

In the Matter of INCORPORATION
OF A PORTION OF LANDS COMPRISING
THE TOWN OF WASHINGTON,
EAU CLAIRE COUNTY,
As a Village Pursuant to the Provisions of
Chapter 66 of the Wisconsin Statutes

Introduction

The Incorporation Petition satisfies all statutory criteria. The incorporation territory is reasonably compact and homogeneous with natural and cultural features that distinguish Washington from its neighboring communities. The incorporation territory has ample opportunity for development; indeed, building permits in the Town of Washington represent a quarter of the building permits issued in Eau Claire County. That pace of development will only increase after incorporation when Washington will possess the full panoply of zoning and land development powers available to incorporated municipalities. Washington is strong financially, and provides ample services desired by its residents. Finally, incorporation will not have a negative impact on the remnant town or the metropolitan community.

At the Incorporation Review Board's ("IRB") February 19, 2026, meeting, staff noted concerns such as the inclusion of the town islands in the incorporation territory, the absence of municipal water and sewer services, the existence of cluster subdivisions, and the amount of vacant land included in the incorporation territory. But many of those concerns either disregard the statutory standards or go beyond statutory requirements. While the IRB is tasked with determining whether an incorporation petition meets the requirements of Wis. Stat. § 66.0207(1) and (2), the IRB is not at liberty to ignore the statutory standards or implement additional requirements that the statutes do not contemplate. In other words, the IRB must apply the facts of an incorporation petition to the statutes *as written*. Applying the statutes as written ensures that the IRB is making consistent incorporation decisions and allows towns seeking incorporation to know exactly what standards they must meet. When the plain text of the statutes is applied here, Petitioners' incorporation petition ("Petition") meets the statutory requirements for incorporation.

1. CHARACTERISTICS OF THE TERRITORY (Wis. Stat. § 66.0207(1)(a))

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

“The requirement of ‘reasonable homogeneity’ shows a legislative concern that the area to be incorporated have a *reasonably* consistent and uniform composition.”¹ The first statutory standard “indicate[s] that the entire area be a community, that it have common interests that are internally shared.”² The IRB consistently recognizes that “[t]he facts surrounding each incorporation are different” and “even though the situation presented may not be entirely perfect, when taken as a whole, the facts support a finding of homogeneity and compactness.”³ Here, when taken as a whole, the facts demonstrate that the incorporation territory is reasonably homogenous and compact.

The boundaries of the incorporation territory follow the natural political boundaries on three sides of the area. The eastern boundary follows the Interstate highway, a logical delineation marker.

The present transportation facilities align with the urbanizing community of Washington and the territory is well positioned for future growth with federal, county, and state highways as well as town roads. Interstate 94, State Highways 93 and 53 all run within or parallel to the territory. Further, there are major interchanges between Interstate 94 and Highway 53 and Interstate 94 and Highway 93 that abut the territory. Additionally County Highways S, F, II, and I all pass through the Proposed Incorporation territory. The town roads within the Proposed Incorporation territory will transfer to the Village and provide interconnectedness. This transportation network has served Washington well, has suitable capacity, and is right-sized for planned robust commercial corridors along state and county highways and continued urbanizing cluster development connected by Washington and county roadways. The subdivision and street construction ordinance prescribes design standards and a transportation system properly suited for this urbanizing landscape.

Addressing the islands, although they are not connected linearly to the main incorporation territory, the islands are fundamentally part of Washington, and their attributes are commensurate with that of a suburban community. They align with Washington’s core corridor, contain a proud Washington heritage of life-long residents and businesses, and offer Washingtonians a range of residential offerings from rental properties to starter homes and forever homes. Their inclusion supports, rather than undermines, the homogeneity and compactness of the incorporation territory.

As an initial matter, the islands were formed by statutory annexation and an agreement executed with the City of Eau Claire (“City”) to acquire the Washington Heights Sanitary District. Like in

¹ *Pleasant Prairie v. Dep’t of Local Affairs & Dev.*, 113 Wis. 2d 327, 333, 334 N.W.2d 893 (1983) (emphasis added).

² *Id.*

³ Incorporation Determination, Town of Richfield at 9.

Lisbon where the IRB determined that the fact that the Village of Sussex “still occup[ied] a large area at the center of the proposed village” was “beyond the Petitioner’s control,” the islands are not the result of Town action or Town legislation and therefore, their existence should not preclude incorporation.⁴ Additionally, while the Village of Waukesha incorporation may have been a different incorporation procedure, it still informs as to what is a “reasonable” community. The fact that other communities have incorporated islands shows that it is not patently unreasonable for incorporated islands to exist.

Ultimately, nothing in Wis. Stat. § 66.0207(1)(a) prohibits the inclusion of an island in village territory. Therefore, precluding incorporation based on the existence of islands that share the same characteristics and sense of community with the rest of the incorporation territory would add a requirement that the statute does not provide. The statute only requires reasonable homogeneity and compactness. And while the islands do exist, “reasonable” homogeneity and compactness must take into account the border complexities and geographics that exist of those seeking to be a metropolitan village and what is reasonable in the context of other incorporated municipalities, including those that have incorporated islands. Washington is no exception.

Failing to realize that the islands are of its own doing, the City suggests that including the islands in the incorporation territory destroys the compactness and homogeneity of the territory. However, contrary to the City’s position, *not* including those substantially urban islands in the petition means they would be left under the jurisdiction of a predominantly rural town, which the IRB previously found as a reason to deny incorporation.⁵ Fortunately, the incorporation statutes require reasonable compactness and homogeneity, and it is reasonable to include these islands with the petition and consider the boundary reasonably compact and homogeneous.

The incorporation territory, when taken as a whole, is reasonably homogeneous and compact. It is a suburban community that has unique topography that differentiates Washington from its neighboring municipalities. The incorporation territory has substantial transportation networks, readily connecting all Washingtonians to Washington businesses and recreation. And finally, Washingtonians in the incorporation territory share a strong sense of community and cohesion—characteristics that enhance the desire and need for incorporation.

⁴ Incorporation Determination, Town of Lisbon at 19; *see also id.* Map 1 (showing the proposed village boundaries, including the amount of territory that Sussex occupied).

⁵ Incorporation Determination, Town of Beloit at 3.

2. TERRITORY BEYOND THE CORE (Wis. Stat. § 66.0207(1)(b))

The territory beyond the most densely populated square mile...shall have the potential for residential or other land use development on a substantial scale within the next three years. The board may waive these requirements to the extent that water, terrain or geography prevents such development.

This requirement “express[es] three distinct ideas: the kind of development, the time frame in which development is capable of taking place, and the amount of development.”⁶ “The kind of development, as the statute clearly indicates, is potential development. That is, development which has not yet taken place.”⁷ “The third idea, the amount of development which must be capable of taking place within the required three years is not obvious from the statute.”⁸ But “[t]he statute only requires ‘substantial’ development.”⁹ While the Court of Appeals in *Pleasant Prairie* determined that “substantial development” is ambiguous, its remaining analysis—i.e., the level of deference owed to the Department’s interpretation of that statute—is no longer good law.¹⁰ Accordingly, basic tenants of statutory interpretation apply.

Statutory analysis begins with the text of the statute. In this case, “substantial” is not defined, and members of the IRB inquired into the meaning of “potential” for “development on a substantial scale” during the February 19, 2026, meeting. “Substantial” has a dictionary definition of “considerable in quantity” and “potential” is defined as “something that can develop or become actual.”¹¹ Accordingly, this statutory standard asks whether a considerable amount of development can occur or become actual in the next three years. Washington meets that standard.

As explained in Petitioners’ Supplemental Submission, the incorporation territory contains approximately 2,382 acres of vacant and developable land. This Petition is, in reality, no different than the IRB’s approval of the incorporation of Richfield. Like in Richfield, “[b]ecause [Washington] does not offer municipal water or sewer service, development may occur anywhere within the Town, and not need to wait for regulatory approvals for sewer service area expansion

⁶ *Pleasant Prairie v. Dep’t of Local Affairs & Dev.*, 108 Wis. 2d 465, 474, 322 N.W.2d 486 (Ct. App. 1982).

⁷ *Id.* at 474-75.

⁸ *Id.* at 475.

⁹ *Id.*

¹⁰ The *Pleasant Prairie* court afforded “due weight” deference to the Department’s interpretation of the statute. The Wisconsin Supreme Court did away with the varying levels of deference to agency interpretations of ambiguous statutes in *Tetra Tech EC, Inc. v. DOR*, 2018 WI 75, ¶108, 382 Wis. 2d 496, 914 N.W.2d 21 (the courts have “end[ed] their] practice of deferring to administrative agencies’ conclusions of law”). See also Wis. Stat. § 227.57(11) (“Upon review of an agency action or decision, the court shall accord no deference to the agency’s interpretation of law.”). Assuming for a moment that the statute remains ambiguous, current administrative agency law would require the Department of Administration to promulgate the Department’s interpretation of that statute as a rule. See Wis. Stat. § 227.10(1) (“Each agency shall promulgate as a rule . . . each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.”); see also *Lamar Cent. Outdoor, LLC v. State Div. of Hearings & Appeals*, 2019 WI 109, ¶23, 389 Wis. 2d 486, 936 N.W.2d 573 (Wis. Stat. § 227.10(1) “describes only one pathway by which an agency can adopt a new interpretation of an ambiguous statute: The agency must adopt a rule”).

¹¹ “Substantial” and “Potential”, Merriam-Webster online dictionary.

or construction of sewer and water infrastructure.”¹² Additionally, removal of Eau Claire’s extraterritorial plat approval jurisdiction (“ETJ”) requirements in the sanitary service area (“SSA”) will spur development by removing Eau Claire’s restrictive 10-acre minimum lot size in that area. Washington’s subdivision ordinance will continue to responsibly support and drive development in the coming years.

Members of the IRB also seemed to note a difference between vacant land and vacant, but platted lands and the ability to develop. The IRB cited the Lisbon determination for this distinction, but that proffered distinction does not affect Washington’s incorporation for several reasons.

First, there is nothing in the Lisbon determination indicating that the vacant lands were already platted or that such a fact indicated potential for development. Indeed, the IRB described the lands in Lisbon as “vacant and developable.”¹³ While the IRB looked to subdivisions that were being actively constructed at the time of incorporation, the effect of those subdivisions was to demonstrate that there was an “extensive amount of development.”¹⁴ Moreover, even if the then-developing subdivisions (i.e., platted lands) were a contributing factor beyond showing a pattern of development, the then-platted lands accounted for only 573 acres of the 2,459 acres of vacant and developable territory.¹⁵ Accordingly, while Lisbon certainly had subdivisions platted and being developed, it was not the case that a *majority* of the vacant and developable land was already platted and set for development.

Second, there is nothing in the statute that requires lands to be platted in order for a petitioner to meet the “territory beyond the core” standard. The statute only requires the potential for development on a substantial scale. The IRB cannot mandate a requirement that the statute itself does not express. Washington’s vacant lands, which are within the agricultural-transition zone of Washington’s comprehensive plan, have the potential for substantial development.

Washington is no different than Richfield. Like Washington, Richfield “ha[d] a great deal of rural-type open space” and incorporated a larger amount of territory, 36 square miles.¹⁶ However, Richfield’s use of private wells and septic systems, evenly disbursed population, population growth, building permits, rezonings, and proximity to Milwaukee and Waukesha’s metropolitan areas “all point[ed] to Richfield’s continued rapid transition from a rural to an urban/suburban community.”¹⁷ So too here. As already noted, Washington’s residents utilize private wells and septic systems rather than municipal water and sewer services. Therefore, “[d]evelopment does not need to wait for sewer and water infrastructure to be installed, or sewer service area extensions to be approved.”¹⁸ Washington represents a quarter of all new construction permits in Eau Claire

¹² Incorporation Determination, Town of Richfield at 46.

¹³ Incorporation Determination, Town of Lisbon at 24.

¹⁴ Lisbon, at 27.

¹⁵ *Id.* at 26.

¹⁶ Richfield, at 7.

¹⁷ *Id.*

¹⁸ *Id.*

County, and in the last two years alone has approved subdivisions covering over 300 acres of territory. Washington, like Richfield, has experienced steady population growth, and it is the third most populous municipality in Eau Claire County. Like Richfield and Lake Hallie, Washington's connection to major transportation networks and other metropolitan areas will continue to drive and promote development.

Furthermore, several examples that the City raised actually demonstrate the high potential for development within the territory. The Orchard Hills development was originally proposed in the Town of Washington. It received all necessary Town approvals, but the County denied the rezoning application. If the Town had autonomy over zoning and land division, this development would have added 117 single family lots. The City also points to the Town of Pleasant Valley as having more development. However, the Town of Pleasant Valley is prime example of development potential when lot sizes are not constrained by the City's ETJ. Pleasant Valley has seen significant development along the STH 93 corridor. That would also be the case in the incorporation area. Further, the City's desire to develop the STH 93 corridor is a recognition that this is a highly desirable area with great potential for development.

Finally, it is necessary to recognize that not all incorporations will be for highly urbanized communities. The statutes recognize the difference between metropolitan cities and metropolitan villages with the latter having lower area requirements, lower population requirements, and lower density requirements. These requirements and the Richfield determination indicate that a metropolitan village can be of a more suburban character. Washington is no different—it has met the size, population, and density requirements, and it will be able to support continued development within the next three years.

3. TAX REVENUE (Wis. Stat. § 66.0207(2)(a))

Staff and IRB members did not appear to raise any concerns with the incorporation's satisfaction of this requirement. Petitioners will rely upon their materials previously submitted addressing this criteria. However, it is worth reiterating that the IRB has only found one incorporation failed to satisfy this factor in recent history, and that was due to the municipality's debt load.¹⁹

The proposed Village's efficiency and favorable tax rate is especially important in the context of the cost and efficiency of City services. The sheer number of employees, apparatuses, pieces of equipment, and buildings inventoried in the City's submittal alone is impressive. Yet, when it comes to the desired and needed services of Washington residents, the Village would efficiently provide those services at a favorable tax rate. And the costs of City services continues to grow. The past three-year new net construction of the City has been record-breaking and yet the City of

¹⁹ Incorporation Determination, Town of Larsen at 29.

Eau Claire is experiencing a significant structural deficit. To balance the \$198 million 2026 budget, the city implemented or proposed the following:

- Increased the Local Vehicle Registration Fee (Wheel Tax) from \$24 to \$50.²⁰
- Proposed 20% water rate increase.²¹

And now the City is anticipating a \$2.2 million structural deficit in 2027.²² This calls into question the efficiency of any services the City may be able to offer residents in the incorporation area and underscores that the Village would provide its residents desired services at a favorable tax rate.

4. LEVEL OF SERVICES (Wis. Stat. § 66.0207(2)(b))

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

As the IRB has stated in past incorporation determinations, this requirement does not place primacy on the absolute level of services provided, but, instead, the standard requires the IRB to evaluate the level of services “desired or needed” by the proposed village residents.²³ The proposed Village of Washington would offer services desired by its residents without offering superfluous services. To that end, the Washington service delivery model is not wrong; it is simply different than the City’s. The service choices of the proposed Village are fully functional based on the needs and desires of the residents and in full compliance with all statutory requirements. As discussed in the Petition and the Supplemental Submission, the Town of Washington currently provides exceptional and responsive services that are lauded by its residents, and the Village would continue to do so. While the Petitioners will not repeat their full analysis of the “level of services” requirement, they highlight several services below.

- **Fire Protection**

Wisconsin has a proud tradition of volunteer fire departments in Wisconsin.²⁴ Washington’s volunteer fire department, Township Fire Department (“TFD”) is consistent with fire protection services provided in Wisconsin. In 1955, the Towns of Seymour, Washington, Union, Pleasant Valley, and Brunswick created TFD to serve the regional needs of the community. These five charter members are the same members today. Since its formation 71 years ago, TFD has been regarded as a premier fire service and a proven stable and effective public volunteer model that

²⁰ <https://www.weau.com/2025/11/11/eau-claire-city-council-passes-increased-wheel-tax/>.

²¹ https://www.wqow.com/eye-on-eau-claire/city-council-to-introduce-20-water-rate-increase-potential-vote-scheduled-for-march/article_b3122ee9-3c0a-43a4-b2bf-7c7b37c94034.html

²² https://www.wqow.com/eye-on-eau-claire/eau-claire-weighs-options-facing-potential-2-2m-budget-deficit-in-2027/article_e6426f8d-1294-4151-bf37-a8855094c29c.html.

²³ Incorporation Determination, Town of Menasha at 45.

²⁴ Supplemental Submission at 22.

has been used as an example for similar departments across the state. The Village will be the sixth member and the articles of incorporation and bylaws have already been amended to accommodate its inclusion.

TFD has five fire stations strategically positioned to cover the service area. All portions of the territory are within 5 minutes of a fire station. Each station is completely equipped with an engine(s), tender(s), rescue squad, and brush truck. Other equipment includes an SCBA cascade system, 6 UTV/ATV rescue units, 4 boat rescue units, dive trailer, and both aerial and underwater drones. TFD maintains the highest possible ISO rating for municipalities without having generally available fire hydrants.

TFD has approximately 110 trained firefighters that respond to calls throughout the coverage area. TFD firefighters and officers receive the same professional training certifications as career firefighters: Firefighter 1, Firefighter 2, Fire Officer, Fire Instructor, Incident Safety Officer, Driver/Operator, ICS, Remote Pilot, and Open Water Driver. TFD does not rest on certifications alone. TFD is steeped in the value of training and experience. In 2024 members received 4,735 hours of training and in 2025 members received 5,256 hours of training. The strength, effectiveness, and efficiency of the TFD model is leveraging 5 fully equipped stations and 110 firefighter members to cover any call within the entire coverage area.

Mutual aid is foundational to how fire departments across the country operate. TFD has mutual aid agreements with every fire department in the Chippewa Valley and beyond. In 2025 Eau Claire had a large house fire. Most of their resources were occupied with that fire, so TFD was called upon to respond to several calls within the City. Does this mean that Eau Claire has insufficient resources? Of course not. This is how mutual aid is supposed to work. For Eau Claire to claim that TFD is somehow insufficient because they have been called upon from time-to-time is disingenuous and not in the spirit behind mutual aid.

In relation to the news article quoted by Eau Claire, the Machiavellian assertion that there is only a handful of firefighters available to respond to Washington incidents is not grounded in fact and neglects the intentional and purposeful strength of the TFD organization. When the City dispatches an engine, it is staffed with 3 firefighters by design. The City Fire Chief cherry picked a recruitment news piece to create doubt in the TFD service capability. This submission by Eau Claire is a distraction and harkens back to the assertions at the IRB Public Hearing in relation to the 2007 WRR incident response that have been completely dispelled directly by the owner.

Indeed, there is a similar news piece in relation to the City. In an article in the Eau Claire Leader Telegram from January 30, 2026, Deputy Chief Bob Haller talks about 2025 operations. Following are a few quotes from that article:

- “In 2025, the Eau Claire Fire Department responded to roughly 11,600 calls in total. This is an increase from 2024 as the department said it responded to an estimated 10,910 calls...”

- “One of the biggest challenges has been finding qualified staffing to help support operations. Eau Claire...sets a goal for 96 members, but with their current number at 88 firefighters, their staff has been very lean.”
- “It’s going across the nation right now, where departments are struggling to hire firefighters...”²⁵

This is by no means an attempt to disparage ECFD. To the contrary, Petitioners readily admit that ECFD provides *Eau Claire* residents with the level of services that those residents need and desire. This article merely demonstrates that staffing shortages are a concern to fire departments, volunteer and full-time, throughout the state. Nevertheless, fire departments throughout the state, TFD included, remain capable of providing the needed level of fire protection services.

The TFD organizers were forward thinking back in 1955. These five towns could have easily formed five separate fire departments but they chose to combine the five into one department. Currently the trend in the nation and in Wisconsin is consolidation. TFD started out this way and has grown and become more efficient along the way. Accordingly, through Washington’s relationship with TFD, Washingtonians receive the fire protection that they desire and need.

This model also has levy benefits. Municipalities that operate a joint fire department are permitted to exceed the state levy limit for fire district expenses by an amount equal to consumer price index plus two percent. Wis. Stat. § 66.0602(3)(h)2.a. Thus, this is a sustainable model and one encouraged by the legislature in creating this levy limit exception.

- **Law Enforcement**

The Village of Washington, like the Town, will contract with the Eau Claire County Sheriff’s Office to provide law enforcement services. This framework mirrors that of the effective and successful agreement between Village of Rib Mountain and Marathon County Sheriff’s Department. As discussed in Petitioners’ Supplemental Submission, such an arrangement is common, and several Wisconsin villages successfully contract with county sheriff’s offices for law enforcement:

- Allouez: Contracts with the Brown County Sheriff’s Office for 24-hour service
- Black Earth, Deerfield, Mazomanie, Rockdale: Contract with the Dane County Sheriff’s Office
- Combined Locks: Outagamie County Sheriff’s Department
- Dane: Partners with the Town of Westport for a shared Dane County deputy
- Fremont: Waupaca County Sheriff’s Department
- Kimberly: Outagamie County Sheriff’s Department
- Rib Mountain: Marathon County Sheriff’s Department
- Sturtevant: Racine County Sheriff’s Office

²⁵ https://www.leadertelegram.com/news/local/ecfd-reflects-on-operation-staff-increased-response-efficiency-over-the-past-year/article_0059117d-5032-42d8-a0df-6fcd61c4f51d.html

- Suamico: Brown County Sheriff's Office
- Waterford (Town/Village): Dissolved its local department to contract with the Racine County Sheriff's Office

The above list demonstrates that the absence of a Washington-specific police department does not undermine Washington's incorporation. Washingtonians neither desire nor need a village police department because Washington has successfully contracted with the Eau Claire County Sheriff's Department for law enforcement services.

- **Water and Sewer**

From the comments at the February 19, 2026, meeting it appeared that staff's largest concern was the absence of municipal water and sewer services. This concern misses the point. Not only do Washingtonians neither desire nor need municipal water and sewer services, but those services are also not required by statute. If the legislature intended to require sewer and water utilities as a precondition to incorporation, it would have expressly included that as a requirement. It did not. Consequently, sewer and water utilities cannot be a barometer for whether a community can incorporate. Further, as already discussed, incorporations like Lake Hallie and Richfield have successfully incorporated without widespread use of those services. Washington should be no different. Indeed, the IRB pivoting to conclude that the absence of municipal water and sewer is the death knell of the "level of services" standard would be wholly improper and ignore that the statutory standard requires an examination of what the **residents desire** or need.

Wisconsin statutes do not require villages to provide public sewer or water service. While Wisconsin villages have the authority to create and operate water and sewer systems, the decision to provide service is a voluntary, local municipal decision based on local needs rather than a mandatory state requirement. In areas not served by a public sewer, property owners are required to have a functioning Private On-site Wastewater Treatment System (POWTS). Washington can develop a sewage treatment plant if it chooses to do so. However, it is not necessary as on-site and community systems meet the needs of the Washington residents and businesses whether private or public. Washington's metropolitan neighbor, Lake Hallie, has a 20-plus year track record of doing just that.

Nor is it uncommon for village to do so. A selection of villages in Wisconsin with POWTS rather than centralized wastewater treatment plans is below.²⁶

- Village of Lake Hallie
- Village of Richfield
- Village of Lac La Belle
- Village of Ingram
- Village of Couderay

²⁶ WisDNR wastewater treatment permit search: <https://apps.dnr.wi.gov/potw/>

- Village of Stockholm
- Village of Melvina
- Village of Bell Center
- Village of Steuben
- Village of Woodman
- Village of Lynxville
- Village of Nelsonville
- Village of Elderon
- Village of Marquette
- Village of Ogdensburg
- Village of Eland
- Village of Aniwa
- Village of Ironton
- Village of Amherst Junction
- Village of Lohrville
- Village of Yuba

Indeed, one major benefit of these systems is that there is no risk of a catastrophic spill. Over the last 10 years, sewage spills in the United States have been a chronic issue. The U.S. Environmental Protection Agency (EPA) estimates between **23,000 and 75,000** sanitary sewer overflows (SSOs) occur annually with a volume of approximately *850 to 900 billion gallons* of untreated sewage and stormwater discharged into U.S. waterways every year. Nationally, wastewater infrastructure received a D+ grade from the American Society of Civil Engineers due to chronic underinvestment and aging systems.

Recent catastrophic failures have occurred both locally and nationally. Such a spill occurred in 2016 when the City treatment facility released nearly 100 million gallons into the Eau Claire River due to a 75-year-old pipe rupturing.

In Wisconsin, failing private onsite wastewater treatment systems (POWTS) can be a potential source of contamination, but that is more prevalent in certain areas of the state. In Door County, nearly one-third of units in high-risk areas discharge pathogens such as E. coli, norovirus, and salmonella directly into the groundwater as well as nitrates and phosphorus. In surface waters, these nutrients trigger harmful algae blooms and eutrophication, which deplete oxygen and create "dead zones". This is particularly critical in regions with fractured karst bedrock where sewage quickly reaches private wells. This does not describe Washington's geology.

The primary factors causing septic systems to fail are system age and geologic vulnerability. Approximately 70% of POWTS are considered at higher risk due to being 25 years or older. Older steel tanks, once popular, are now breaking down at rates up to 90%. In Southwestern and Northeastern Wisconsin, highly permeable soils or shallow bedrock allow inadequately treated wastewater to bypass natural filtration.

A failing system typically requires full replacement. In some counties, mandatory 20-year inspections have recently begun, forcing owners to address long-neglected repairs. Eau Claire County requires inspection every 3 years thus identifying items for repair early. Wisconsin law requires septic systems to be in good working order for home sales, making failure a major barrier to real estate transactions. The state prioritizes grant assistance for "Category 1" failures—those discharging directly into surface or groundwater—over systems that simply backup into the home.

Modern FAST (Fixed Activated Sludge Treatment) systems address the limitations of traditional septic systems by shifting the primary treatment responsibility from the soil to an engineered, oxygen-rich environment within the tank. Sludge is removed about every 2 years and disposed of.

FAST systems provide an advanced treatment technology compared to traditional septic systems which make them well-suited for community systems in suburban cluster subdivisions with these benefits:

- **High-Level Purification:** While traditional septic tanks only provide about 25% of wastewater treatment (leaving 75% for the soil), FAST systems perform 95% to 98% of the treatment before the effluent even reaches the drain field.
- **Nutrient Removal:** Traditional systems remove almost 0% of nitrogen. In contrast, FAST systems can remove over 70% of nitrogen and significantly reduce phosphorus, preventing groundwater contamination and algae blooms common in Wisconsin.
- **Poor Soil & High-Water Tables:** Because the effluent is so clean, these systems can be installed in "marginal" sites—such as those with high water tables or rocky soils—where traditional systems would fail.
- **Smaller Footprint:** The cleaner water allows for significantly smaller and more flexible absorption fields.
- **Self-Cleaning & Clog-Resistant:** The high-oxygen environment promotes "hungry" aerobic bacteria that digest waste faster and keep the system self-cleaning. The clear effluent prevents the "biomat" clogging that typically destroys traditional drain fields.
- **Intermittent Use:** Unlike some advanced systems, FAST can handle the "feast or famine" cycles of seasonal Wisconsin cabins, as the large volume of organisms prevents the system from drying out during low usage.
- **Moving Parts:** The only moving part is an above-ground blower, which simplifies operation.

Comparison Summary

Feature	Traditional Septic	FAST System
Primary Treatment	Mostly in the soil	95-98% inside the tank
Nitrogen Removal	Nearly 0%	>70%
Soil Requirement	Needs deep, permeable soil	Works in marginal/rocky soil
Drain Field Life	Susceptible to clogging	Designed to “last forever”

The cost of a FAST system for a homeowner on a community system is typically around \$80 per month and includes all maintenance, inspections, and system replacement at retirement. These systems allow residents to avoid the density imperative that comes from extending a centralized system to an area, and it recharges the local groundwater aquifer rather than depleting it as a centralized system does by sending treated effluent to surface waters which ultimately drain to the ocean rather than recharging locally.

There is an increasing density imperative for sewer and water development. In order to recover the costs of constructing, operating and replacing ever more complex infrastructure, the density of development served by that infrastructure must increase as well in order to keep that infrastructure affordable. Many cities today, Eau Claire included, are finding it difficult to develop single-family homes due to the cost of the infrastructure to serve them (see chart below showing declining share of single-family homes in Eau Claire’s development mix). However, increased density has significant implications as it relates to infrastructure and servicing models. For example, the City estimated that it would spend \$4 million alone on extending sewer and water utilities to Orchard Hills, costs born by all ratepayers in the City.²⁷ Any notion that the increased net new construction will balance the scales and correct the City’s current budget deficit and adequately finance City services for this new territory is a fallacy. In comparison, the Town offers an alternative model for developing the incorporation territory, one that provides the services that residents actually desire and in a cost effective manner.

The Petitioners believe that an alternative development model exists. Rather than relying on a centralized wastewater system for all development, thereby substantially restricting the supply of a highly desired housing type for the metropolitan community, a model that supports human-scale single-family housing in cluster subdivisions at the end of such centralized systems with proven reliable wastewater treatment that discharges clean water back to the aquifer with minimal chance of failure over its life is preferable outside the city limits. Sprawling complex city-style infrastructure should give way to smaller village-scale infrastructure as the metropolitan

²⁷ https://www.wqow.com/news/city-of-eau-claire-proposes-utility-expansions-into-annexed-town-of-washington-land/article_b247000c-66f8-11ee-bdd6-8f4b89b92853.html

community transitions from the central core to the city edge to the suburban zone and eventually to rural.

The model of suburban development being pursued by the petitioners is feasible using FAST community wastewater treatment rather than connections to a regional wastewater treatment facility. This means the incorporation territory can avoid city-scale urbanization, the goal of the petitioners, which is not required by law in order to incorporate as a metropolitan village. In fact, the incorporation statutes require consideration of such “urban-rural” factors when evaluating whether the minimum standards are being met.

At bottom, it is important to remember that the “level of services” standard does not simply require that an incorporating municipality provide *every* possible municipal service. Instead, the standard focuses on the level of services **desired** or needed by the residents of the incorporation territory. As discussed above, in Petitioners’ various submissions, and testimony from Washingtonians, Washington would provide all the services desired by its residents.

5. IMPACT ON THE REMAINDER OF THE TOWN (Wis. Stat. § 66.0207(2)(c)) – All Statutory Standards Met

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

It appeared that staff and members of the IRB were satisfied that Washington met this standard.²⁸ The Town has a tax rate, total levy, and population that compares favorably to other towns within Eau Claire County.

Town	2024 Tax Levy	2025 Population
Brunswick	\$346,340.00	2,002
Seymour	\$409,499.00	3,399
Union	\$535,691.00	2,681

And the remnant Town will not carry any debt. Thus, the Petition satisfies this requirement.

²⁸ The City unreasonably speculated that, after incorporation, either (1) the remnant town will fold and be required to consolidate with the village, or (2) Washington will begin aggressively annexing the Town. This wild speculation is not consistent with fact or law. Wis. Stat. § 66.02165 explicitly provides that “[f]or a 5-year period after incorporation . . . a newly incorporated city or village *may not* add any remaining town territory of the town from which the newly incorporated city or village was created by use of consolidation, a boundary agreement, or annexation other than annexation by unanimous approval.” There is nothing in the record that would indicate there would be any future consolidation.

6. IMPACT ON THE METROPOLITAN COMMUNITY (Wis. Stat. § 66.0207(2)(d), Wis. Stats.)

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

Finally, Washington’s incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community. As Petitioners emphasized at the February 19, 2026, IRB meeting, the metropolitan community includes more than just Washington and Eau Claire. While Eau Claire has expressed its disagreement with incorporation, many metropolitan community members have expressed support. To that end, the Town of Washington has been, and the Village will continue to be, a responsible, supportive, and active member of the metropolitan community. The Town has entered into regional agreements with its neighbors, including Eau Claire.²⁹ Again, Petitioners will not repeat the arguments made in support of this standard in prior submittals. However, Petitioners desire to address one of Eau Claire’s talking points: the effect of incorporation on the City’s own growth.

Most metropolitan communities grow together. In other words, a strong metropolitan community depends on all members of the community and not just one. A large city in a metropolitan community can be an economic driver of the region, but the smaller municipalities are typically significant contributors, providing a place where people can call home that is something more suited to recharging than the density, congestion, and activity of the city. To suggest that the major city should grow, unhindered at the expense of the formation of smaller municipalities at the edge neglects the impact the density imperative of municipal infrastructure extension has on the range of choice of housing types and lot sizes. While city infrastructure enables more development to be packed into less space, it negates the ability to create space that provides more residential breathing room.

Healthy metropolitan communities need a range of housing types and lot sizes to satisfy the lifestyle choices of the residents of the community. The extension of municipal sewer and water restricts the range of housing types and lot sizes that can reasonably be developed. Systems exist to make less-than-city density feasible outside the city limits but within the metropolitan community. The performance of the Eau Claire/Chippewa metro economy would not be so robust if the only housing choices were apartments and small lots. Hindering the ability of the region to

²⁹ It is also worth noting that in September of 2024 the Town submitted a preliminary proposal for a cooperative boundary plan to the City that would have eventually led to the transfer of the Town islands. The City rejected that proposal without providing any counter-proposal or even a concept of a boundary plan. This is another example of the Town attempting to work with all of its neighbors, contrary to the City’s claim that the Town “shows favoritism” and sought to single out the City. See *City of Eau Claire Report Opposing the Petition for Incorporation of a Portion of the Town of Washington, Eau Claire County, Wisconsin as the Village of Washington* at 96.

provide this range of housing is a good way to choke the continued growth of the Eau Claire regional economy.

Eau Claire Building Permits by Housing Type by Number of Units

Type of Housing	2021	2022	2023	2024	2025	% of Housing Units '21	% of Housing Units '25
Single-family	72	75	42	65	38	11.1%	7.9%
Duplex/Twin	86	104	80	46	62	13.3%	12.8%
Multi-family	489	469	822	683	383	75.6%	79.3%

The 2023 Eau Claire Regional Housing Study came to this conclusion: “As of the time of this report in 2023, the prevailing sentiment in the marketplace is that there are too few single-family houses available to buy or rent.”

The preferences of the residents of the region were expressed through a survey done as part of the study. 76% felt that “Owning the unit or property” in which they live is moderately to extremely important. Conversely 57% of respondents felt that “being a renter with no ownership responsibility” was not important at all or only slightly important. 29% of respondents indicated the “greatest obstacle to buying their first home in the region is that there is too little supply of the type of unit or property that I am looking for on the market so I cannot find the right home.”

“Move-up” buyers were asked if they were confident of being able to find a home that works in the Eau Claire region – 67% replied “no.” Of those answering “no,” 37% believe there is too little supply of the type of unit or property that I am looking for on the market so I cannot find the right home.”

As demonstrated, Washington’s incorporation will *promote* regional growth by continuing to provide for a wider range of housing options that the region’s residents desire but cannot currently obtain. For that reason and for all the reasons discussed in Petitioners’ Incorporation Submittal and Supplemental Submission, Washington’s incorporation will not harm the metropolitan community.

Conclusion

The Incorporation Petition satisfies all statutory standards. The IRB should approve the Petition and let the Washington residents determine whether the territory becomes a village.