This standard requires a comparison of the services offered by the proposed village of Larsen and Fox Crossing.

Petitioners propose that the new village will receive substantially the same services that Clayton currently provides. Clayton's services are significantly less than what Fox Crossing provides. A key factor in the Board's review of this standard is that Clayton's services are on the western edge of the town, away from the proposed village's east side which is adjacent to the Village of Fox Crossing.

Clayton's services are more rural in nature, while the services demanded by new residents and businesses the proposed village hopes to attract on the village's east side are likely consistent with what Fox Crossing already offers. While the proposed village could likely provide services to the western portion of the proposed village, Fox Crossing's high level of services and immediate adjacency to the east side of the proposed village where development is anticipated means that Fox Crossing may better provide services to this east side of the proposed village.

5). Impact on the Remainder of the Town – Not Met.

This standard requires the Board to consider the impact on the town remaining after incorporation to ensure the well-being of the proposed town remnant and its residents following incorporation. Incorporation should not have a detrimental effect and leave behind a town remnant too small or fragmented to efficiently govern itself, and with too few assets and revenue sources with which to provide municipal services. Factors considered include population, compactness of shape, and financial capacity.

The proposed village of Larsen would nearly bisect the Town Remnant. This is not conducive to the Remnant Town's identity as a community.

Incorporation of the Village of Larsen would have a tremendous financial impact on the Town Remnant, leaving it with only 12% of the current Town's value, while being responsible for significant debt, even though the sewer and water service for which the debt was taken on benefits the proposed village and not the Town Remnant. Additionally, the Remnant's residents would likely see current Town staff, equipment, and buildings go to the new village. For these reasons, the Board finds that incorporation would significantly harm the Town Remnant and greatly hinder its success as a distinct municipal entity.

6). Impact on the Metropolitan Community – Not Met.

This standard required the Board to make an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

Compared with the other standards, minimal information was submitted for the *Metropolitan Impact* standard. Because of the proposed village's likely challenges regarding finances and services, the Board is not able to expressly find that incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community. Therefore, the standard is not met.

Having found that the petition fails to meet all six Incorporation Review Board statutory standards in s. 66.0207 Wis. Stats., the Board finds that the petition must be dismissed.

The Board thanks Petitioners, Town of Clayton staff and elected officials, the Village of Fox Crossing, and City of Neenah for all their materials, presentations, testimony, and requested information, which greatly facilitated the Board's review.

## **FACTUAL BACKGROUND**

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### ***Physical and Natural Boundaries***

**MAP 1** shows the proposed incorporation area. The eastern boundary is the existing Town boundary, except for approximately 66 acres in Section 12 which is Fox Crossing territory, the result of an annexation in 2017. This annexation was contested and resulted in the development of the *Intermunicipal Agreement between the Town of Clayton and Village of Fox Crossing* (Clayton-Fox Crossing Agreement). According to this agreement, the annexation territory remains in Fox Crossing, Fox Crossing agrees to provide Clayton with sewer and water service, is prohibited from further annexations for 10-years, and agrees not to exercise extraterritorial zoning and plat approval authority within Clayton.

The proposed village's northern boundary is the boundary with the Village and Town of Greenville, until Center Road where the proposed village turns south until intersecting with the Canadian National Railroad line where it then jogs easterly, excluding most of Section 15. At County Highway (CTH) II the proposed village boundary continues west to include the unincorporated hamlet of Larsen in Sections 19 and 20 before returning east along Larsen Road. The boundaries include the Clayton Cemetery in Section 28 and a residential area in Section 27. The boundary then continues south along Oakwood Avenue to Breezewood Lane where it returns to the Town's eastern boundary.

The proposed village boundaries tend to be generally compact along the Town's eastern side. However, by reaching west to include Larsen hamlet, the proposed village forms a peninsula that tends to be irregular in shape, a fact that even Petitioners concede. Petitioners included Larsen hamlet because Clayton's municipal building, staff, and equipment are located in Larsen, as well as the Larsen-Winchester Sanitary District and Clayton cemetery.

### ***Economic Activity***

The Table at **APPENDIX B** shows 90 businesses employing 2,857 people. These businesses include restaurants, construction and landscaping contractors, four golf facilities, a hotel, plumbers, pet care, a beauty shop, gas stations, car repair shops, a school, a church, a post office, Clayton's municipal facilities, and a Kimberly-Clark facility. The Parties of Interest dispute the accuracy of this table, contending that some of these businesses are located in adjacent communities, some have gone out of business, and the Kimberly-Clark facility employs only 14 employees. Petitioners concede that the table may not be entirely accurate, but believe that it nonetheless provides a good sense for the economic activity in Clayton.

To facilitate additional business development, in 2018 the Town developed a Tax Increment District (TID). **MAP 2** shows the TID's location along the Town's eastern boundary. The TID was created to facilitate the extension of water and sewer services to the area.

## **Social Activity**

Clayton has one social organization, the Larsen-Winchester Lions Club, organized in 1974. The club is active with many community projects and improvements. Petitioners also cite their Fire and Police Departments as being social organizations because they conduct educational activities with area schools.

Petitioners mention several other social organizations and sports leagues. However, rather than being distinct to Clayton, these appear to be more regional in nature, based in adjacent communities or the broader Fox Valley region and having Clayton residents as members.

Clayton maintains two parks:

- Clayton Park – 23 acres, located at 3577 Larsen Road, the park includes baseball/softball fields, a soccer field, sand volleyball court, horseshoe pits, playground, sledding hill, natural area, walking trails, grills, a covered picnic area, restrooms, and a kitchen;
- Trail Head Park – 5 acres, located in Larsen hamlet, functions as a rest area for WIOUWASH Trail users. Includes restrooms, picnic areas, playground, and a soccer field.

Additionally, the Town recently acquired 12 acres of land in the southeast corner of the proposed Village to be developed for passive uses consistent with a nature preserve.

Two State of Wisconsin multi-use trails extend through Clayton:

- WIOUWASH Trail - extends six miles through the proposed Town Remnant from its southern boundary to its northern boundary. The 21.8-mile trail connects Hortonville to Oshkosh.
- Friendship Trail – extends six miles through Clayton along STH 10 from the Town's eastern boundary to its western boundary crossing through a portion of the proposed village. When completed, the trail will connect Stevens Point to Manitowoc.

These trails are used for walking, biking, cross-country skiing, snowmobiling, and horse riding, depending on the season. The two trails intersect in the Town Remnant area near Pioneer Road. Additionally, both the Friendship Trail and the WIOUWASH Trail connect with other local Fox Valley Trails, including the Little Lake Butte des Morts trestle bridge. These trails provide Clayton residents with significant recreational and transportation opportunities.

Golf is a major recreational and social opportunity within Clayton, as the Town is home to three golf courses and a driving range. These are:

- Westridge Golf Course - located just east of State Highway 76;

- Ridgeway Country Club - located at the corner of State Highway 76 and CTH II, this private club has operated for 92 years. Includes an 18-hole course, practice facilities, a renovated clubhouse, banquet room, lounge, full food and beverage menus, and junior golf programs.
- Winagamie Golf Course – located in the northeast corner of the proposed village, in operation for almost 60 years, includes a 27-holes golf course. The course was gifted to the Appleton Area School District and Fox Valley Technical College in 2013 to provide students with beyond the-classroom educational experiences.
- Mulligan’s Fairway Golf Practice Range - located at 8549 State Road 76, offers 36 tee boxes, 5 greens, and a chipping green. It also offers golf lessons, club repair, and holds events for golfers of all levels.

In addition to golfing, these facilities host other events such as corporate outings, banquets, and weddings.

### ***Topography***

Clayton is nearly level to gently sloping. Elevations range from 910 feet above sea level along a north-south ridgeline that runs west of STH 76, to 760 feet at the Town’s western boundary. As a result, topography does not present any issues related to the proposed village.

### ***Drainage Basins***

**MAP 3** shows Clayton’s drainage basins. The north-eastern part of the proposed village lies within the Mud Creek drainage basin which flows east toward the Fox River. The southeastern part of the proposed village lies within the Neenah Slough Watershed Area which eventually drains to the Fox River. The north-western portion of the Town lies within the Rat River drainage basin which discharges to the Wolf River. The remaining south-western portion of the Town lies within the Arrowhead River drainage basin which discharges to Lake Winneconne.

Clayton has numerous wetlands. The largest is the Rat River Marsh in northwestern Clayton. Due to their ecological importance, many of these areas have been purchased by the WDNR with more purchases likely. There are many other wetlands throughout the Town.

### ***Transportation***

Clayton has good proximity and access to the larger Fox Valley region. Specifically, Clayton is bordered by Interstate (I) 45 to the west and I-41 to the east, with connection provided by US Highway (USH) 10, running east-west through the Town. Other busy highways in Clayton are STH 76, CTH JJ, CTH BB, CTH T, CTH II, and CTH M.

Clayton’s local roads tend to be associated with isolated pockets of residential development that do not connect. **MAP 1** shows Clayton’s local roads in dark grey color. The Map clearly shows the lack of interconnection between these local roads.

Beyond roads, Clayton residents also benefit from Appleton International Airport located just to the north in the Village of Greenville. Appleton International Airport offers flights

across the country and world. The airport is Wisconsin's 3<sup>rd</sup> busiest in terms of passengers served and is the fourth fastest growing airport in the U.S. On a smaller scale, four private landing strips are located within Clayton for private plane owners to utilize.

For non-motorized transportation, the WIOWASH and Friendship bicycle and pedestrian trails mentioned previously enable travel throughout the Fox Valley and beyond for recreation and commuting to work, school, errands, etc.

Finally, a Canadian National Railroad line runs through the Town, moving approximately thirty freight trains per day.

### ***Schools***

Three school districts serve the Town of Clayton. **MAP 4** shows that much of the proposed village is served by the Neenah Joint School District, while Winneconne Community School District serves western areas such as Larsen hamlet. The School District of New London serves a tiny portion of the northwest corner of the Town Remnant.

Only one school is located within the proposed village, Neenah Joint School District's Clayton Elementary School, located at Fairview Road and STH 76.

Neenah School District voters recently passed a referendum for a new high school campus facility to be located in Fox Crossing, adjacent to Clayton's eastern boundary at the intersection of Clayton Avenue and CTH II.

### ***Utility Districts***

#### *Sewer and Water Service*

Most Clayton residents utilize private sewer and water systems. However, **MAP 5** shows that Clayton does have two sanitary districts. The Larsen hamlet area is served by the Larsen-Winchester Sanitary District which has approximately 300 customers, including the Town's municipal center, some businesses, and residents. The Larsen-Winchester Wastewater Treatment Plant is located within the Town of Clayton, but outside of the proposed village boundaries. A recent study, the *2015 Water & Wastewater Utilities Feasibility Study* (2015 Study), concluded that the Larsen-Winchester Wastewater Treatment Plant is nearing capacity and may require expansion or replacement in the future.

The Clayton Sanitary District is located along the Town's eastern boundary. This district was organized in 1972, however it exists only on paper. It has never provided services, has no customers, staff, or equipment.

Clayton has been extensively engaging in efforts to make sewer and water service to east side areas of the Town a reality. As part of the 2015 Study, Clayton explored several alternatives, including service from the City of Neenah, from the City of Appleton, from the Village of Fox Crossing, as well as expansion of the Larsen-Winchester Sanitary District and Treatment Plant. Ultimately Clayton selected service from Fox Crossing which is immediately adjacent to Clayton with existing sewer interceptors ready and available. This was the most cost-effective alternative. In addition to resolving the annexation litigation, the Clayton-Fox Crossing Agreement provides municipal sewer and

water service to a specified portion along Clayton’s eastside referred to as the *2019 Service Area* and depicted on **MAP 6**. The agreement provides that Clayton will plan, design, and construct water supply facilities within the *2019 Service Area*. After construction, the Town agrees to transfer ownership of the water system to Fox Crossing. Should Clayton ever be recognized as a public water utility by the PSC, the agreement requires Fox Crossing to transfer ownership back to Clayton. The agreement’s provisions related to water service were recently approved by the Wisconsin Public Service Commission (PSC).

Developing a municipal water system in Clayton is particularly important because the Town’s groundwater is contaminated by arsenic. The entire Town lies within the Wisconsin DNR’s Arsenic Advisory Area. Approximately 27% of Clayton’s private wells have elevated arsenic levels which may result in some forms of cancer. Municipal water service could at least benefit those residents and businesses within the 2019 Service Area.

Clayton has expended significant financial resources to serve its east side. Specifically, the Clayton - Fox Crossing Agreement commits the Town to the following:

- \$5,750,000 payment to Fox Crossing for sewer capacity
- \$5,750,000 payment to Fox Crossing for water capacity, and
- \$1,225,251 to join the Fox West Regional Wastewater Treatment Facility.

These amounts do not include the actual cost to the Town for planning, designing, constructing, and operating sewer and water infrastructure. Petitioners estimate the cost of developing a water distribution system alone to be \$2.6 million.<sup>1</sup> To help identify strategies for how to pay for these daunting costs, the Town completed a *Sewer and Water Funding Study* in February 2021.

Petitioners believe that incorporating as the Village of Larsen would help facilitate development of sewer and water to Clayton’s east side. For example, Clayton Sanitary District would become a division within the new village versus a free-standing and independent sewer utility. Petitioners also indicate that Clayton’s long-term objective is to close the existing Larsen-Winchester Sanitary District and connect its customers to the newly developed east-side system, thereby consolidating all Town sewer flows west to the Fox West Regional Wastewater Treatment Facility.

### ***Population***

Of Clayton’s estimated 4,193 persons, the proposed Village would include 3,336 persons, or approximately 79.7 percent of the total. This would leave the Town Remnant with 850 persons, or 20.3 percent of the total.

**TABLE 1** shows how Clayton’s population has changed over time, with the most rapid growth being between 1970-1980 and 1990-2010. Most of this population growth has occurred in the east side of the Town.<sup>2</sup>

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<sup>1</sup> Petitioners April 2, 2021 Submittal, page 17.

<sup>2</sup> 2015 Study, page 9.

**TABLE 1: Clayton Population**

<b>Year</b>	<b>Population</b>	<b>% Change</b>
1970	1,771	
1980	2,353	32.9%
1990	2,264	-3.8%
2000	2,974	31.4%
2010	3,951	32.9%
2015	4,140	4.8%
2020	4,193	6.1%
2025 (Est.)	4,855	7.6%
2030 (Est.)	5,200	7.1%
2035 (Est.)	5,470	5.2%
2040 (Est.)	5,685	3.9%

**TABLE 2** shows the proposed village’s population density. At 18.5 square miles in size, and with a population of 3,336, the proposed village has a population density of 180 persons per square mile. The table shows that compared with past petitions reviewed by the Incorporation Review Board which met this statutory standard, the proposed village of Larsen’s population density is significantly less dense.

**TABLE 2: Population Density**

<b>Community</b>	<b>Population Density (sq. mi.)</b>
Harrison	1,572
Brookfield	1,482
Fox Crossing	1,174
Greenleaf	859
Somers	581
Greenville	570
Bloomfield	474
Summit	316
Richfield	316
Bristol	254
<b>Larsen</b>	<b>180</b>

**MAP 7** shows the location of Clayton’s most densely populated areas, which are defined as those areas containing greater than 500 persons per square mile. The Map shows that population is not focused in any one area, but instead is spread out across the Town, particularly across Clayton’s east side.

## Land Uses

TABLE 3 provides information about Clayton’s existing land uses.

**TABLE 3: Existing Clayton Land Use**

Land Use	Existing (acres)	(%)
Single Family Residential	2,275	18.87%
Multi-Family Residential	16	0.13%
Manufactured Housing	12	0.10%
Commercial	140	1.16%
Industrial	120	1.00%
Utilities & Public Facilities	31	0.26%
Airports	55	0.46%
Mining	31	0.26%
<b>Total Developed</b>	2,680	22.24%
Parks & Recreation	584	4.84%
Agriculture Space	8,016	66.50%
Water	58	0.48%
Woods	716	5.94%
<b>Total Undeveloped</b>	9,374	77.76%
<b>Total Area</b>	12,054	100.00%

The Table shows that almost 80% of the proposed village consists of rural undeveloped land uses, primarily farmland, while roughly 20% are developed land uses, the vast majority of which is for residential uses. Only 2% of developed land uses are industrial or commercial uses.

**MAP 8** shows the location of these land uses. The Map shows single-family residential development scattered across the Town, primarily along Clayton’s east side. The minimal commercial and industrial uses tend to occur along STH 76. Agricultural lands, shown in white color, tend to predominate and occur throughout both east and west sides of the Town.

### *Clayton ‘Land Bank’*

Over the past decade, Clayton has spent many millions in acquiring lands along the Town’s east side. Testimony indicates that the Town acquired these lands to prevent annexation by Fox Crossing and to promote economic development in this area. Instead of reacting to developer proposals, Clayton wanted to more directly control its future growth. Specifically, Clayton acquired 214 acres, and has subsequently sold 34 of these acres for \$6.8 million. The Town has a contract to sell an additional 50 acres, after which it will still own 130 acres.

### *Airport Impact on Land Use*

**MAP 1** shows that the northeast area of Clayton and of the proposed village is impacted by Outagamie County’s overlay zoning ordinance for Appleton International Airport. This overlay zoning ordinance limits the types and densities of land uses within the

airport district. This issue is discussed in more detail in the *Territory Beyond the Core* statutory standard.

### **Financial Information**

The Board examines financial information to ensure that the proposed village and Town Remnant have the capacity to successfully operate as governmental entities.

#### *Equalized Value*

**TABLE 4** shows the proposed village’s equalized value, \$488 million, along with the current Town’s value and proposed Town Remnant. The Table shows the proposed village would take 88% of the current Town’s value, leaving just 12% to the Town Remnant.

Because the proposed Village is where almost all new development is anticipated, not the Town Remnant, the proposed Village’s proportion of the equalized value will likely continue to grow wider in coming years compared to the Town Remnant. This will result in an increasing wealth disparity between the new village and Remnant.

**TABLE 4: Equalized Value**

<b>Proposed Village of Larsen</b>	\$488,864,631	88%
<b>Town Remnant</b>	\$66,916,100	12%
<b>Town of Clayton</b>	\$555,780,731	100%

#### *Debt*

The Town of Clayton had \$8,913,197 in outstanding debt in 2019. With a debt limit of \$26,696,175, this means that it was utilizing 33% of its statutory debt limit. However, substantial recent activity would indicate that Clayton currently is much closer to its statutory debt limit. For example, Fox Crossing analysis suggests that in 2020 because of the first of its required \$5 million payments to Fox Crossing for sewer and water, Clayton’s debt rose to \$16 million. As a result, it utilized almost 60% of its debt limit. Fox Crossing’s analysis is on the conservative side because it does not include the remaining \$5 million owed to Fox Crossing or the \$1.2 million owed to join the Fox West Regional Treatment Facility, or the millions which will be required to actually design and construct the sewer and water systems. Including all these costs could put the Town closer and closer towards utilizing 100% of its debt capacity within the next several years.

To explore how to pay for its development activities, Clayton engaged a consultant to develop the *Town of Clayton 2021 Sewer and Water Funding Study* (Funding Study) completed in February of 2021. For the Sewer System, the Funding Study recommends paying to develop the system initially using debt, then using customer connection fees, assessments, and other fees to repay the debt. Clayton hopes that the TID increment grows rapidly to enable the debt to be continually refinanced and paid back. However, the study cautions that if customers and the TID increment grow slowly, which is the expectation in the early years, then increasing the tax levy and tax rate will be necessary.

For the Water System, the Study recommends a similar approach except that customer fees are not an option. This means that increasing the tax levy and tax rate will be even more necessary for the water system.

### *Proposed Budget*

Petitioner's proposed budget is located at **APPENDIX C**. Revenues and expenses generally follow the 88%/12% equalized value split between the proposed village and Town Remnant. However, some expenses and revenues are divided differently, such as revenue from transportation aid, licenses and permits, and expenses for public safety and public works.

The proposed budget assumes all current Town employees will now work for the new village, all Town vehicles and buildings will be owned by the new village, and that the Town Remnant will contract for services from the new Village for services. The new village agrees to discount the cost of these service to ensure the Remnant the same level of services at the same tax rate well into the future.

Debt is also a significant issue with the proposed budget. Specifically, compared to the proposed village's \$3 million budget, debt service is roughly \$1 million, representing one-third of the proposed budget. Debt is even more significant for the Town Remnant. Compared to the Remnant's \$214,000 budget, debt service is \$134,000, or representing 62% of the budget.

The proposed budget estimates a modest TID increment, just \$110,000 initially for the 2021 budget. Even in 2026, the estimated TID increment is still only \$282,344. This is consistent with the Funding Study which recommended that revenue must come from elsewhere, such as increased tax levy. In fact, in 2026, the proposed budget includes a transfer of \$664,888 from the general fund to the TID Fund.

Sale of land has also been a significant revenue source for Clayton. Clayton's 2019 budget relied on \$2,173,555 in land sales, while its 2020 budget relied on \$600,000 in land sales. Petitioners proposed budget for 2021 continues to rely on land sales, although to a lesser degree, just \$301,536. A disadvantage with using land sales as a budget revenue source is that it is a onetime source rather than ongoing revenue. Once all the Clayton-owned land is sold, additional revenue sources will be needed. According to Petitioners, Clayton still has 130 acres remaining from its original 214 acres.

Another significant budget issue is maintenance and improvements, and the fact that Clayton may not be budgeting sufficient amounts for certain budget categories. For example, the 2019 Audited Financial Statement shows minimal funds put towards maintenance of the Fire Department, \$0 for Capital Equipment Replacement, and minimal amounts for fire department improvements despite the age of some of its equipment. Minimal amounts were also put towards park improvement. Clayton is leveraging itself financially to develop its eastside, but a consequence of that may be insufficient funding to maintain buildings and equipment and keep up with core service needs and costs.

### *Tax Rate*

Petitioners' proposed budget at **APPENDIX C**, shows the proposed village tax rate as \$3.07 in 2021 while the Town Remnant's would be \$3.03. In 2021 the proposed village's rate would increase to \$4.01 while the Remnant's rate would decrease to \$2.78.

### *Services*

Clayton currently provides the core services that many communities typically provide. Some towns in Wisconsin, particularly rural ones, provide fewer services than Clayton, and some provide more services. Specifically, Clayton has 50 full- and part-time employees working to provide the following services:

- Administration - Full-time Administrator, Full-time Clerk, Full-time Treasurer, Part-time Billing Clerk, Contracted Accountant, Contracted Assessor and Appraisal, Contracted Information Technology
- Road maintenance
- Police protection – 1 Full-time Officer, supplemented by Contracted service from Winnebago County Sheriff's Department. Clayton anticipates needing to increase police protection in the future as its east side develops. One alternative considered is consolidating law enforcement services with Fox Crossing which already has a full-time police department.
- Fire protection and emergency response - 1 Full-time Fire Chief and 26 Part-time paid-on-call Fire Fighters
- Solid waste collection – Contracted weekly garbage and recycling service. Clayton maintains a waste oil and yard waste collection site for residents
- Parks and recreation
- Sewer and water service – available only in Larsen hamlet
- Land use planning – Full-time Building Inspector, Contracted Planning, and Land Information Staff. Clayton provides building inspection services to the Towns of Vinland, Winneconne, Winchester, and Dale via intergovernmental agreements.
- Stormwater management

The services above are based out of the Clayton Town Hall in Larsen hamlet, as well as the Fire Station building and Town Garage, also located in Larsen. A significant issue is that Larsen hamlet is on the west side of the proposed village, but the Town's east side is where development is anticipated. Petitioners indicate that the Town has leased a small structure on the east side for Fire Department staff in order to improve response times to east side areas.

Because Fox Crossing filed a resolution with Winnebago County Circuit Court indicating a willingness to annex and provide services to the proposed village territory, the Incorporation Review Board must compare the services offered not only by Clayton but also by Fox Crossing.

**APPENDIX E** shows Fox Crossing's services and staffing levels. Fox Crossing's Municipal Building, where many of its services are based, is located near Clayton's east

side. Fox Crossing anticipates building additional municipal facilities to serve the Village's west side and possibly Clayton's east side. Specifically, Fox Crossing owns a 40-acre parcel near Clayton's east side which could be the site of a new police and fire department facility. Alternatively, Fox Crossing also owns 40-acres located within its 2017 annexation of Clayton territory. This site could also potentially accommodate municipal facilities and would be located immediately within the east side area Clayton anticipates will develop.

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## **CHARACTERISTICS OF THE TERRITORY - DETERMINATION**

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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 & Development* held that the Department may also consider land-use patterns, population density, employment patterns, recreation and health care customs.<sup>3</sup>

### ***Natural and Political Boundaries***

The proposed village boundaries do not align well with the boundaries of watersheds, school districts, or the sanitary district. For example, the proposed village territory drains to five different watersheds. Furthermore, by including Larsen hamlet, the proposed village boundaries would split the Larsen-Winchester sanitary district. This results in some sanitary district infrastructure and customers lying within the proposed village, and some lying outside, including the district's wastewater treatment facility.

Regarding schools, although school district boundaries are no longer identical to municipal boundaries, schools are key drivers of social activity and shapers of social identity. In this case, Larsen hamlet lies within Winneconne School District, while students in other parts of the proposed village attend Neenah Joint School District schools. Having the proposed village's residents going in different directions for school does not enhance homogeneity.

The fact that the proposed village boundaries do not align well with these watersheds, sanitary districts, and schools tends to show a lack of homogeneity.

### ***Transportation***

Accessibility of the proposed village to the Fox Valley region and beyond is very good. I-45 lies just to the west of the proposed village, I-41 just to the east, and connecting these major freeways is USH 10 which runs directly through the heart of the proposed village. Furthermore, Appleton International Airport lies immediately to the north in the Village of Greenville, and two major state recreational trails run through or adjacent to the proposed village.

However, transportation access *within* the proposed village is not as good. Local roads tend to be associated with clusters of isolated residential developments scattered across the Town's east side and these residential developments tend not to interconnect. Possibly as additional development occurs interconnectivity will improve.

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<sup>3</sup> *Town of Pleasant Prairie v. Dept. of Local Affairs & Development*, 113 Wis. 2d 327-40 (1983).

### ***Shopping and Social Customs***

Looking to see whether the proposed village has shopping and economic opportunities or whether residents must go elsewhere for these, the Table at **APPENDIX B** shows roughly 90 businesses. The Parties of Interest dispute the accuracy of the Table, however even taking the Table as entirely accurate, most of proposed village's businesses tend to be more rural or suburban in nature, such as landscaping, construction, pet kennels rather than the retail or professional services typically needed by residents. Only 2% of Clayton land uses are commercial and industrial in nature. These factors all indicate that the Town of Clayton currently functions as more of a bedroom community and that residents travel to adjacent Fox Valley communities for shopping and economic opportunities. Much of the testimony at the public hearing emphasized the significant development anticipated to occur within the proposed village in the future, including commercial and industrial development. However, this statutory standard requires compactness and homogeneity at the time the petition is filed, not at some future point in time.

Looking at whether the proposed village has social opportunities and customs, or whether residents must go elsewhere to adjacent communities for these, while there does appear to be some social activity, it is not at the level of previous petitions which have met this statutory standard. Specifically, while the proposed village has two Town parks and four golf facilities, there is only the one Lions Club as a social organization, no community events. Instead, almost none of the social activity Petitioners cite are distinct to Clayton, but instead more associated with the larger Fox Valley. This tends to show that homogeneity regarding residents' social patterns exists more with neighboring Fox Valley communities than with the proposed village area.

### ***Population Distribution***

Wisconsin courts have ruled that population density and distribution is a factor for determining compactness and homogeneity. Higher density tends to indicate that compactness and homogeneity exists, while scattered low density population tends to indicate a lack thereof.

Of Clayton's estimated 4,193 persons, the proposed Village will include 3,336 or approximately 80%. However, because Petitioners included so much vacant rural lands, the proposed Village has low population density, just 180 person per square mile as shown by **TABLE 2**. The Table shows that if approved, the village of Larsen would be the least dense community among those communities which met this standard. Furthermore, in addition to density, the location of population tends to be scattered across the eastern one-half of the proposed village rather than compactly located.

### ***Land Use***

Wisconsin courts have ruled that land uses are a factor for determining compactness and homogeneity, with urban land uses tending to indicate that compactness and homogeneity exists while rural land uses tend to indicate a lack thereof. **TABLE 3** shows that almost 80% of the proposed village's land uses are rural and undeveloped in nature, primarily agricultural. Urban and developed land uses account for only 20% of the proposed village, and almost all of that consists of single-family residential. **MAP 9** shows that most of the proposed village is undeveloped (White color), while existing commercial and industrial development is minimal, and existing single-family residential

development (Yellow color) tends to be scattered. These factors tend to show lack of compactness and homogeneity.

***Finding***

The proposed village is primarily a rural community with vast amounts of undeveloped farmland, and a low population density living in scattered and unconnected subdivisions. This indicates a lack of compactness. Economic and social patterns indicate that residents rely on neighboring Fox Valley communities for the shopping, employment, social, and recreational opportunities rather than from within the proposed village. This indicates that homogeneity of residents within the proposed village territory is instead with neighboring Fox Valley communities such as Fox Crossing and City of Neenah.

Petitioners testified at the Board’s March 23, 2021 public hearing about all the urban development they anticipate will occur in the future. However, this statutory standard requires that urban characteristics already exist at that time when the Petition is filed, not at some future point in time.

For the reasons discussed in the determination, the Board finds that the Characteristics of the Territory standard in s. 66.0217(1)(a), Wis. Stats. is not met.

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## **TERRITORY BEYOND THE CORE - DETERMINATION**

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

*The territory beyond the most densely populated square mile as pecified in s. 66.0205 (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 board may waive these requirements to the extent that water, terrain or geography prevents the development.*

### **Most Densely Populated Square Mile**

Petitioners have not indicated the most densely populated square mile. However, **MAP 7** shows the most densely populated clusters within the proposed village. Both clusters are in the eastern part of the Town. The southern of these two population clusters is larger and contains the most population. The statutory standard requires that vacant developable lands located beyond this southern cluster have the potential for substantial urban development within the next 3 years.

### **Territory Subject to Standard**

Petitioners have not indicated how many acres they believe are subject to this standard. However, **TABLE 3** indicates that the proposed village includes 8,016 acres of agricultural lands and 716 acres of woods, for a total of 8,732 developable acres subject to this standard, or roughly 14 square miles. **MAP 8**, existing land uses, shows the location and extent of agricultural lands and wooded lands.

### **Waiver of Territory from Standard**

The statute permits the Incorporation Review Board to waive certain territory from the standard to the “extent that water, terrain or geography *prevents* such development.”

In this case, Petitioners have requested waiver of substantial amounts of territory from the standard, roughly 9 square miles, for a variety of reasons. **TABLE 5** shows a breakdown of the various waiver requests and the acreage associated with each.

**Table 5: Acres Unavailable for Development**

<b>Land Use Requested for Exemption</b>	<b>Acres</b>
Airport Overlay Zone	1,631
Agricultural Working Lands	1,193
Wet Soils	1,746
Recreation	577
Transportation and Water	654
<b>Total:</b>	<b>5,801</b>

#### *Airport Overlay Zone*

**MAP 1** shows that although the Appleton International Airport is located to the north in Greenville, Clayton is nonetheless impacted by the Airport’s overlay zoning ordinance which is administrated by Outagamie County and which impacts development in Clayton. Petitioners request that all 1,631 acres located within the Airport’s Overlay zone be waived from the standard.

**MAP 1** shows the Airport Overlay Zoning Ordinance has four different zones, each with its own requirements and limitations on development. The zones closest to the airport limit development more than those zones further away. **TABLE 6** shows the limitations specific to each zone and **TABLE 7** shows the amount of Clayton territory located within each zone.

**Table 6: Airport Overlay Zone Requirements**

<b>Zone</b>	<b>Land Use Requirements</b>
<b>Zone 1</b>	Residential use not permitted, nor public gathering places such as churches, schools, theaters, etc. Commercial and industrial use is permitted on sites not less than 2 acres and maximum building coverage not to exceed 50% of lot area.
<b>Zone 2A</b>	Residential use is permitted, provided it is the principal premises of a farm operation exceeding 35 acres in size. Commercial and industrial on sites not less than 2 acres and maximum building coverage not to exceed 50% of lot area.
<b>Zone 2B</b>	Residential use is permitted, density limited to 1 dwelling per 2 acres and building coverage not to exceed 50% of lot area. Commercial and industrial on sites not less than 2 acres and maximum building coverage not to exceed 50% of lot area.
<b>Zone 3</b>	Residential use is permitted, density limited to 1 dwelling unit per acre and building coverage not to exceed 50% of lot area. Commercial and industrial uses limited to 1-acre, maximum building coverage of 75% of lot area.

**Table 7: Airport Overlay Zoning**

<b>Zone</b>	<b>Acres Impacted</b>
<b>1</b>	86.18
<b>2A</b>	183.41
<b>2B</b>	304.64
<b>3</b>	1,057.62
<b>Total</b>	<b>1,631.84</b>

**TABLE 6** shows that each Airport Overlay Zone limits development to a certain extent but does not prohibit development outright. For example, with Zones 1 and 1A, residential development is very limited but commercial and industrial uses are permitted. Further out in Zones 2B and 3, both residential and commercial/industrial uses are permitted at a density of 1-unit or building per acre. This would still allow for a significant amount of development. For example, the 1,057 acres in Zone 3 could theoretically accommodate 1,057 single-family dwelling units or 1,057 commercial buildings.

*Agricultural Working Lands*

Petitioners request waiver of 1,193 acres of agricultural lands the Town considers to be highly productive “prime farmland”. Petitioners believe that waiver of these lands makes sense because agriculture contributes to Clayton’s economic vitality, provides key wildlife habitat, groundwater recharge lands, and maintenance of air quality.

However, Wisconsin caselaw and past Department and Incorporation Review Board determinations clearly and unambiguously hold that farmland is not appropriate for waiver. In fact, prime farmland also tends to be prime for development. While prime

farmland may exhibit certain physical features in its terrain or geography, these features do not represent any kind of a physical barrier preventing development, which is what the statute requires for waiver. If the Legislature wishes farmland to be appropriate for waiver, it could specifically add farmland as one of the Board's exceptions to this standard.

#### *Wet Soils*

Petitioner also requests waiver of 1,746 acres which they consider to be either wetland, floodplain, have depth to groundwater of less than 3.3 feet, or otherwise is not conducive to building homes with basements. Petitioners submitted several maps showing the location of these wet soil areas. These maps tend to show wet soils occurring throughout the Town, including the Town's east side where it anticipates substantial future development occurring. Waiving the same types of wet soils from the standard which Clayton simultaneously anticipates developing on the east side seems incongruous.

The Board has previously waived surface water and wetlands from the standard due to the presence of year-round or nearly year-round water. Also, unlike floodplains and low depth-to-groundwater, state and federal law has prevented development of surface water and wetlands. Petitioners have not provided specific acreage amounts for surface water and wetlands; however, the Board waives these to the extent they are located within the proposed village. **MAP 8** does not show any significant surface water or wetlands within the proposed village, so waiving these from the standard is unlikely to have much impact on the Board's finding.

As described above, the Board does not find that any of these three factors should result in territory being waived from the statutory standard.

#### *Recreation and Transportation*

Petitioners also request waiver of 654 acres of transportation facilities and 577 acres of developed recreational facilities such as parks. The Board already considers both land use categories to be developed uses. Therefore, waiving them is unnecessary.

#### ***Applying the Petition to the Standard***

The amount of vacant and developable territory subject to the standard is 8,732 acres, or roughly 14 square miles. To determine whether this territory can be substantially developed within the next 3 years, the Board looks at a variety of factors, including recent building activity, current and ongoing development projects, projected population growth, accessibility, availability of services, and completed plans and studies for the area.

#### *Recent Building Activity*

A community's recent past development activity is often an indication of likely future development activity. To gauge recent past development activity, data on building permits, new subdivisions, rezoning's, and variances are examined.

Petitioners only provided data on building permits. **TABLE 8** shows building permits for roughly 14 new single-family homes and one new commercial structure, while roughly 2 structures are razed each year. 15 new structures are fairly modest growth,

particularly considering the 14 square miles subject to the standard which must be substantially developed within the next 3 years.

**TABLE 8: Clayton Building Permits (2010-2019)**

Permit Type	No. Issued	Average per Year
Single-Family Home	137	13.7
Commercial	11	1.1
Razed Structures	20	2.0

*Development Projects Currently Ongoing*

The Board examines development projects which are currently ongoing because the fact that they are ongoing means they will likely be completed within the next 3 years. The Table at **APPENDIX D** shows Petitioners’ list of ongoing development projects. However, most of these projects appear not yet under way, but more at speculative stages which is not as relevant to this standard. For example, 17 of the projects listed are “market dependent,” 3 are in the “concept planning” phase, 4 are listed as being 5-10 years out from development, and 2 are listed as being 2-5 years out from development. Only 5 of the projects are listed as currently ongoing and “available now”. Adding together the “available now” projects would result in development of 87 acres. Adding to that the projects listed as 2-5 years, assuming they start at the front end of this range in 2-3 years rather than the back end in 4-5 years, would result in development of 334 acres. Given the quantity of vacant and developable territory included as part of this petition, and subject to the standard, 334 acres over the next 3 years is not very substantial.

*Population Growth*

**TABLE 1** shows Clayton’s historical population growth, as well as its projected population growth, including over the next 3 years. The Table shows strong growth from 1970-1980, then again from 1990-2010. Since 2010 growth has been slower. Looking forward, State of Wisconsin projections show an additional 662 persons between 2020-2025, a 7% increase.

*Accessibility*

The Board examines accessibility to the proposed village territory, because the ease with which residents can come and go to employment, school, and other daily activities can influence whether people choose to move to an area. As noted previously, accessibility to Clayton and the proposed village is excellent, with I-45, I-41, and STH 10 all proximate, as well as Appleton International Airport and two State recreational trails.

*Sewer and Water Service*

Municipal services can have a bearing on whether people choose to move into an area, particularly municipal sewer and water service because that controls the type and density of new development. Currently, municipal sewer and water are available only in Larsen hamlet. However, Clayton is working very hard to bring sewer and water to its east side. Significant work remains, such as designing and building the sewer and water systems and amending the sewer service area to include the 2019 Service Area. However, it is likely that sewer and water service may be available at some point within the next 3 years.

### *Plans and Studies*

Local plans, such as comprehensive plans, and consultant studies can also help assess the potential for future development. In this case, both Clayton's comprehensive plan and the 2015 Sewer and Water Study both include analysis regarding future growth.

Clayton's comprehensive plan and future land use map estimates that residential development alone will consume 387-620 acres by 2030. Although this is a 10-year estimate, assuming the low end of the range, 387 acres, within 3 years would be fairly consistent with the Table of current and proposed development at **APPENDIX D**, which anticipates 334 acres over the next 5 years.

The 2015 Sewer and Water Study included analysis on the pace of growth and development within the 2019 Service Area because that information is relevant for designing the system and in applying for a sewer service area amendment. The 2015 Study only analyzed two specific areas within the 2019 Service Area, totaling 3500 acres. The study made growth estimates for 2025 and 2040, but it is the 2025 estimate which is most relevant for this standard's time horizon. The Study found that by 2025 population would increase by 101 persons, commercial/industrial use would increase by 40 acres, employing an additional 451 employees.

Clayton's own comprehensive plan and 2015 study both show growth being modest over the next 3 years.

### *New High School*

The new high school approved by Neenah Joint School District voters could also potentially drive new development in the area. Located in Fox Crossing but adjacent to the proposed village, the school is planned to be completed by 2023.

### ***Finding***

The proposed village is readily accessible, and future sewer and water service provision to the east side appears underway. However, all other factors examined indicate that future growth will be modest and falling well short of standard. Therefore, the Board finds that the 14 square miles of vacant and developable territory does not have the potential for substantial development with urban land uses within the next 3 years.

For the reasons discussed in the determination, the Board finds that the Territory Beyond the Core standard in s. 66.0217(1)(b), Wis. Stats. is not met.

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## **TAX REVENUE - DETERMINATION**

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The standard to be applied is found in s. 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."*

The Tax Revenue standard helps ensure that proposed incorporated communities have the financial resources to function as a city or village. The Legislature included this standard to avoid the creation of new communities that would immediately struggle financially. Factors considered include the proposed village's equalized value, current debt, the proposed budget, and the proposed tax rate.

### ***Equalized Value***

**TABLE 4** shows equalized value for the existing Town, Proposed Village, and Town Remnant. Petitioners calculate \$488 million for the proposed village, which would be 88% of the current Town's value, leaving the Town Remnant with \$66 million or just 12% of the current Town's value. This means that the proposed Village will receive the lion's share of the Town's value, which is favorable for the new village.

### ***Debt***

Clayton has taken on significant debt to provide sewer and water service to the east side. According to 2019 Department of Revenue data, Clayton was utilizing 33% of its debt limit. Currently, due in large part to a \$5 million payment required by the Clayton – Fox Crossing Agreement, Clayton is utilizing roughly 60% of its debt limit. This does not include another \$5 million payment owed to Fox Crossing, a \$1.2 million payment to join the Fox Valley West Regional Treatment Plant. Plus, they will incur costs to design and build the sewer and water systems and to successfully amend the sewer service area. Additionally, higher service levels may be requested by new east side residents and businesses, which may entail additional buildings, equipment, and staff. Including all these other costs could well put the proposed village closer to utilizing 100% of its debt limit. This is not an ideal way for a new community to start out financially, particularly since incorporation itself may have unanticipated costs. For example, the cost to create new ordinances, cover new responsibilities such as administering shoreland zoning, complying with Federal programs such as FEMA requirements, and potential litigation costs due to municipal neighbors unhappy with incorporation, among many other unanticipated costs.

### ***Proposed Budget***

Petitioners developed a proposed budget included as part of their initial Submittal in Support of Incorporation document in September 2020. However, prior to the public hearing Petitioners submitted a revised proposed budget. This Determination analyzes only the revised proposed budget shown at **APPENDIX C**, not the one initially submitted.

The proposed budget's revenues and expenses generally follows the 88%-12% split in equalized value between the new village and Town Remnant. However, some expenses and revenues are divided differently, such as revenue from transportation aids, licenses and permits, and expenses for public safety and public works.

The proposed budget assumes that all current Town employees will now work for the village, that all Town vehicles and buildings will become owned by the village, that the Town Remnant will contract for services from the new village to provide services and that the new village agrees to discount the cost of these service to ensure that Remnant residents pay the same tax rate into the future.

The proposed budget anticipates roughly \$3 million in revenues and expenses for the new village. Significantly, the proposed budget allocates \$978,711 towards debt service, which represents 30% of its total budget.

The proposed budget shows modest amounts for some services and budget categories, more akin to a rural community than the urban community Clayton seeks to become. As development occurs along the east side, the residential and business owners may demand higher level services more similar to Fox Crossing, City of Neenah, and other Fox Valley cities and villages. This will mean that Petitioners' budgeted amounts may need to be substantially increased to pay for new departments, more staff, and more equipment and buildings. This would be in addition to the sewer and water service Clayton is striving to develop.

Maintenance of existing assets appears to be another critical issue. For example, Clayton's 2019 Audited Financial Statement shows minimal funds put towards maintenance of the Fire Department - \$0 for Capital Equipment Replacement, and minimal amounts for Improvements. Clayton's plan to develop sewer and water services for the Town's east side may be resulting in its not being able to keep up with existing core services and equipment costs.

### ***Tax Rate***

The proposed budget at **APPENDIX C** shows the tax rate for the proposed village would be \$3.07, while the Town Remnant's would be \$3.03, above Clayton's 2020 rate of \$2.74. However, given the significant debt Clayton has taken on, and will continue to take on, a \$3 tax rate may not be realistic.

Fox Crossing estimates that without land sales Clayton would need to increase its debt tax levy by 65% and raise its tax rate to \$5.00. The proposed budget continues to rely on land sales, \$300,000, which is less than in 2019 and 2020 when it sold \$2,173,555 \$600,000 respectively. Petitioner indicate that the Town still owns an additional 134 acres which could be used to balance its budget and help keep a lower tax rate. However, relying on land sales as a revenue source may be problematic because it is a one-time deal rather than an ongoing revenue source.

Also problematic is that the TID increment is expected to grow gradually, just \$110,000 in 2021 and just \$282,344 even 5 years from now in 2026. This means that revenue must come from elsewhere, and Clayton's 2021 Finding Study suggests that it will come from increased taxes. This means that the tax rate may need to be increased, at least in the

immediate term. Clayton hopes that eventually the TID increment will grow to the extent that the development pays for itself. However, this is not certain, and the Town is facing the responsibility for debt repayment in the immediate future. This repayment may take the form of increased tax levy, and likely a significantly higher tax rate for residents.

***Finding***

Clayton is clearly working hard to develop its east side. It has taken on significant debt and has accomplished a host of studies and intergovernmental agreements to facilitate development. Other Wisconsin communities have likely utilized this same strategy for promoting development. However, the Tax Revenue standard requires the Board to find that the proposed village territory has present and potential sources of tax revenue sufficient to provide services at a favorable tax rate. In Clayton's case, there appear to be several financial warning signs. Even before incorporation, Clayton is utilizing a large portion of its debt limit, similar to a city such as Oshkosh or Appleton. The 2021 Funding Study indicated that alternative revenue sources such as customer fees and the TID increment will remain modest for years to come, thereby placing further strain upon the tax levy and tax rate. These factors cast considerable doubt over whether tax rates can remain favorable to repay debt and manage the other costs of operating as a village.

For the reasons discussed in the determination, the Board finds that the Tax Impact standard in s. 66.0207(2)(a), Wis. Stats. is not met.

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## **LEVEL OF SERVICES - DETERMINATION**

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The standard to be applied is found in s. 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 s. 66.0203(6), Wis. Stats.*

This standard applies because Fox Crossing filed a resolution with Winnebago County Circuit Court indicating a willingness to annex and provide services to the proposed village territory. This standard requires a comparison of the services offered by the proposed village of Larsen and Fox Crossing.

### ***Proposed Village***

The proposed village would offer substantially the same services as the Town of Clayton currently offers. Clayton has roughly 50 full- and part-time employees working to provide typical core services. Some Clayton services have one or more dedicated full-time staff such as administrative services, while other services are contracted for an as-needed basis such as planning and zoning, engineering, solid waste collection, and information technology, among others. Larsen hamlet has municipal sewer and water services available, and Clayton is working hard to make sewer and water service available to the east side of the Town within the coming years.

One issue with the proposed village's services is that they are based from the Clayton Municipal Building in Larsen hamlet, located in the western part of the town. Meanwhile, the anticipated development, which is the basis for this incorporation petition, is located along the proposed village's east side, immediately adjacent to Fox Crossing. It is likely that new residents and businesses to this east side area will desire higher-level urban services like those offered by Fox Crossing, City of Neenah, and City of Appleton. Clayton is working hard to provide sewer and water; however, sewer and water is just one service among many others typically offered by more urban cities and villages.

### ***Fox Crossing***

**APPENDIX E** shows the services offered by Fox Crossing as well as their staffing levels. A key difference between Clayton and the proposed village and Fox Crossing is that Fox Crossing Departments have multiple full-time staff. For example, Fox Crossing's Streets Department appears to have 9 full-time employees, its police department appears to have 20 full-time employees.

Another key difference is that Fox Crossing's services are more proximate to the proposed village's east side. For example, Fox Crossing's Municipal Building is close to Clayton's east side, which is where many of Fox Crossing's services would be coming from. Fire Protection would be a little further away because Fox Crossing's nearest station is currently 2 miles away from Clayton's east side. However, both facilities are more proximate than Clayton's services in Larsen hamlet. Furthermore, Fox Crossing anticipates building an additional municipal facility further west to serve Fox Crossing's

west side and potentially Clayton's east side. Fox Crossing owns two 40-acre sites, one just 1-mile from Clayton's east side and the other within its recent 2017 annexation of Clayton territory which is located immediately within Clayton's east side.

A final key difference is that Fox Crossing's higher-level services are likely what new residents and businesses along Clayton's east side are expecting. So, there is consistency between the urban development anticipated and the urban-level services Fox Crossing can immediately provide.

***Finding***

Fox Crossing is immediately adjacent to Clayton's side. This proximity is a key reason why Clayton chose Fox Crossing for sewer and water service as opposed to Appleton or Neenah. It meant that Fox Crossing could provide service at much lower cost. This good proximity may also mean that Fox Crossing can provide other services also at a favorable cost, at least regarding Clayton's east side where growth and development are anticipated. Other parts of the proposed village further west, such as those nearer to Larsen hamlet, could likely be better served by the proposed village. The Board finds that Fox Crossing can better provide the services needed and desired by the east side of the proposed village, which is the basis and motivator for this incorporation petition.

For the reasons discussed in the determination, the Board finds that the Services standard in s. 66.0207(2)(b), Wis. Stats. is not met.

## **IMPACT ON THE REMAINDER OF THE TOWN -DETERMINATION**

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

*“The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.”*

This standard is meant to ensure the well-being of the proposed town remnant and its residents following incorporation. Incorporation should not have a detrimental effect and leave behind a town remnant too small or fragmented to efficiently govern itself, and with too few assets and revenue sources with which to provide municipal services. Factors considered include population, compactness of shape, and financial capacity.

### ***Physical Boundary and Shape of Remnant***

MAP 1 shows the proposed village would nearly cut the Town Remnant into two pieces. This would mean that traveling from the northern piece to the southern piece would require Town residents to drive through the new village of Larsen which is not efficient and not conducive to community identity.

### ***Population***

Of Clayton’s estimated 4,193 persons, the proposed Village would include 3,336 persons, or approximately 79.7 percent of the total. This would leave the Town Remnant with 850 persons, or 20.3 percent of the total. The Remnant Town would likely have sufficient population to manage basic town functions and fill needed town board, plan commission, and other elected and appointed positions.

### ***Financial Capacity***

Financial capacity is a bigger problem for the Town Remnant than for the proposed village. The Remnant is left with only \$66 million in equalized value, representing just 12% of its current valuation. As a result, Town Remnant residents would see most of the Town’s value going to the new village.

### ***Proposed Budget***

Petitioners propose a Town Remnant budget of \$214,000, with minimal amounts for nearly all budget categories. For example, Board members pointed to road maintenance and capital improvements categories being minimal. The City of Neenah points to the complete lack of parks and recreation services for Remnant residents. This bareboned budget may be due in part to Petitioners’ guarantee that the new village will provide the Town Remnant with discounted services going forward. Receiving the same current services at the same current tax rate into the future is a good deal for the Town Remnant. However, Petitioners’ guarantee is not legally binding. For example, turnover of village of Larsen elected officials could result in a different village board with different priorities, and continuing to provide discounted services to a different community may not be among the new priorities. Also, because the proposed village has significant financial challenges of its own, upholding Petitioners’ guarantee of discounted services may not be financially possible in coming years, particularly when debt repayment is required even though sewer and water customers are still few and the TID increment is still minimal. Were the new village to fail in upholding its guarantee, that would put the

Remnant in jeopardy and would mean that residents need to pay for services with limited equalized value and a fairly small population.

### ***Debt***

Debt is a major problem for the Town Remnant, as the Petitioners' budget has the Remnant shouldering a significant portion of the debt. Specifically, Petitioners' proposed 2021 budget has the Remnant paying \$134,000 in debt service expenditures, which represents 62% of the Remnant's total \$214,000 budget. This seems like a relatively high amount of debt considering the Remnant's small population of 850, particularly since the Remnant is not benefitting directly from the sewer and water service for which the debt is being incurred. Perhaps eventually the Remnant will benefit from sewer and water, but initially—and for many years to come—it is only the east side which will receive sewer and water service.

### ***Municipal Staff, Equipment, and Buildings***

The Remnant would see essentially all current Town's staff, equipment, and buildings go to the new village. Remnant residents would have little left after incorporation except for the Larsen-Winchester Treatment Plant and an unenforceable guarantee from Petitioners that the new village will provide discounted services.

### ***Finding***

Incorporation presents numerous problems for the Town Remnant. Its shape would become irregular, and its community identity would be significantly altered. Remnant residents would see nearly all of Clayton's current value go to the new Village, as well as all municipal staff, equipment, and buildings. Furthermore, the Remnant is being asked to shoulder significant debt, the benefit of which is for the proposed village, not the Remnant. For the above reasons, the Board finds that incorporation would significantly harm the proposed Town Remnant and prevent its viability and success as a distinct municipal entity.

For the reasons discussed in the determination, the Board finds that the Impact on the Remainder of the Town standard in s. 66.0207(2)(c), Wis. Stats. is not met.

## **IMPACT UPON THE METROPOLITAN COMMUNITY - DETERMINATION**

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

Factors examined include cooperation with municipal neighbors, adequate service levels, and area plans, among others.

Considerably less information was presented to the Board on this standard by Petitioners and the Parties of Interest as compared with the other standards.

Petitioners point to Clayton's numerous intergovernmental agreements with their municipal neighbors as proof that Clayton is a good member of the Fox Valley region and proof that Clayton has successfully resolved regional issues in the past. Specifically, Clayton has developed cooperative plan agreements under s. 66.0307 Wis. Stats. with the neighboring Towns of Winneconne, Winchester, Vinland, and Neenah, and it has developed an agreement under ss. 66.0225 and 66.0301, Wis. Stats. with Fox Crossing. Additionally, Clayton has numerous service sharing agreements under s. 66.0301, Wis. Stats. with its municipal neighbors.

The Parties of Interest contend that because the petition fails to meet the Board's other statutory standards, that this Metropolitan Impact standard must also be found not met. For example, the petition's failing to meet the *Tax Impact* standard negatively impacts the metropolitan community because a financially troubled community could harm other communities' bond ratings. Similarly, the petition's failing to meet the *Services* standard might lead other neighboring communities needing to step in and provide services, which would not be fair to that community's residents and taxpayers.

### ***Finding***

Because of the relatively minimal information submitted on this standard, and because of the proposed village's likely challenges with finances and services, the Board is not able to expressly find that incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

For the reasons discussed in the determination, the Board finds that the Impact on the Metropolitan Community standard in s. 66.0207(2)(d), Wis. Stats. is not met.



## **APPENDIX A: INCORPORATION REVIEW BOARD**

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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

Dawn Vick, Chair of Incorporation Review Board  
Administrator, Division of Intergovernmental Relations

#### Wisconsin Towns Association Member #1

William Goehring, Chairperson  
Town of Sherman

#### Wisconsin Towns Association Member #2

Sharon Leair, Chair  
Town of Genesee

#### Wisconsin League of Municipalities Member

Justin Nickels, Mayor  
City of Manitowoc

#### Wisconsin League of Municipalities Member

Rich Eggleston

#### Staff

Renee Powers  
Erich Schmidtke



## APPENDIX B: CLAYTON BUSINESSES

<b>Business</b>	<b>Type</b>	<b>Employees</b>
Coral Hospitality	Lodging	2
Remixx	Tavern	4
Headliners	Restaurant	11
Hmong Asian Food	Restaurant	1
Oink's Restaurant	Restaurant	11
Willie Beamons	Restaurant	10
Woodshed Bar & Grill	Restaurant	4
Aunties Deli	Restaurant	3
Peterson Spider Control	Exterminator	3
Aardvark Landscape	Land Maintenance Service	4
Anderson Sod Farm	Land Maintenance Service	6
Earthscape	Land Maintenance Service	1
Treeo's	Land Maintenance Service	1
Cintas	Miscellaneous	3
Johnson Trucking	Waste Collection	4
Amos & Carol Ihde Farms	Farm	3
Pondside Akitas	Animal Production Support	1
Ridgeway Country Club	Golf Course	75
Westridge Golf Club	Golf Course	15
Winagamie Golf Course	Golf Course	15
Mulligan's Fairway	Golf Driving Range	7
Affordable Contracting SVC	Construction	4
Custom Family Homes	Construction	1
J & K Contracting LLC	Construction	5
Precision Builders Ince	Construction	1
Steckling Builders LLC	Construction	1
Garretts Maintenance SVC	Construction	27
Greg Wisnefske Builders	Construction	9
Dennis Gehrt Heating	Plumbing, Heating, Air Conditioning	3
JD Ogden Plumbing & Heating	Plumbing, Heating, Air Conditioning	3
Wisconsin Sunlight Solutions	Contractor	8
ABT Foundation Solutions Inc	Contractor	11
Fox Valley Asphalt	Contractor	20
Joe's Total Maintenance	Contractor	1
Larsen Materials LLC	Contractor	9
Clayton Elementary School	School	32
Neenah Joint Schools	School	13
Outlook Group Converting	Printing	40
Matrix Machining Inc	Machine Shop	12
Tuttle Lake Woodworking	Manufacturing	3
Kimberly-Clark	Paperboard Mill	2,214
Automotive Specialties	Car Repair	3
Happy Campers Mobile SVC	Car Repair	1
Reifs Automotive	Car Repair	2
Quiet Woods RV Fox Valley	RV Repair	15

<b>Business</b>	<b>Type</b>	<b>Employees</b>
Glorious Hair	Beauty Shop	3
A & L Kennels	Animal Care	1
Lantana	Animal Care	1
Schultz Boarding Kennels	Animal Care	1
Immanuel Evang. Lutheran	Church	1
Woodfield Development	Architect	1
Adler Design Associates	Landscape Architects	1
Clayton Town Shop	Municipal Facility	4
150 Lock & Stop	Storage	2
Blue Line Rental	Equipment Rental	10
Larsen Cooperative	Feed Store/Fuel	10
H & K Woods	Construction Supply Store	3
Arbonne International	Beauty Supply Store	1
Phillips 66	Gas Station	5
Spirit Wings Kids	Kids Clothing Store	3
US Post Office	Post Office	5
Doug Reese Trucking	Freight Transportation	2
Budd Van Lines	Freight Transportation	30
USF Holland	Freight Transportation	120
Roger Cavanaugh Carriages	Scenic Tours	3
Brennard Airport 79C	Airport Operations	2
Freier's Truck Caps	Motor Vehicle Supplies	2
Nik's Auto Parts	Motor Vehicle Supplies	12
Firestopping Specialists	Electrical Supplies	8
Airway Aircraft	Transportation Supplies	1
Salm Services Inc	Recyclable Materials	1
Gilmour Enterprises	Agent and Broker	2
<b>Total Employees</b>		<b>2,857</b>

# **APPENDIX C: PROPOSED VILLAGE BUDGET**

## SUMMARY BUDGETS 1- and 5-Year Projections

FUND, SOURCE & FUNCTION DESCRIPTIONS	2021 TOWN Existing Approved Budget	2021 VILLAGE Proposed Budget	2021 REMNANT TOWN Proposed Budget	2026 VILLAGE Projected Budget	2026 REMNANT TOWN Projected Budget
<b>GENERAL FUND REVENUE</b>					
TAX LEVY	\$ 919,639	\$ 808,455	\$ 111,184	\$ 892,579	\$ 122,777
TAX LEVY - MANUFACTURED HOUSING and MFL	\$ 14,800	\$ 14,000	\$ 800	\$ 15,523	\$ 817
LOAN PROCEEDS	\$ 1,462,050	\$ 1,462,050	\$ -	\$ -	\$ -
INTERGOVERNMENTAL REVENUES	\$ 337,535	\$ 370,199	\$ 68,169	\$ 398,234	\$ 75,264
LICENSE AND PERMIT REVENUES	\$ 95,950	\$ 85,986	\$ 9,964	\$ 94,935	\$ 11,001
PUBLIC CHARGES REVENUE	\$ 11,700	\$ 11,011	\$ 689	\$ 12,157	\$ 761
INTEREST INCOME	\$ 10,000	\$ 8,800	\$ 1,200	\$ 10,541	\$ 500
MISCELLANEOUS REVENUE/CARRYOVER BAL	\$ 324,173	\$ 301,536	\$ 22,637	\$ 210,792	\$ 25,864
<b>TOTAL REVENUES</b>	<b>\$ 3,175,847</b>	<b>\$ 3,062,037</b>	<b>\$ 214,643</b>	<b>\$ 1,634,762</b>	<b>\$ 236,983</b>
<b>GENERAL FUND EXPENDITURES</b>					
GENERAL GOVERNMENT	\$ 584,182	\$ 511,875	\$ 83,332	\$ 552,979	\$ 92,005
PUBLIC SAFETY EXPENSES	\$ 414,113	\$ 386,751	\$ 30,989	\$ 423,000	\$ 34,214
PUBLIC WORKS EXPENSES	\$ 642,683	\$ 631,656	\$ 97,206	\$ 602,251	\$ 107,323
HEALTH & HUMAN SERVICES EXPENSE	\$ 7,769	\$ 7,676	\$ 93	\$ 8,475	\$ 103
CULTURE, RECREATION AND EDUCATION EXPENSES	\$ 21,550	\$ 21,550	\$ -	\$ 23,793	\$ -
CONSERVATION AND DEVELOPMENT EXPENSES	\$ 25,000	\$ 21,979	\$ 3,023	\$ 24,264	\$ 3,338
CAPITAL IMPROVEMENT EXPENSES:	\$ 1,480,550	\$ 1,480,550	\$ -	\$ -	\$ -
<b>TOTAL EXPENDITURES</b>	<b>\$ 3,175,847</b>	<b>\$ 3,062,037</b>	<b>\$ 214,643</b>	<b>\$ 1,634,762</b>	<b>\$ 236,983</b>
<b>GENERAL FUND TAX LEVY</b>	<b>\$ 919,639</b>	<b>\$ 808,455</b>	<b>\$ 111,184</b>	<b>\$ 892,579</b>	<b>\$ 122,777</b>
<b>DEBT SERVICE FUND REVENUE</b>					
DEBT SERVICE LEVY	\$ 826,973	\$ 726,992	\$ 99,981	\$ 1,323,250	\$ 90,543
SPECIAL ASSESSMENTS	\$ 24,887	\$ 21,878	\$ 3,009	\$ 24,887	\$ -
SPECIAL ASSESSMENTS INTEREST	\$ 4,500	\$ 3,956	\$ 544	\$ 1,500	\$ -
DEBT RESERVE FUND (ESTAB. FOR \$8.565 (NAN) 5/4/20	\$ 256,950	\$ 225,885	\$ 31,065	\$ -	\$ -
<b>TOTAL DEBT SERVICE REVENUES</b>	<b>\$ 1,113,310</b>	<b>\$ 978,711</b>	<b>\$ 134,599</b>	<b>\$ 1,349,637</b>	<b>\$ 90,543</b>
<b>DEBT SERVICE FUND EXPENDITURES</b>					
TRANSFER TO TID FUND				\$ 664,888	
PRINCIPAL PAYMENTS	\$ 594,868	\$ 522,948	\$ 71,920	\$ 623,810	\$ 85,791
INTEREST	\$ 518,442	\$ 455,762	\$ 62,680	\$ 34,552	\$ 4,752
<b>TOTAL DEBT SERVICE EXPENDITURES</b>	<b>\$ 1,113,310</b>	<b>\$ 978,711</b>	<b>\$ 134,599</b>	<b>\$ 1,323,250</b>	<b>\$ 90,543</b>
<b>TOTAL PROPERTY TAX LEVY</b>	<b>\$ 1,746,612</b>	<b>\$ 1,535,447</b>	<b>\$ 211,165</b>	<b>\$ 2,215,829</b>	<b>\$ 213,319</b>
<b>MILL RATE (In Dollars Per Thousand) Equalized Value</b>	<b>3.07</b>	<b>3.07</b>	<b>3.03</b>	<b>4.01</b>	<b>2.78</b>
<b>EQUALIZED VALUE (TID out for Village only)</b>	<b>\$ 569,112,500</b>	<b>\$ 500,306,799</b>	<b>\$ 69,577,358</b>	<b>\$ 552,379,132</b>	<b>\$ 76,819,025</b>

## SUMMARY BUDGETS 1 - and 5-Year Projections

FUND, SOURCE & FUNCTION DESCRIPTIONS	2021 TOWN Existing Approved Budget	2021 VILLAGE Proposed Budget	2021 REMNANT TOWN Proposed Budget	2026 VILLAGE Projected Budget	2026 REMNANT TOWN Proposed Budget
<b>SOLID WASTE RECYCLING SPECIAL REV FUND</b>					
SPECIAL ASSESSMENTS	\$ 368,200	\$ 323,685	\$ 44,515	\$ 357,374	\$ 49,149
RECYCLING GRANTS/REBATES/OTHER	\$ 10,850	\$ 9,538	\$ 1,312	\$ 10,531	\$ 1,448
INTERGOVERNMENT REVENUE	\$	\$ 45,827	\$	\$ 50,597	\$
<b>TOTAL SOLID WASTE RECYCLING REVENUES</b>	<b>\$ 379,050</b>	<b>\$ 379,050</b>	<b>\$ 45,827</b>	<b>\$ 418,502</b>	<b>\$ 50,597</b>
<b>SOLID WASTE RECYCLING EXPENSES</b>					
CONTRACTED GARBAGE SERVICES	\$ 293,738	\$ 293,738	\$	\$ 324,310	\$
PAYROLL EXPS	\$ 25,779	\$ 25,779	\$	\$ 28,462	\$
CAPITAL EQUIP/DEVELOPMENT/RESERVE	\$ 49,183	\$ 49,183	\$	\$ 54,302	\$
ADMIN/SUPPLIES/OTHER	\$ 10,350	\$ 10,350	\$	\$ 11,427	\$
INTERGOVERNMENT EXPENDITURE	\$	\$	\$ 45,827	\$	\$ 50,597
<b>TOTAL SOLID WASTE RECYCLING EXPENDITURES</b>	<b>\$ 379,050</b>	<b>\$ 379,050</b>	<b>\$ 45,827</b>	<b>\$ 418,502</b>	<b>\$ 50,597</b>
<b>STORMWATER MANAGEMENT UTILITY</b>					
SPECIAL ASSESSMENTS	\$ 309,166	\$ 309,166	\$	\$ 341,344	\$
CULVERT AND ACCESS PERMITS	\$ 3,500	\$ 3,500	\$	\$ 3,864	\$
SALE OF SALVAGE MATERIAL	\$ 250	\$ 250	\$	\$ 276	\$
<b>TOTAL STORMWATER MANAGEMENT REVENUES</b>	<b>\$ 312,916</b>	<b>\$ 312,916</b>	<b>\$ -</b>	<b>\$ 345,485</b>	<b>\$ -</b>
<b>STORMWATER MANAGEMENT UTILITY EXPENSES</b>					
UTILITY PROJECTS	\$ 113,634	\$ 113,634	\$	\$ 125,461	\$
PAYROLL EXPS	\$ 161,067	\$ 161,067	\$	\$ 177,831	\$
CAPITAL EQUIP	\$ 20,815	\$ 20,815	\$	\$ 22,981	\$
MAINTENANCE/FUEL	\$ 9,000	\$ 9,000	\$	\$ 9,937	\$
ADMIN/SUPPLIES/OTHER	\$ 8,400	\$ 8,400	\$	\$ 9,274	\$
<b>TOTAL STORMWATER EXPENSES</b>	<b>\$ 312,916</b>	<b>\$ 312,916</b>	<b>\$ -</b>	<b>\$ 345,485</b>	<b>\$ -</b>
<b>TID FUND</b>					
TAX LEVY INCREMENT	\$ 110,000	\$ 110,000	\$	\$ 282,344	\$
PROCEEDS FROM BORROWING (FOX CROSSING PAYMENTS - GO NAN)	\$ 5,210,000	\$ 5,210,000	\$	\$ 8,565,000	\$
PROCEEDS FROM BORROWING (NAN - water system construction)	\$ 3,845,000	\$ 3,845,000	\$	\$	\$
TRANSFER FROM GENERAL FUND	\$	\$	\$	\$ 664,888	\$
TRANSFER FROM SANITARY DISTRICT	\$	\$	\$	\$ 135,647	\$
<b>TOTAL TID REVENUES</b>	<b>\$ 9,165,000</b>	<b>\$ 9,165,000</b>	<b>\$ -</b>	<b>\$ 9,647,879</b>	<b>\$ -</b>
<b>TID FUND</b>					
DEBT PAYMENT/INTEREST/FINANCING	\$ 210,000	\$ 210,000	\$	\$ 9,612,378	\$
CAPITAL IMPROVEMENTS	\$ 8,769,500	\$ 8,769,500	\$	\$	\$
DEVELOPER PROJECTS INCENTIVES	\$ 150,000	\$ 150,000	\$	\$ -	\$
ADMIN/PLANNING/SUPPLIES/OTHER	\$ 35,500	\$ 35,500	\$	\$ 35,500	\$
<b>TOTAL TID EXPENSES</b>	<b>\$ 9,165,000</b>	<b>\$ 9,165,000</b>	<b>\$ -</b>	<b>\$ 9,647,878</b>	<b>\$ -</b>
<b>SANITARY DISTRICT #1</b>					
TAX LEVY	\$ 100,000	\$ 100,000	\$	\$ 8,548	\$
SEWER AVAILABILITY CHARGE/SPECIAL ASSESSMENTS	\$ 45,000	\$ 45,000	\$	\$ 254,111	\$
HOOK UP FEES/CONNECTION FEES - FOX WEST	\$ 45,000	\$ 45,000	\$	\$ 17,539	\$
HOOK UP FEES/CONNECTION FEES - SEWER IMBURSEMENT	\$ 30,000	\$ 30,000	\$	\$ 133,704	\$
<b>TOTAL SANITARY DISTRICT REVENUES</b>	<b>\$ 220,000</b>	<b>\$ 220,000</b>	<b>\$ -</b>	<b>\$ 415,845</b>	<b>\$ -</b>
<b>SANITARY DISTRICT #1 EXPENSES</b>					
LEASE PAYMENT	\$ 145,000	\$ 145,000	\$	\$ 174,000	\$
FOX WEST TREATMENT PLANT ANNUAL COSTS	\$ 67,411	\$ 67,411	\$	\$ 72,968	\$
ADMIN/SUPPLIES/OTHER	\$ 7,580	\$ 7,580	\$	\$ 33,231	\$
TRANSFER TO TID	\$	\$	\$	\$ 135,647	\$
<b>TOTAL SANITARY DISTRICT EXPENSES</b>	<b>\$ 219,991</b>	<b>\$ 219,991</b>	<b>\$ -</b>	<b>\$ 280,199</b>	<b>\$ -</b>

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## **APPENDIX D: CURRENT & PROPOSED DEVELOPMENT**

<b>Development</b>	<b>Development Type</b>	<b>Acres</b>	<b>Lots</b>	<b>Timeline</b>
Residential	Residential w/ Utilities	19		Market Dependent
Residential	Residential w/ Utilities	86		Market Dependent
Residential	Residential w/ Onsite Utilities	12	7	Available Now
Residential	Residential w/ Utilities	108		Market Dependent
Phase II of Berry Bramble Estates	Residential w/ Onsite Utilities	41		Market Dependent
Preliminary Plat of Stable Stone Manor	Residential w/ Onsite Utilities	28		Market Dependent
Plat of Pine Haven	Residential w/Onsite Utilities	115		Market Dependent
Business/Commercial	Commercial w/ Utilities	115		Market Dependent
Rosemary Lane	Residential w/ Onsite Utilities	39	5	Available Now
Residential	Residential w/ Utilities	74		Concept Plan
Municipally-Owned Property w/ TIF Funding	Business/Commercial and Multit-Family Residential w/ Utilities	95		2-5 years
Private and Municipally Owned Property w/ TIF Funding	Business/Commercial	56	5	2-5 Years
Property for Sale by Owner	Business/Commercial and Residential w/ Utilities	143		5-10 Years
Property for Sale by Owner	Business/Commercial w/ Utilities	34		5-10 Years
Rose Moon Way	Residential w/Onsite Utilities	5	4	Available Now
Property for Sale by Owner	Commercial w/ Onsite Utilities	12	3	Available Now
Property for Sale by Owner	Commercial w/ Onsite Utilities	19	4	Available Now
Property for Sale by Owner	Business/Commercial	24	4	5-10 Years
Property for Sale by Owner	Business/Commercial and Multi-Family and Single-Family Residential w/ Utilities	81	3	5-10 Years
Property Owned by Developer	Residential w/ Utilities	96	135	Concept Plan
Property Owned by Farmer	Residential w/ Utilities	126	125	Concept Plan

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## **APPENDIX E: FOX CROSSING SERVICES**

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## Village of Fox Crossing Level of Service

### **Elected Officials**

Village President  
6 Village Supervisors

### **Commissions and Boards**

Planning Commission  
Zoning Board of Appeals  
Board of Review  
Housing Appeals Board  
Park Commission  
Police and Fire Commission  
Sustainability Committee

### **Administration**

Full time Village Manager  
Full time Human Resources Manager

### **Municipal Clerk**

Full time Municipal Clerk  
Full time Deputy Clerk

### **Assessor**

Contract Assessor

### **Community Development**

Full time Community Development Director  
Full time Associate Planner  
Full time Building Inspector  
Full time Assistant Building Inspector  
Summer Interns

### **Finance Department**

Full time Finance Director  
Full time Deputy Finance Director  
2 Full time Accounting Technicians  
Full time Billing Specialist  
Full time Clerk Receptionist  
2 Part time Tax Clerks during tax season

### **Information Technology**

Full time Director of Technology  
Full time PC Network Technician

Full time GIS Coordinator

**Library**

The Village contributes to the Winnebago County Library System

**Municipal Court**

Full time Municipal Court Clerk

Elected judge

**Parks and Recreation**

Full time Park and Recreation Director

Part time Administrative Assistant

Recreation Supervisor

Park Foreman

4 Park Maintenance Employees

Summer help for mowing and programs

21 Parks

**Street Department**

Full time Street Supervisor

Administrative Assistant

Assistant Street Supervisor

Full time Custodian

5 General Street Employees

Part Time Summer Help

97 Miles of Streets

**Utility Department**

Full Time Utility Supervisor

Administrative Assistant

Wastewater Foreman

Water Foreman

9 Technicians

Serving Fox Crossing and portions of Town and City of Neenah, City of Menasha, City of Appleton and future areas in Town of Clayton

**Public Safety**

*Fire Department*

Full time Fire Chief

Full time Assistant Fire Chief

Administrative Assistant

Fire Marshall

Chief of Training

Fire Prevention Educator  
46 Paid on Call Fire fighters  
2 fire stations and 11 pieces of fire apparatus.

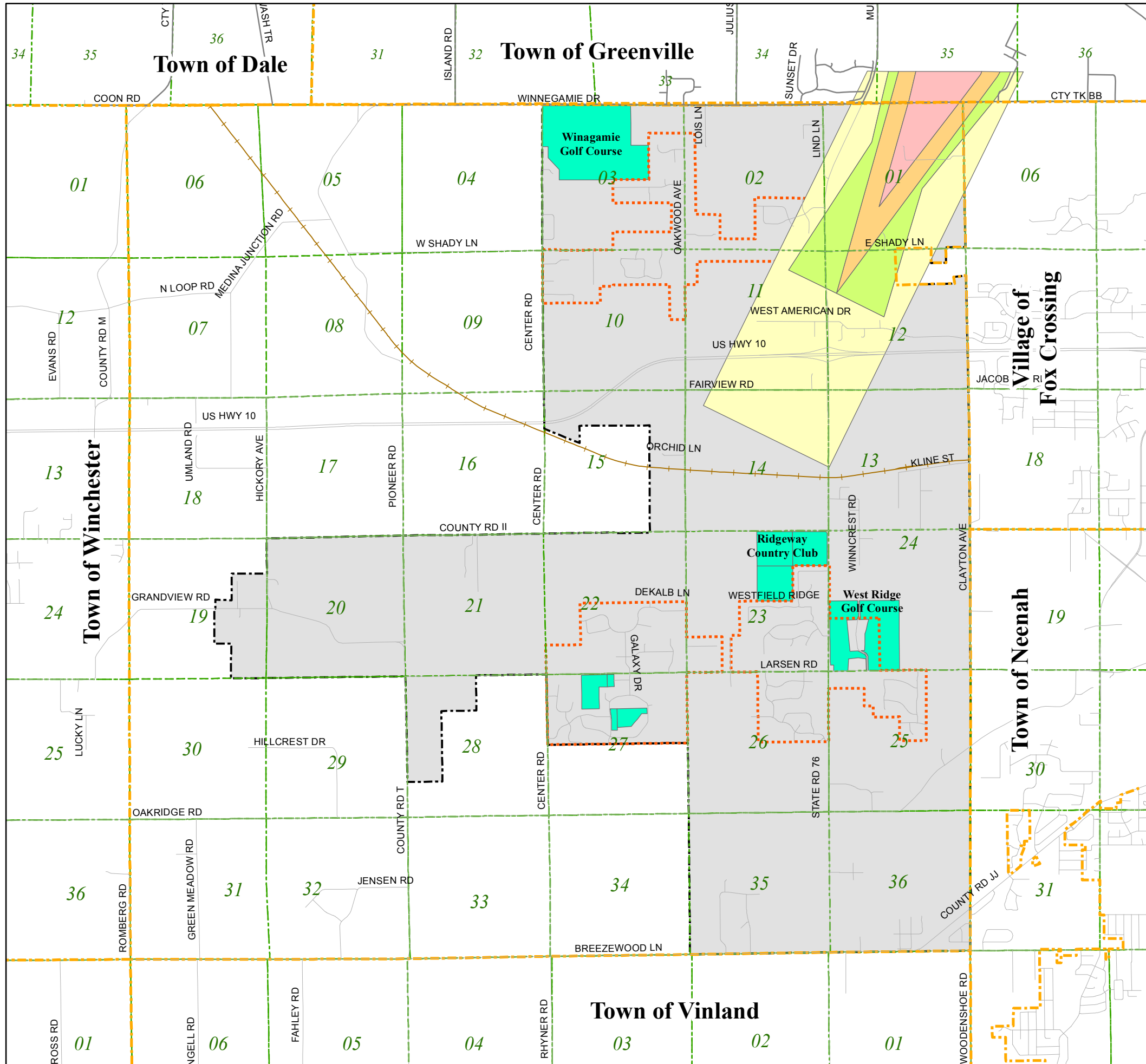
*Police Department*

Police Chief  
Administrative Assistant  
2 Communication Technicians  
Records Clerk  
Captain  
7 Lieutenants  
3 Detectives  
1 Code Enforcement Officer  
15 Patrol Officers  
11 police vehicles

## **APPENDIX F: MAPS**

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MAP 1	Proposed Village of Larsen & Town of Clayton Remnant
MAP 2	Tax Increment District
MAP 3	Area Watersheds & Drainage Basins
MAP 4	Area School Districts
MAP 5	Sanitary Districts & Sewer Service Areas
MAP 6	2019 Service Area (Clayton – Fox Crossing Agreement)
MAP 7	Population Distribution
MAP 8	Existing Land Use



Village of Larsen  
Winnebago County, Wisconsin

# Incorporation Submittal MAP 1

Incorporation Boundary

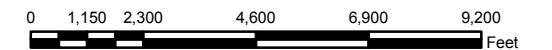
- Areas with > 500 people per Square Mile
- Recreational Areas
- Incorporation Boundary
- Municipal Boundary
- Section Line
- Railroad Centerline

## Airport Overlay Zoning Districts

- Zone 1
- Zone 2A
- Zone 2B
- Zone 3



Approximate Scale



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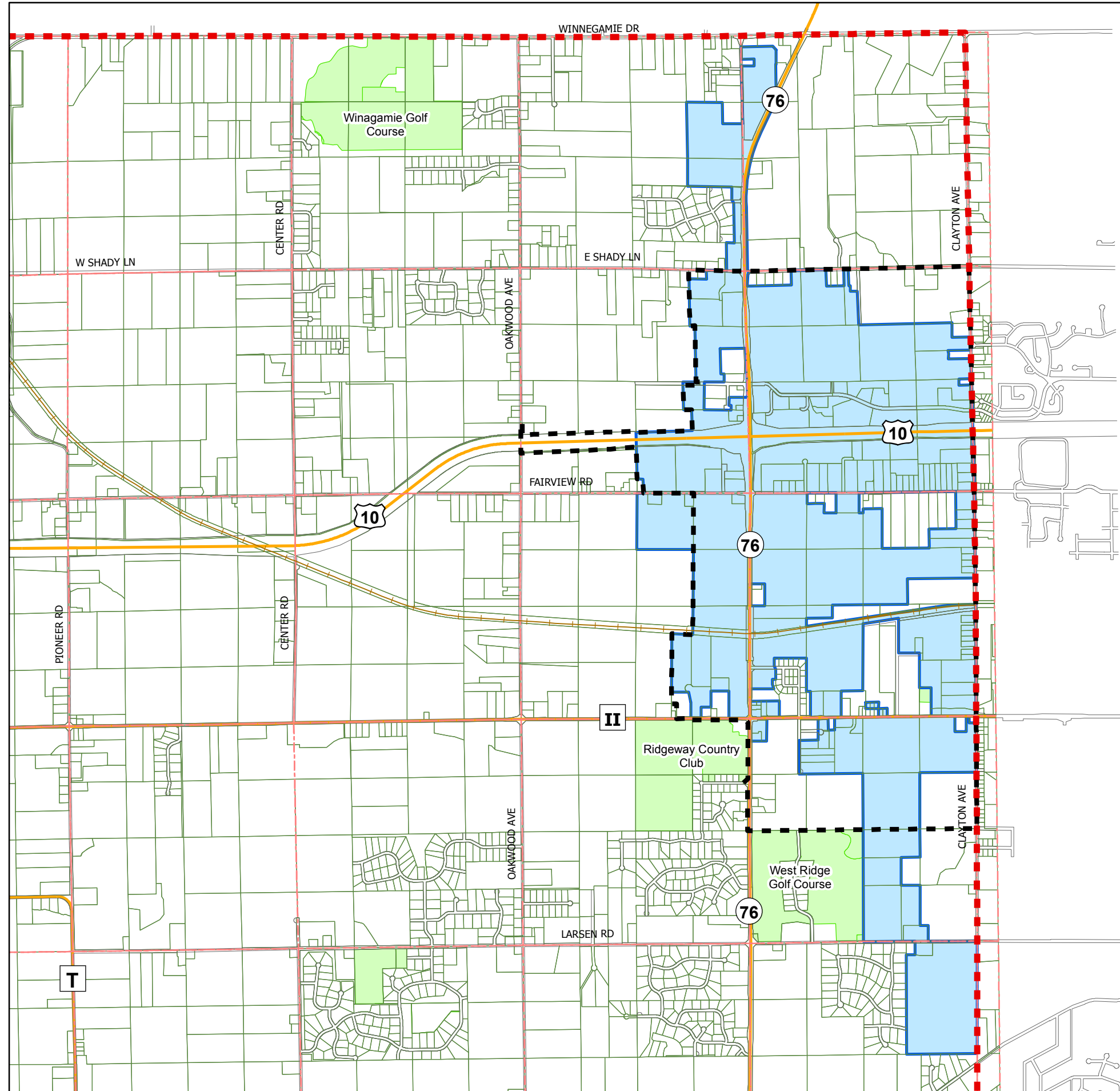
**Martenson & Eisele, Inc.**







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920.731.0381 1.800.236.0381  
arcgis10018091gis.mxd\_06/16/2020

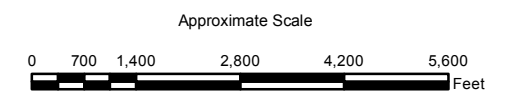
Planning  
Environmental  
Surveying  
Engineering  
Architecture

Village of Larsen  
Winnebago County, Wisconsin

Incorporation Submittal  
**MAP 2**  
Tax Increment District #1



- Legend**
-  Railroad
  -  Clayton Parcels
  -  Clayton Parks
  -  Town of Clayton Boundary
  -  Sanitary District Boundary
  -  TID Parcels



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# MAP 3

## Sub-Watersheds

- Arrowhead River
- Fox River Mainstem
- Lake Butte Des Morts
- Neenah Slough
- Rat River

## Other Mapped Features

- Municipal Boundary
- Right-of-Way Line
- Railroad Centerline
- Stream
- Surface Water

Source: Outagamie County, 2015-01; Winnebago County, 2015-03-01

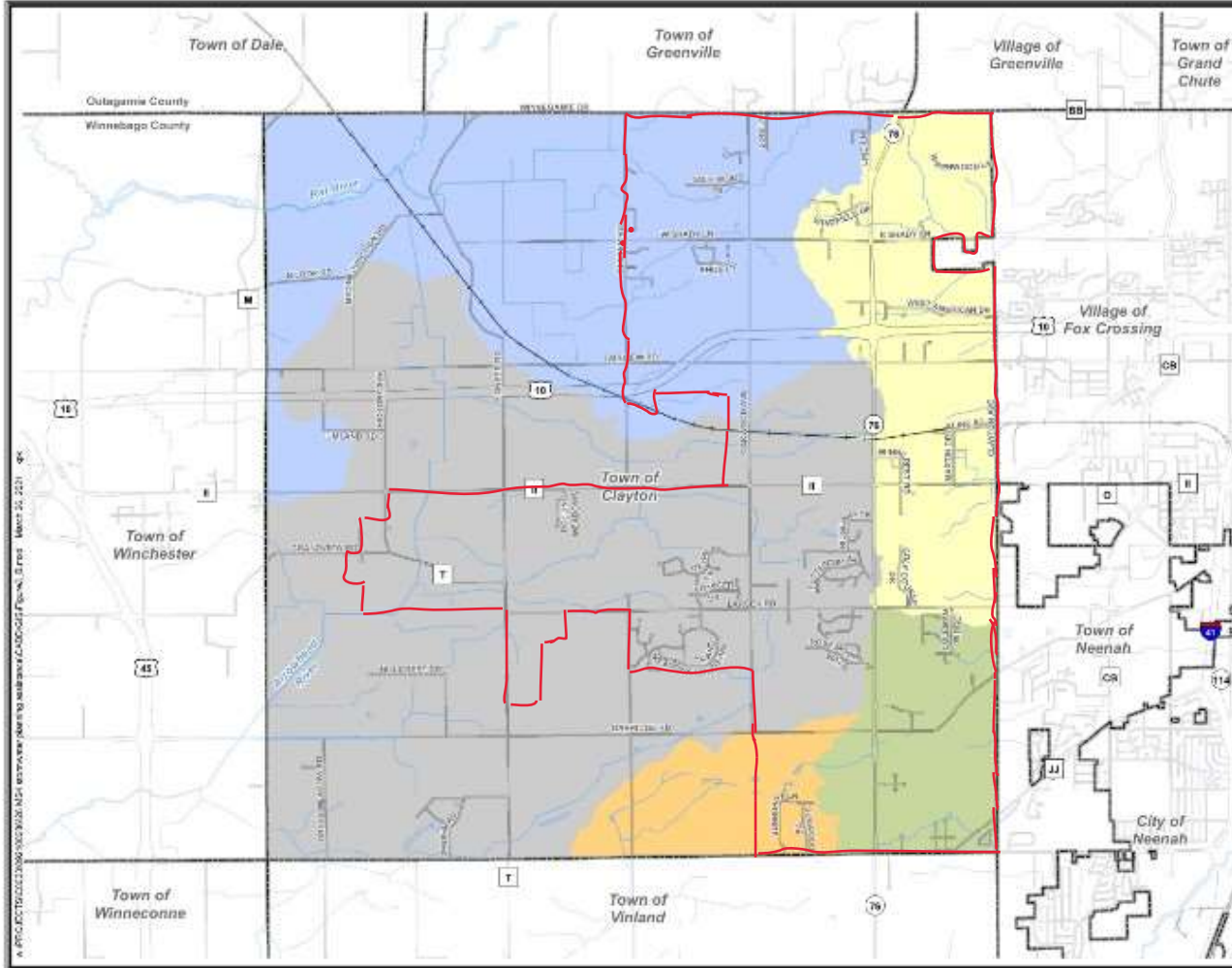
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0 4,000 8,000 Feet

**McMAHON**  
CONSULTING ENGINEERS, INC.  
POMERAN ASSOCIATES, INC.

FIGURE 3  
SUB-WATERSHEDS  
STORWATER  
MANAGEMENT PLAN  
TOWN OF CLAYTON  
WINNEBAGO COUNTY, WISCONSIN






Village of Larsen  
Winnebago County, Wisconsin

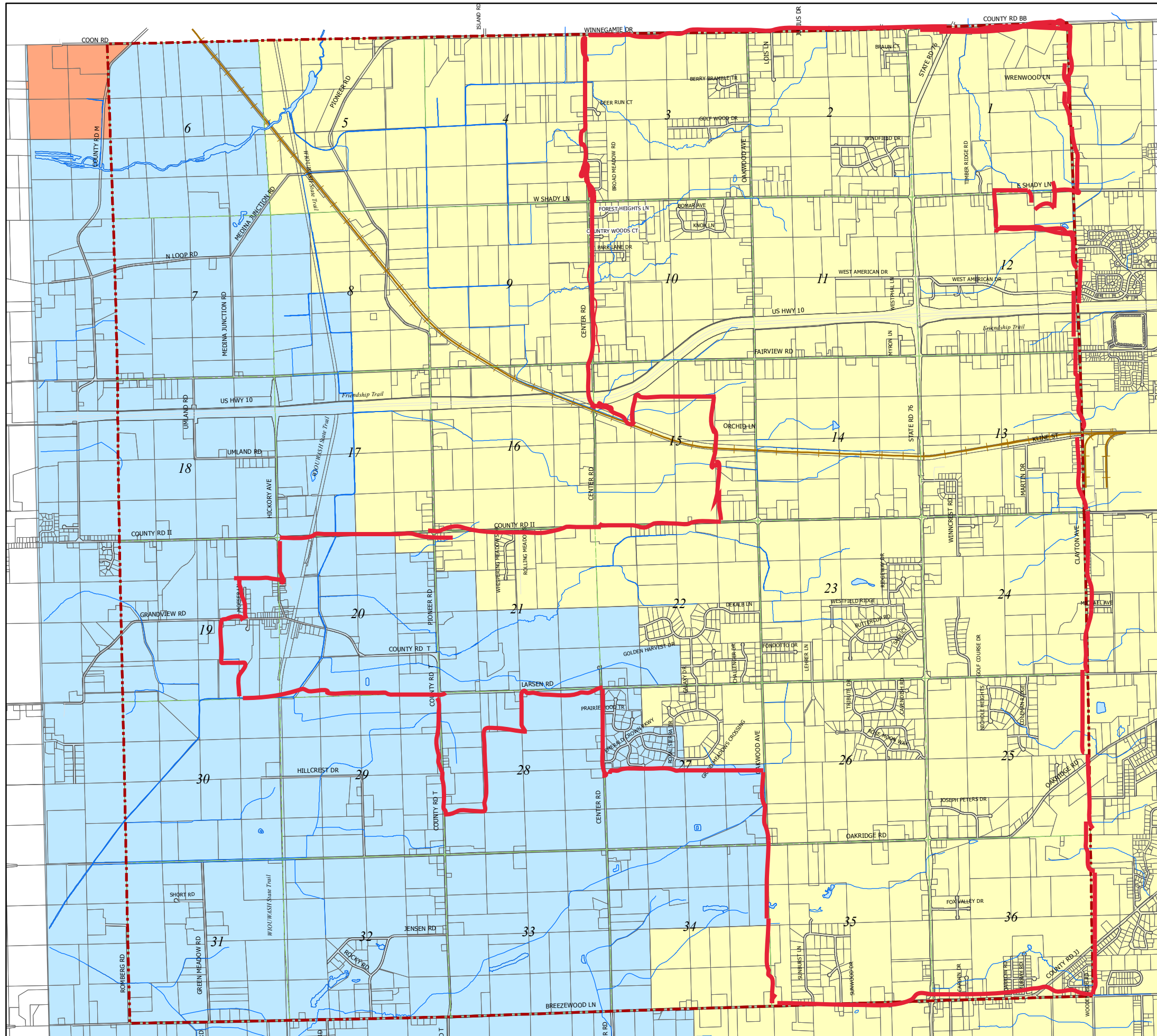
Incorporation Submittal

# MAP 4

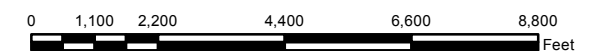
## School District Boundaries

### Legend

-  Neenah Joint School District
-  Winneconne Community School District
-  School District of New London



Approximate Scale



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


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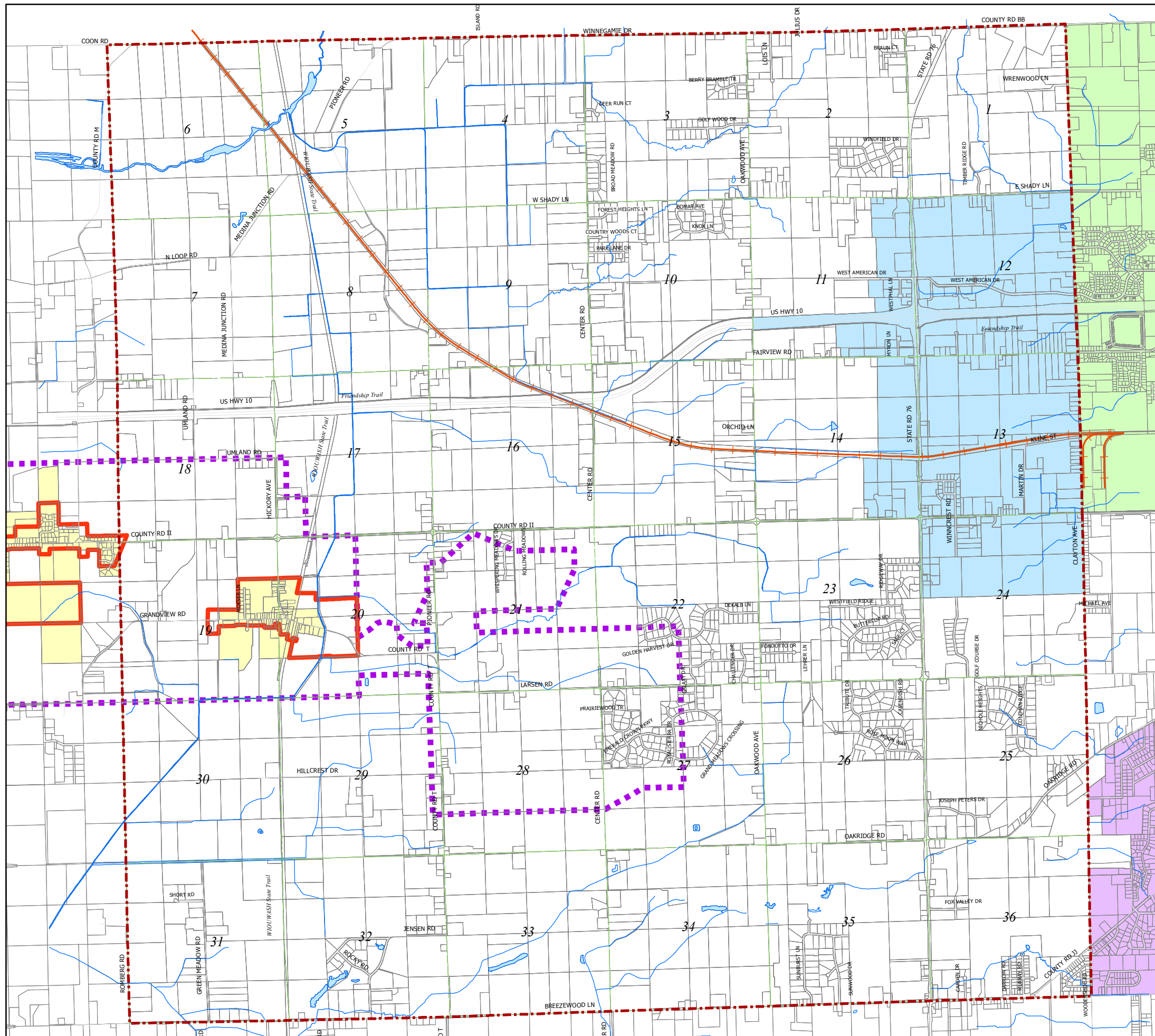
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Engineering  
Architecture

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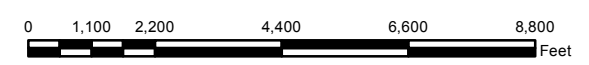
# MAP 5

## Sanitary Districts and Sewer Service Areas

-  Larsen-Winchester Sewer Service Area
-  Larsen-Winchester Planned Area Boundary
-  Larsen-Winchester Sanitary District
-  Clayton Sanitary District
-  Town of Neenah Sanitary District #1
-  Town of Menasha Utility District



Approximate Scale



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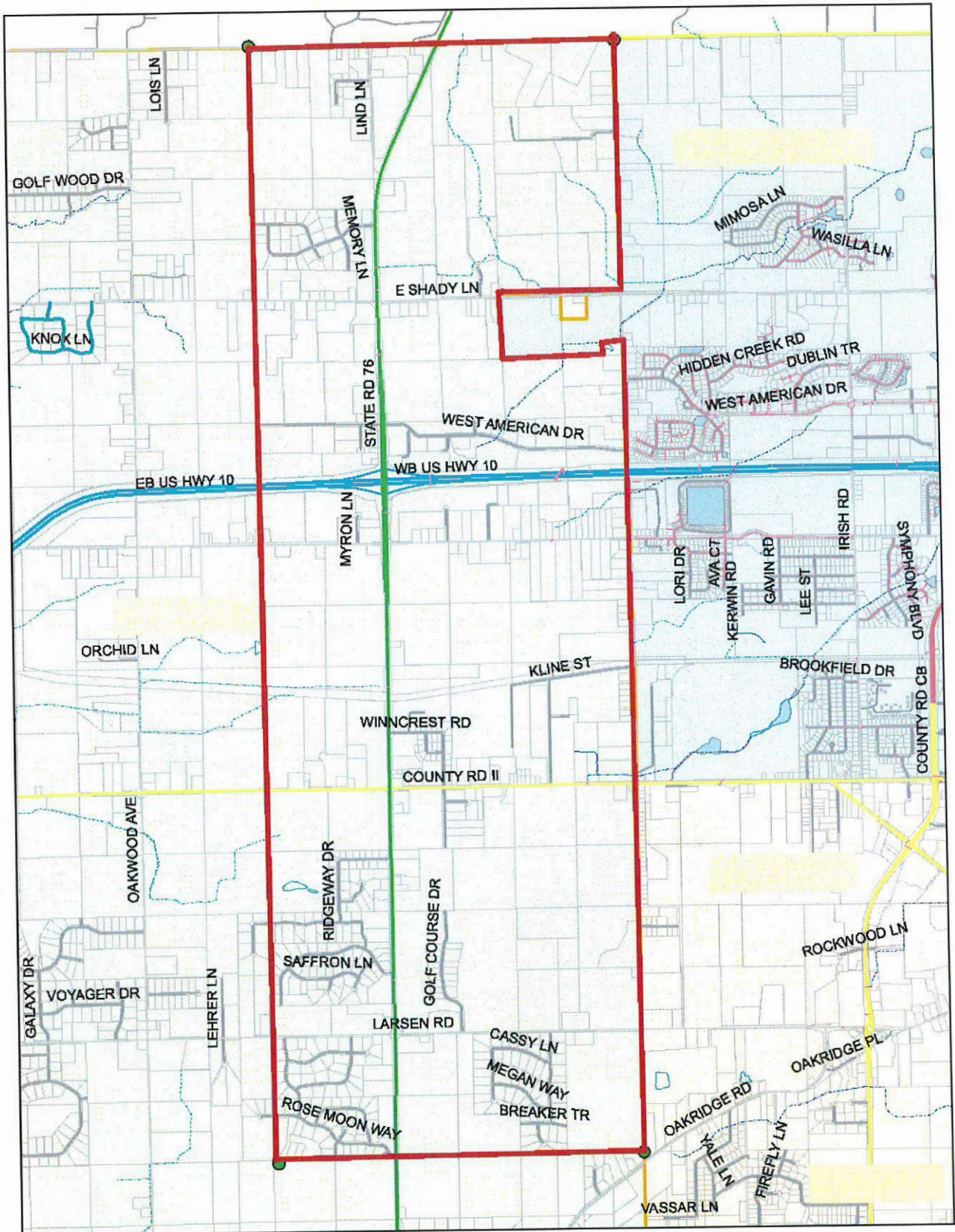
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




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# MAP 6 2019 Service Area







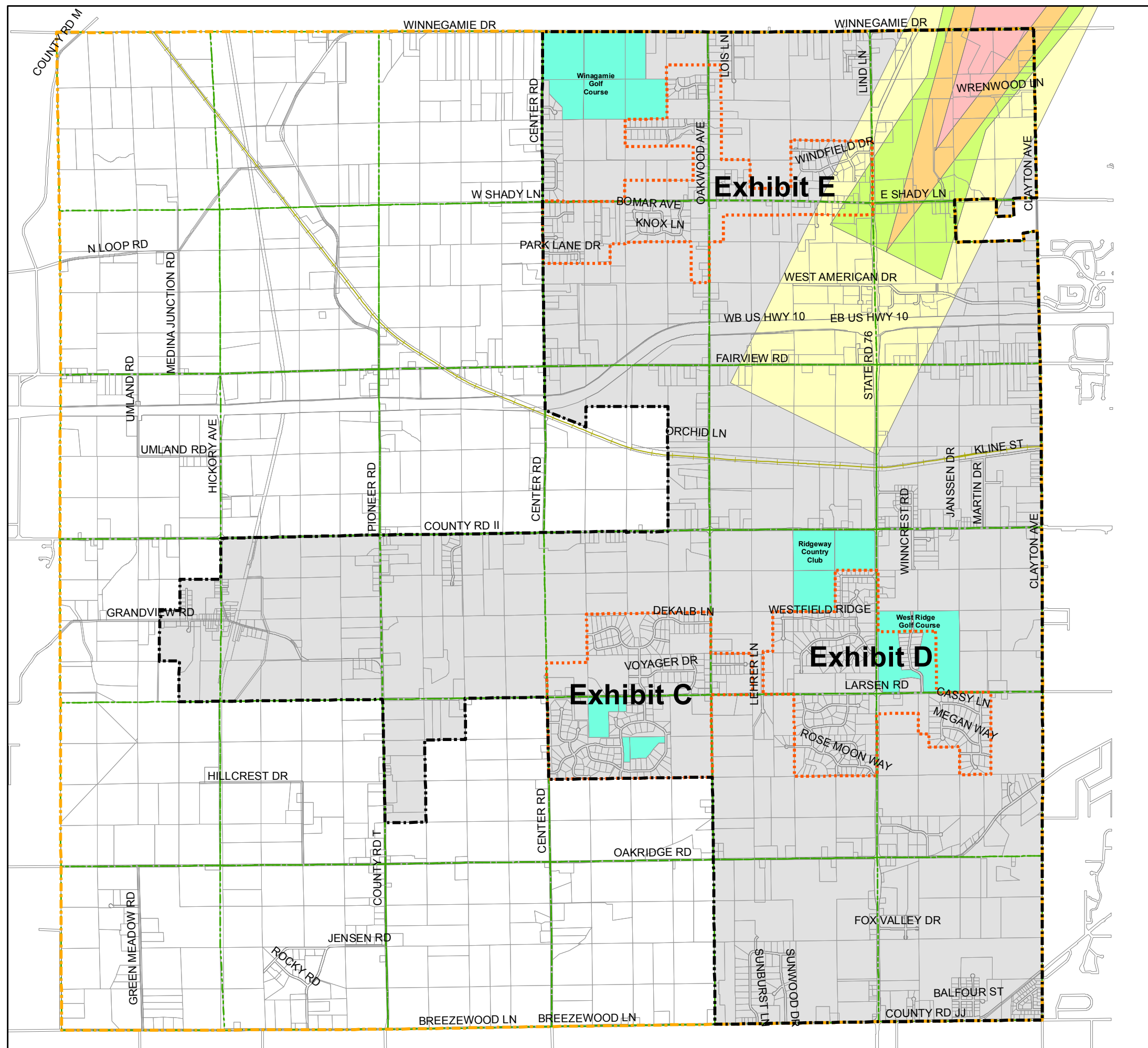
# MAP 7 Population Clusters

Winnebago County, Wisconsin

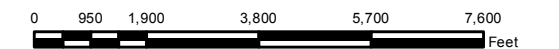
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-  Recreational Areas
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-  Municipal Boundary
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### Airport Overlay Zoning Districts

-  Zone 1
-  Zone 2A
-  Zone 2B
-  Zone 3



Approximate Scale



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Village of Larsen  
Winnebago County, Wisconsin

Incorporation Submittal

MAP 8

Existing Land Use Map

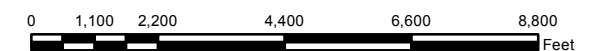
- Single Family Residential
- Two Family Residential
- Manufactured Housing
- Commercial
- Industrial
- Non-Metallic Mining Sites
- Utilities and Public Facilities
- Recreation and Conservation
- Wisconsin/DNR Lands
- Undeveloped/Agriculture Area
- Wetlands
- Woods
- Open Water/Pool Lakes
- Airport

Existing Land Use Source; Inventory was done by East Central Wisconsin Regional Planning Commission with an update done by the Town of Clayton in 2015.

- City of Neenah - Extraterritorial Zoning Boundary
- Village of Fox Crossing - Extraterritorial Zoning Boundary



Approximate Scale



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