



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JIM DOYLE
GOVERNOR

MICHAEL MORGAN
SECRETARY

Division of Intergovernmental Relations
Post Office Box 8944
Madison, WI 53708-8944
Voice (608) 264-6300
Fax (608) 267-6917

January 16, 2009

The Honorable David Bastianelli
Branch 2, Courtroom, 305, Chamber 302
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

Re: The Incorporation of a Portion of Lands Comprising the Town of Bristol, Kenosha County, Wisconsin as the Village of Bristol, Kenosha County Circuit Court Case No. 08-CV-114

Dear Judge Bastianelli:

The Incorporation Review Board has reviewed the Bristol incorporation petition to determine whether it meets the standards in s. 66.0207 Wis. Stats. Judge Barbara Kluka, acting on your behalf, had forwarded the petition to the Board on July 22, 2008 after having found that the petition met the minimum area and population standards in s. 66.0205 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 at a public hearing and on materials presented, the Board finds that the petition as submitted does not meet two of the required standards in s. 66.0207 Wis. Stats., but that a portion of the submitted territory known as 'Bristol Hamlet' could meet these standards. Therefore, the Board denies the petition for incorporation and recommends that a new petition be submitted for the territory identified as 'Bristol Hamlet' and the immediately surrounding lands. The Board will consider waiving the incorporation review fee for a new petition encompassing smaller boundaries as discussed in the Determination document if filed within 120 days of this letter. My staff George Hall and Erich Schmidtke in the municipal boundary review program will gladly meet with petitioners to discuss this determination and a possible new petition for incorporation as recommended in the attached determination document.

I have attached with this letter a copy of the Board's Findings and Determination document and appendices which concludes our work with this petition for incorporation. The Incorporation Review Board and 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

January 16, 2009

Page 2

for public inspection at any time. Please advise if the court desires to inspect this record, or to have it copied in full for the court or the parties.

Should you have any questions, please call me at (608) 261-7520 or harald.jordahl@wisconsin.gov.

Sincerely,



Harald E. (Jordy) Jordahl

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

Enclosure

Cc: Mike Farrell, Representative of the Petitioners
Attorney William White, Petitioner's Attorney
Stephanie Allewalt, PDI, Consultant to Petitioners
Randy Kerkman, Town Administrator
Edna Highland, Kenosha County Clerk
Michael Higgins, City of Kenosha Clerk/Treasurer
Jane Romanowski, Village of Pleasant Prairie Clerk
Linda Perona, Town of Brighton Clerk
Emily Uhlenhake, Village of Paddock Lake Clerk
Cynthia Ernst, Town of Salem Clerk
Linda Terry, Town of Paris Clerk
Kenneth Yunker, SEWRPC Executive Director

The following individuals may request copies of the determination, which can also be viewed at:
www.doa.state.wi.us/municipalboundaryreview

Phyllis Kasken, Town of Randall Clerk
Mary Hanstadt, Village of Sturtevant Clerk
Adelheid Streif, Town of Burlington Clerk
Mary Demske, Town of Dover Clerk/Treasurer
Jan Winget, Village of Union Grove Clerk/Treasurer
Beverly Gill, City of Burlington Clerk
Sheila Siegler, Town of Wheatland Clerk
Terry Faber, Village of Silver Lake Clerk
Joan Rennert, Racine County Clerk
Juliatt Edmonds, Village of Mount Pleasant Clerk/Treasurer
Barbara Lange, Village of Elmwood Park Clerk/Treasurer
Tim Kitzman, Town of Somers Clerk
Judy Aimone, Town of Yorkville Clerk
Betty J. Novy, Village of Rochester Clerk-Treasurer

STATE OF WISCONSIN

CIRCUIT COURT

KENOSHA COUNTY

In Re:

THE INCORPORATION OF A PORTION OF
LANDS COMPRISING THE TOWN OF BRISTOL,
KENOSHA COUNTY, WISCONSIN AS THE VILLAGE OF BRISTOL

Case No. 08-CV-114

MIKE FARRELL, Representative of
the Petitioners

DETERMINATION OF THE INCORPORATION REVIEW BOARD

January, 2009

The Incorporation Review Board ("Board") prepares findings and determines whether the territory petitioned for incorporation meets the applicable standards prescribed in Section 66.0207, Wis. Stats. The Board was created by 2003 Wisconsin Act 171. Board members, provided at Appendix A, are appointed by Wisconsin's three municipal associations and the Department of Administration. This petition is the second to be considered by the Board.

Bristol's incorporation process began with the "Notice of Intention to Circulate an Incorporation Petition" being published on February 4, 2008. After circulating the petition and gathering 150 signatures, the petition was filed in Kenosha County Circuit Court on May 22, 2008. A court hearing was held on the petition on July 22, 2008. The court found the petition met the minimal area and population standards required by section 66.0205 Wis. Stats. and forwarded the petition to the Board on July 23rd 2008 for its review of the standards in section 66.0207 Wis. Stats. A day later Petitioners submitted their \$20,000 review fee and supporting materials, which commenced the Board's 180-day review period. The Board conducted a public hearing on the petition on October 14th, 2008, at the Town of Bristol, and also held a meeting at the Department on December 10th, 2008 to review preliminary staff findings.

When reviewing incorporation petitions, the Board has three options for action, according to s. 66.0203(9)(e) Wis. Stats. The Board may determine:

- 1) The petition as submitted is dismissed;
- 2) The petition as submitted is granted, 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.

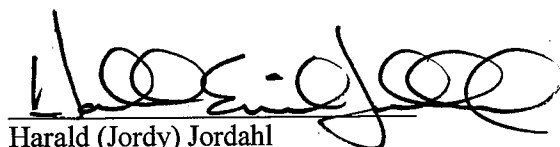
In consideration of the standards in s. 66.0207 Wis. Stats., THE BOARD DETERMINES:

STANDARD 1 (a), Homogeneity and Compactness – Not Met
STANDARD 1 (b), Territory Beyond the Core – Not Met
STANDARD 2 (a), Tax Revenue - Met
STANDARD 2 (b), Level of Services – Not applicable
STANDARD 2 (c), Impact on the Remainder of the Town – Met
STANDARD 2 (d), Impact on the Metropolitan Community - Met

The facts and analysis supporting these findings are given in the body of the determination. The Determination of the Board to the Circuit Court, prescribed by s. 66.0203(9)(e)3, Wis. Stats., is:

The petition as submitted is dismissed with a recommendation that a new petition be submitted to include less territory as specified in the Board's findings and determination.

Dated this 16 day of January 2008.
By the Incorporation Review Board:



Harald (Jordy) Jordahl
Chair of the Incorporation Review Board and
Deputy Administrator, Division of Intergovernmental Relations

Table of Contents

EXECUTIVE SUMMARY.....	5
SECTION 1(A) HOMOGENEITY AND COMPACTNESS	8
PHYSICAL AND NATURAL BOUNDARIES	8
<i>Topography</i>	8
<i>Drainage Basins</i>	8
<i>Physical boundaries</i>	9
<i>Soils</i>	11
TRANSPORTATION	12
<i>Streets and Highways</i>	12
<i>Air and Rail</i>	13
<i>Transit</i>	13
<i>Pedestrian and bicycle</i>	14
POLITICAL BOUNDARIES	14
<i>Rural Hamlets</i>	15
<i>Schools</i>	15
<i>Sanitary District</i>	16
<i>Lake Management Districts</i>	16
SHOPPING AND SOCIAL CUSTOMS.....	17
<i>Shopping and employment</i>	17
<i>Social and recreation opportunities</i>	18
LAND USES.....	22
<i>Agricultural Lands</i>	23
<i>Natural Resource Lands</i>	23
<i>Land Use Regulations</i>	24
POPULATION DISTRIBUTION.....	26
DETERMINATION	27
SECTION 1(B), TERRITORY BEYOND THE CORE.....	30
MOST DENSELY POPULATED SQUARE MILE.....	30
LANDS SUBJECT TO WAIVER.....	30
FUTURE GROWTH.....	31
<i>Population Growth</i>	31
<i>Rezoning</i> s.....	32
<i>Building Permits</i>	33

<i>Subdivisions</i>	33
<i>Sewer Service Area</i>	37
<i>Plans</i>	38
DETERMINATION	40
SECTION 2(A) TAX REVENUE	42
PETITIONER'S BUDGET FOR PROPOSED VILLAGE AND REMAINDER OF THE TOWN.....	42
DETERMINATION	52
SECTION 2(B) LEVEL OF SERVICES.....	53
SECTION 2(C) IMPACT ON THE REMAINDER OF THE TOWN.....	54
REMAINING SPECIAL PURPOSE DISTRICTS	54
REMAINDER OF THE TOWN SUBJECT TO INTERGOVERNMENTAL AGREEMENTS OR OTHER POWERS	55
DETERMINATION	56
SECTION 2(D), IMPACT UPON THE METROPOLITAN COMMUNITY	57
DETERMINATION	59
APPENDIX.....	I
APPENDIX A: INCORPORATION REVIEW BOARD.....	I
APPENDIX B: MAPS	II
APPENDIX C: LIST OF SUBMITTED MATERIALS	III

EXECUTIVE SUMMARY

This document constitutes the Findings and Determination of the Incorporation Review Board on the petition filed by residents of the Town of Bristol to incorporate the western one-half of the Town of Bristol. When reviewing incorporation petitions, the Board has three options for action, according to s. 66.0203(9)(e) Wis. Stats. The Board may determine:

- 1) The petition as submitted is dismissed;
- 2) The petition as submitted is granted, 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.

The Incorporation Review Board hereby determines that the petition as submitted does not meet the requirements of s. 66.0207 Wis. Stats., but that alternative boundaries could meet the requirements. Specifically, including only Bristol Hamlet and immediately surrounding lands will enable the petition to meet both the *Compactness and Homogeneity* and *Territory Beyond the Core* standards, the two standards not met by the petition as currently configured. Therefore, the Board dismisses the petition as submitted but recommends that a new petition be filed that includes Bristol Hamlet and immediately surrounding lands.

The Town of Bristol is located in Kenosha County, Wisconsin, adjacent to the Interstate 94 corridor, the City of Kenosha, and Village of Pleasant Prairie. Map 1, Appendix B shows Bristol's location.

The proposed village encompasses 18 square miles of territory. Its boundaries are a perfect rectangle, following the Town's original public land survey lines. The rectangle includes within it the unincorporated hamlet of Bristol as well as the lake-oriented neighborhoods of George Lake, Mud Lake, and Lake Shangri-La. Roughly 3,650 people reside within the proposed village area. The rectangular boundaries were selected because they constitute the 'Town Center' area that was agreed to by Bristol and its incorporated neighbors as being appropriate for incorporation at the time intergovernmental agreements were negotiated with adjoining municipalities.

Petitioners see incorporation as the final step in a series of Town accomplishments over the past several decades. These accomplishments include: adoption of village powers, development of a land use plan in 1992 (updated in 2006), a land division ordinance, a stormwater management plan, a construction site erosion control ordinance, and boundary agreements with the City of Kenosha, Village of Pleasant Prairie, and Village of Paddock Lake. These agreements stabilized area municipal boundaries, provided for coordinated regional services, and agreed that Bristol's 'Town Center' may incorporate. Petitioners believe the Town has already been operating like a village, so incorporating will merely convey legal recognition for what it is already doing. Petitioners desire incorporation in order to better respond to the strong growth pressure resulting from being located along the Interstate 94 corridor linking Chicago with Milwaukee, and their proximate location on the edge of the urbanizing Milwaukee, Kenosha, and Chicago metropolitan areas.

Bristol previously attempted to incorporate in 1968 but was denied by the Department of Administration. The Department determined that the proposed territory, which included the entire town, failed to meet the *Compactness and Homogeneity* and *Territory Beyond the Core* standards because the petition contained too much vacant rural land. In fact, back in 1968, eight of the 36 sections were uninhabited, and 22 of the remaining 28 sections had fewer than 100 persons. Only 6% of the total land area was developed. The Department did find that Bristol

Hamlet contained a good deal of urban activity, including a post office, a school, the town hall and fire department, businesses, an industrial park, and municipal sewer and water facilities.

The Board now finds that 40 years later, Bristol Hamlet still contains an impressive amount of development and business activity, but that although much has happened in the intervening years, the remaining southern part of the proposed village area still contains too much vacant developable rural land, preventing it from meeting the *Compactness and Homogeneity* and *Territory Beyond the Core* standards. In 1968, the Department indicated that petitioning just Bristol Hamlet might well meet the standards. Today the Board goes a step further and recommends that by filing a new petition to include only Bristol Hamlet and immediately surrounding lands, the standards will be met. Lands immediately surrounding the Bristol Hamlet might be those in Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18. The Des Plaines River environmental corridor could possibly be used as an eastern boundary between the village and Town remnant, with CTH-C serving as a southerly boundary.

This determination is organized into six sections, a section for each of the Board's six statutory public interest standards found in s. 66.0207, Wis.Stats.

Compactness & Homogeneity – Not Met. This standard requires the petitioned territory to be sufficiently compact and uniform to coherently function as a city or village. Factors include existing natural boundaries such as rivers and topography, existing political boundaries, the current and potential transportation network, employment, business, social, and recreational opportunities. The Bristol Hamlet has the appearance of an incorporated place and functions as Bristol's true 'Town Center'

Southern portions of the proposed village area do not bear a clear relationship to Bristol Hamlet, and their separateness from Bristol Hamlet detracts from a finding of homogeneity. The three separate lake neighborhoods, particularly Lake Shangri-La seem more internally focused or even, in the case of Lake Shangri-La, focused more on the Town of Salem. Few businesses exist in this area and no local roads connect these areas to Bristol Hamlet. This means that residents must use busy federal, state, and county highways to travel between Bristol Hamlet and other parts of the proposed village area.

2) Territory Beyond the Core – Not Met. This standard requires that the lands beyond the most densely populated square mile have the potential for development "on a substantial scale" within the next three years. This standard ensures that the area proposed for incorporation is primarily urban in nature rather than rural.

The most densely populated square mile is Bristol Hamlet. Looking at the lands included in the petition that are beyond Bristol Hamlet, one subdivision has lots that are ready for development and another handful of subdivisions are close to being ready. All of these subdivisions are within or immediately adjacent to Bristol Hamlet and may potentially be developed within the next three years.

However, remaining lands in the proposed village area are unlikely to develop within three years. This is based on Town of Bristol's adopted land use plan, the draft multi-jurisdictional comprehensive plan currently being prepared by Kenosha County, and a proposed development map submitted by Petitioners. These items show that the southern part of the area is recommended to remain rural in character. Petitioners argue that nearly the entire area will develop to urban uses, thereby legitimizing inclusion of the entire territory. However, this is contrary to previously adopted plans, state and regional population projections, as well as recent development trends. For example, recent rezoning, building permit, and subdivision platting activity show that growth and development activity in the Town of Bristol has remained steady but modest, particularly

given the amount of vacant land included in the petition. Given current market conditions, a sudden reversal of these trends and projections seems unlikely.

3) Tax Revenue – Met. This standard ensures that the territory petitioned for incorporation has the capacity to raise sufficient tax revenue to function as a city or village without unduly burdening residents. The proposed budget and the Town's existing mill rate and debt level show that the area does have sufficient capacity to operate as a village.

4) Level of Services – Not applicable, because no neighboring municipality has intervened against the petition and filed a willingness to annex and serve the petitioned territory.

5) Impact on the Remainder of the Town – Met. This standard assures that a town government would have the necessary resources sufficient to continue to be able to supply services to its residents and territory, as well as have the potential capacity to fulfill any contractual responsibilities. Based on the proposed budget and existing Town finances, the remainder of the Town of Bristol would not be disadvantaged by the incorporation of the proposed village of Bristol. Additionally, steps have been taken to provide for future intergovernmental cooperation and an equitable division of assets and services.

6) Impact on the Metropolitan Community – Met. This standard ensures that incorporation will not harm the larger metropolitan area. There appear to be no regional or intergovernmental problems that would result from Bristol's incorporation. All of Bristol's municipal neighbors have either entered into a boundary agreement with Bristol or are in the process of developing one. Bristol has been very proactive in working with its municipal neighbors so that the kinds of intergovernmental issues that might have caused problems with this standard have already been successfully identified and resolved.

The Board thanks petitioners and the Town for all the materials and presentations and requested information, which greatly facilitated the Board's review. The Board hopes that Petitioners follows its recommendation and resubmits the petition with altered boundaries.

SECTION 1(A) HOMOGENEITY AND COMPACTNESS

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

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

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

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

Physical and Natural Boundaries

Topography

The topography of the proposed village area is flat to gently rolling. The only exception to this is the steep slopes surrounding Lake Shangri-La and the area immediately north which is higher in elevation than the rest of the proposed village area. The lands along the Des Plaines River and Brighton Creek are lower in elevation. Considering the higher elevation of lands around Lake Shangri-La to the southwest corner and the low-lying lands along the riverbanks in the northeast, a generalization can be made that the area slopes downward in elevation moving across the area in a southwest to northeast direction.

Glaciation has largely determined the physiography and topography, as well as the soils within Kenosha County. There is evidence of four major stages of glaciation, but it was the last, the Wisconsin Glacial Stage 11,000 years ago, that was most influential to the area's present condition. The Wisconsin Glacial Stage created the silt and clay ground moraines that dominate the western part of Kenosha County, deposited sand and gravel and other alluvial outwash materials found today along riverways, and also scraped out wetland areas that are made up of peat and organic materials.³

Drainage Basins

Map 2, Appendix B, shows the areas lakes and rivers. The proposed village area lies completely within the Des Plaines River watershed.

The map shows that the area has three lakes – George Lake, Mud Lake, and one-half of Lake Shangri-La. Lake Shangri-La is the largest at 81 acres. George Lake and Mud Lake are smaller at 59 and 23 acres.

Lake Shangri-La and Mud Lake are drained lakes, which mean they have no inlet but do have continuously flowing outlets. George Lake is a drainage lake, having both inlet and outlet streams. George Lake is managed by the George Lake Management Association, while Lake

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

² Ibid., page 337.

³ Draft Kenosha County Comprehensive Plan, Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. III-6.

Shangri-La is managed by the Lake Shangri-La Property Owners Association. The activities of both groups are described later in this section under 'Political Boundaries'.

The Des Plaines River, Dutch Gap Canal, and Brighton Creek run through the proposed village, draining away stormwater and snowmelt. Dutch Gap Canal is fed by both George Lake and Mud Lake and runs south through Sections 20, 21, 28, and 33 in the south central part of the proposed village area. Brighton Creek runs in a southwesterly direction through the northeast corner in Sections 5, 6, and 7. The Des Plaines River flows southward through Sections 4, 9, and 16 and then abruptly turns east into the Town remainder where it joins with the Root River.

Water storage and absorption also occurs via the area's 1,895 acres of wetlands. Large wetland complexes occur in the south central part of the proposed village in Sections 20, 21, 28, 29, 30, and 31. A band of wetlands can also be found in the northeast part of the area following the Des Plaines River. Map 2, Appendix B, shows wetland areas in green, although these green areas may also include woodlands.

Because of its location within the Des Plaines watershed, the Town is subject to state and federal stormwater management regulations. In particular, Bristol Hamlet and the neighborhood immediately north of Lake Shangri-La are subject to best management practices in dealing with stormwater. These areas comply by utilizing a system of culverts and grass-lined ditches. The Town's stormwater management plan, completed in 2007, provides an analysis of how stormwater moves through the area, inventories the current management system, and identifies future projects such as construction of a detention basin at the southwest corner of 195th Avenue and 81st Street in Bristol Hamlet.⁴

Physical boundaries

The rectangular shape of the proposed village coincides with the boundaries of the western one-half of the existing Town of Bristol. They are the same straight-line political boundaries developed by the Public Lands Survey in the mid-1800s. According to Petitioner's presentation at the May 10th public hearing, these boundaries were selected because they are the historical boundary lines and more importantly, because the Village of Pleasant Prairie, Village of Paddock Lake, and the City of Kenosha consented in boundary agreements that this rectangular area, called the 'Town Center', might eventually incorporate.

The following paragraphs step clockwise around the proposed village area.

CTH K separates the territory's northerly boundary from the Town of Paris. Land use is the same on both sides of the road: farmland, patches of woods, and scattered houses and accessory structures.

The area's easterly boundary is shared with the prospective Town of Bristol remnant. No roadway separates the proposed village area from the town remnant, nor does any ridge, stream or river, wetland, or any other type of natural feature. The Des Plaines River could have been used to provide a natural boundary if Sections 4, 9, and 16 had not been included in their entirety.

Instead of an identifiable physical boundary, the boundary is based on the north-south section lines which divide the western one-half of the town from the eastern one-half. As a result, this boundary is highly theoretical in nature. For example, standing at this boundary, a person would not necessarily know whether they were in the village or the remnant town. The land uses on both sides of the boundary are the same - farmland, woodlands, wetlands, and scattered houses.

⁴ Town of Bristol Incorporation Application, pgs. 47-48.

Therefore, neither land uses nor any other physical sign is available to help identify location along this eastern boundary line.

Three-quarters of a mile further east from this eastern boundary line lay the City of Kenosha. Currently, the City extends westward out to CTH MB. However, pockets of the Town remain adjacent to this finger of City territory in Sections 1 and 2. Map 1, Appendix B, shows Kenosha's current boundaries, as well as the specific lands yet remaining in the Town. According to the terms of the *City of Kenosha/Town of Bristol Cooperative Boundary Agreement*, adopted in 2000, City jurisdiction will eventually extend to include all of the lands in Sections 1 and 2, and in Section 3 as far as CTH MB. Landowners in these areas may petition for attachment to the City any time prior to 2030. However, after the year 2030, all lands within these sections not already in the City will automatically attach to Kenosha at that time.

Further to the south, still along the eastern boundary of the proposed village, the Village of Pleasant Prairie juts out into the proposed Town remnant. Map 1, Appendix B, shows how the Village nearly reaches CTH U, roughly two miles from the proposed village's eastern boundary. According to the *1997 Settlement and Cooperation Agreement* between the Village of Pleasant Prairie and the Town of Bristol, Village jurisdiction will not extend any further into the Town. The agreement prohibits the Village from accepting future annexations of Town territory.⁵

The proposed village's southern boundary is the state line of Illinois, physically demarcated by CTH WG. Land uses here on both the Wisconsin and Illinois side are similar – scattered houses, farmland, and woodlands. On the Bristol side there is also a mobile home park immediately east of Lake Shangri-La.

The proposed village area shares its western boundary with the Town of Salem. At the southern end, this boundary bisects Lake Shangri-La and the Lake Shangri-La community, splitting these with the Town of Salem. As with the eastern boundary of the petition, this westerly boundary is based on the straight-line political boundaries developed by the Public Lands Survey over 150 years ago, rather than upon physical or natural features. Land uses are similar along both sides of the boundary - farmland, woodlands, and a few scattered houses. As a result, there is no way of knowing whether one is in the proposed village or in the Town of Salem.

Petitioners contend that the rectangular boundaries of the proposed village area are compact and homogenous and supported by precedent. Specifically, Petitioners submitted the legal descriptions and scale maps of the original corporate boundaries for the Cities of Janesville, Oshkosh, Racine, Sheboygan, Brookfield, and Villages of Bayside, DeForest, East Troy, Friesland, Grafton, Menomonee Falls, Whiting, Pardeeville, and White Fish Bay. The materials show that these communities began with straight-line square or rectangular boundaries. Only through subsequent annexation of land did these community boundaries become irregular over time in response to parcel-by-parcel urban growth through economic development. Petitioners argue that given "this rich history of regularity that villages and cities should start their lives with regular boundaries."⁶ However, these communities were incorporating prior to the total rewrite of the incorporation statute in the Laws of 1959. The statute was re-written at the recommendation of the Legislative Council Urban Problems Study Committee, which was responding to the problems caused by new cities and villages that were considered inappropriate for incorporation. As a result, the re-write of the incorporation statute in 1959 included for the first time standards that require petitioners to provide a rationale for the selected boundaries.

⁵ *1997 Settlement and Cooperation Agreement between the Village of Pleasant Prairie, the Pleasant Prairie Water Utility, The Pleasant Prairie Sewer utility District D, the Pleasant Prairie Sewer Utility District No 1, the Pleasant Prairie Sewer Utility District F, the Town of Bristol, the own of Bristol Utility District No. 3, the Town of Bristol Utility District No. 5, and the Town of Bristol Water Utility District*, page 5 and Exhibit A.

⁶ Submittals submitted by Petitioners to the Department on October 23rd, 2008 and December 3rd, 2008.

Petitioner's also point out that the rectangular boundaries of the proposed village area were agreed upon by the Villages of Pleasant Prairie and Paddock Lake, and the City of Kenosha in boundary agreements with these communities.⁷ However, these agreements do not address the statutory criteria for incorporation, and do not offer an opinion as to whether or not the terms of the agreements coincide with, or begin to satisfy, the language of the incorporation statute. They only indicate no opposition to incorporation of the western half of the Town of Bristol.

Soils

Three soil associations lie underfoot within the proposed village area - the *Morley Beecher-Ashkum* association, the *Varna-Elliott-Ashkum* association, and the *Hebron-Montgomery-Aztalan* association. All three associations share similar characteristics. They range from well-drained to poorly-drained soils, and possess a silty clay or silty clay-loam subsoil. All three occur on nearly level or gently sloping ground, occupying low, broad ridges and knobs of land that are cut by drainageways and depressions. The Hebron-Montgomery-Aztalan association sets itself apart only in that it tends to occur along Lake Michigan, and along the Fox and Des Plaines Rivers and other streams.

As described in the paragraphs below, the area's soils are generally good for agriculture but present challenges for development.

Soil Suitability for Development

Soil characteristics can impact the suitability of land for development. For example, some types of soils can significantly limit development of dwellings with or without basements, as well as structures requiring private on-site waste treatment system (POWTS) absorption fields. Development on such soils requires special designs, increased construction costs, increased maintenance, and special landscaping. Also, soils that shrink and swell, soils that are saturated, and soils associated with a high water table and flooding, can cause structures to move and flood and become unstable or otherwise unusable. Although these types of areas are generally difficult or unsuitable for developed land uses, they can nonetheless serve as important locations for wetlands, wildlife habitat, and stormwater retention. The Town of Bristol has 5,523 acres of soil that has been identified as *severe structural soils*, or 25.8% of the total Town area. The Town has 5,783 acres of soils that are considered to be *severe wet soils*, or 27% of the total Town area.⁸ Map 3, Appendix B, identifies soil limitations for development. The map shows that a large swath of territory in the southern part of the proposed village area, east of George Lake, is 'Very Limited' for development. These 'Very Limited' areas correspond to the wetlands shown in Map 2, except that a large area along Dutch Gap Canal in sections 28 and 33 is also 'Very Limited'. Narrower bands of limited soil types exist along Brighton Creek and the Des Plaines River, areas adjacent to Mud Lake and Lake Shangri-La, and also smaller polypedons scattered throughout the area. It is significant to note that the map shows soil limitations for dwellings *without* basements. A map showing limitations for dwellings *with* basements would identify even more areas as being problematic for development.

Soil Suitability for Agricultural Production

Soils are classified by the National Resource Conservation Service (NRCS) based on their general suitability for most kinds of farming. Generally, lands with Class I and II soils are considered *National Prime Farmlands*. The Town of Bristol has no Class I soils, but does have 16,418 acres of Class II soils. Lands with Class III soils are considered *Farmlands of Statewide Significance*. Class III soils are less well-suited to agriculture and may have severe limitations that reduce the choice of plants or require special conservation practices. The Town of Bristol has 3,840 acres of Class III soils. Class IV soils have even more severe limitations. Class V, VI,

⁷ Submittals submitted by Petitioners to the Department on October 23rd, 2008 and December 3rd, 2008.

⁸ Kenosha County Comprehensive Plan Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. 3a.

and VII soils are considered suitable for pasture but not for crops, and Class VIII soils are so rough, shallow, or otherwise limited that they do not produce economically viable yields of crops, forage, or even wood products. The Town has 816 acres of Class IV, V, VI, VII, and VIII soils combined.⁹

Although the Town of Bristol, as with all of southeast Wisconsin, is under development pressure from the Milwaukee, Chicago, and Kenosha metro areas, agriculture is still relevant in the Town. A total of 11,579 acres are still cultivated in the Town, with 1,968 acres used as pasture land, 384 acres are in orchard, nursery, and specialty crops, and 258 acres are farm buildings.¹⁰ Within the proposed village area, agriculture uses account for 5,871 acres, or roughly 50% of the total area. Agriculture will continue to be important to the area, according to the Town's land use plan and draft comprehensive plan. This will be discussed in more detail later in this section.

Transportation

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

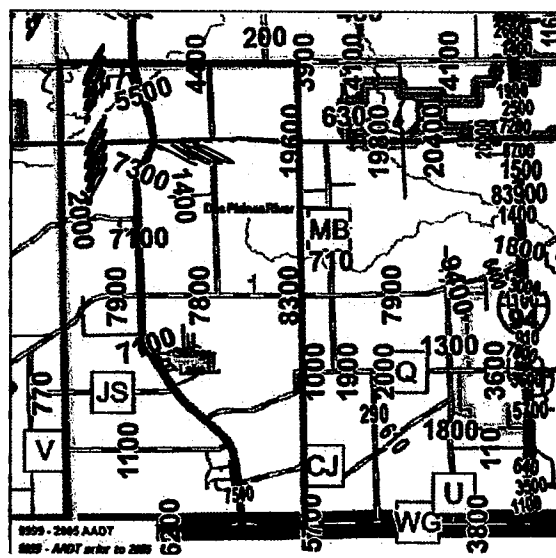
Streets and Highways

Local roads and highways within the proposed village can be seen at Map 4, Appendix B, at the back of this document. On that map, local roads are shown in purple, county highways in blue, state highways in red, and US highways in orange. The map shows a strong network of local roads in Bristol Hamlet. Local road networks also exist to a lesser extent in the George Lake, Mud Lake, and Lake Shangri-La neighborhoods. Table 1 indicates that only 25.86 miles of local roads exist in the entire Town. Of these roughly 2/3 are in the proposed village area, mostly in Bristol Hamlet.

To move beyond their immediate neighborhoods, residents must rely on state and county trunk highways. They share these highways with non-local traffic that is moving through the area. For example, to get from Mud Lake to Bristol Hamlet, one must use STH 45, joining the non-local traffic that is moving through the area to or from Illinois.

There are no convenient alternative routes.¹¹ The scarcity of local roads means that county and state roads must facilitate both local and non-local vehicular traffic. As a result, these roads are very busy. Figure 1 shows high traffic counts on USH 45, CTH C, and STH 50. Even the most quiet Town roads still carry thousands of vehicles per day.

Figure 1 Traffic Counts



Source: WIDOT 2005

⁹ Kenosha County Comprehensive Plan Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p 4a.

¹⁰ Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. 17f.

¹¹ A driver could detour off USH 45 onto USH 165, then CTH MB, and then USH 50. However, this would add substantially to the trip distance and involves equally busy roads.

Table 1: Bristol Road Miles

Gross	County	Municipal	County Jurisdiction			Municipal Jurisdiction		
			Arterial	Collector	Local	Arterial	Collector	Local
61.35	34.44	26.91	1.04	20.03	13.37	-	1.05	25.86

In order to accommodate all of this traffic, a number of system improvements are recommended by the *Regional Transportation System Plan for Southeastern Wisconsin: 2035*, including the following specific ideas:

- Construction of a new arterial within the proposed village area near George Lake between County Highway V and County Highway Q by 2020;
- Resurfacing and/or reconstruction for USH 45, STH 50, and CTHs AH, C, K, and WC;
- Possible expansion of CTH K from two to four lanes.

Additionally, Bristol's capital improvements plan anticipates purchasing road equipment such as graders and plows, as well as paving a number of local roads.¹²

However, neither the capital improvements plan nor the regional transportation plan includes construction of new local roads that might provide greater vehicular connectivity to all parts of the proposed village area. Apparently the Town has no official map by which to lay out and preserve prospective local road rights of way.

Air and Rail

General Mitchell International Airport serves Bristol, like many communities within the Milwaukee metropolitan area. General Mitchell is the largest airport in Wisconsin, offering roughly 235 daily departures and arrivals. Also, because of its proximity to Illinois, Chicago's O'Hare International Airport is another option for residents.

The Kenosha Regional Airport is located just east of the proposed village in the City of Kenosha. It serves a variety of aviation needs but does not offer scheduled commercial passenger service.

Petitioner's also note that there are five privately owned airports, all of them located in the east central part of the proposed village.¹³

There are no rail lines cutting through Bristol. However, residents may take advantage of the Amtrak's Hiawatha and Empire Builder passenger rail service that travels daily between Chicago and Milwaukee, with stops in Sturtevant and Kenosha.

Transit

The Western Kenosha Transit system provides weekday bus service to western Kenosha County towns and villages, including Bristol. The system enables residents to travel to Paddock Lake, Twin Lakes, Powers Lake, Burlington, Lake Geneva, Kenosha, and Antioch, Illinois. Two routes, the 3 and 4 routes, run up USH 45 four times daily and stop in Bristol Hamlet.¹⁴ This transit service does not provide residents with access to all areas within the proposed village area, but it is an important transportation option to access the larger region. The Town anticipates expanding this service to other areas in the proposed village as development occurs.¹⁵

¹² Town of Bristol Capital Improvements Plan, provided to the Department by Petitioners December 4, 2008.

¹³ Town of Bristol Incorporation Application, pgs. 38.

¹⁴ Petitioner's December 18th submittal to the Department.

¹⁵ Petitioner's December 18th submittal to the Department.

The Kenosha Care-A-Van and the Volunteer Escort Service¹⁶ is another transit service that is available to residents who happen to be elderly or disabled.

Pedestrian and bicycle

Bristol Hamlet contains sidewalks along some streets, as well as a short stretch of bike path. The network of local roads in the hamlet tends to disperse traffic so that biking and walking on the roads themselves is safe and pleasant. Also, because development is sufficiently dense and mixed-use, moving throughout the hamlet from one activity to another is easy. For example, moving between the school, the post office, businesses, restaurants, and Richard Hanson Memorial Park is very easily accomplished on foot or bike.

Residents in the neighborhoods surrounding George Lake, Mud Lake, and Lake Shangri-La may also move around their immediate neighborhoods on foot or bicycle using local roads, but not to the extent of Bristol Hamlet. For example, to move between the north and south shores of George Lake, a pedestrian would need to travel several hundred yards on USH 45, which is a very dangerous proposition.

The major problem for pedestrians and bicyclists is when they must leave Bristol Hamlet or their lake neighborhoods to travel to some other part of the proposed village area. To accomplish this, they must utilize the busy federal, state, and county highways. However, the speed, lane width, lack of a shoulder, and level of traffic on these highways is such that pedestrian and bicycle travel is not safe or pleasant. As a result, individuals who do not have access to a motor vehicle, or who have lost their drivers license or never had one, lack effective options.

The Town's park and outdoor recreation plan recommends development of trails and bicycle routes called *Planned Recreation Corridors* throughout the area. See Map 5, Appendix B. The map shows that these corridors will run along STH 45, CTH V, STH 165, CTH AH, circle Bristol Hamlet, circle Mud Lake and George Lake, and also run along portions of the Des Plaines River and Brighton Creek. They will be incrementally-developed as subdivisions are platted, or possibly when highways are reconstructed.¹⁷ A pedestrian walkway across STH 50 is planned as part of the Bristol Bay subdivision. Also, the Town's subdivision ordinance requires that sidewalks be installed for new sewered subdivisions. If these facilities already existed, they could provide pedestrians and bicyclists with the access to the proposed village area that they currently lack.

Political Boundaries

The Town of Bristol has a long history. It held its first meeting in 1842, prior to Wisconsin becoming a state.¹⁸ As mentioned previously, Petitioners selected the western one-half of the Town for incorporation because it is the 'Town Center' area that was consented to and described in negotiated boundary agreements between Bristol and its incorporated municipal neighbors Kenosha, Paddock Lake, and Pleasant Prairie. Also, Petitioners testified at the Board's December 10th meeting that this was the area that was felt to comply with the incorporation standards in s. 66.0207 Wis. Stats.

Bristol's boundary agreements also limit future annexation of Bristol territory to neighboring cities and villages. The agreements provide that the City of Kenosha will eventually extend into all of Sections 1 and 2 and part of Section 3 by the year 2030. The Village of Pleasant Prairie already extends as far into Bristol as it is permitted to. The Village of Paddock Lake has agreed

¹⁶ Town of Bristol Incorporation Application, p. 38.

¹⁷ Petitioner's December 18th submittal to the Department.

¹⁸ Town of Bristol Incorporation Application, page 1.

not to accept any annexations of Town territory. As a result of these three agreements, the Town's boundaries are secure. Protection against annexation is sometimes a motivation for incorporation. However, that is not the case here.

Rural Hamlets

A number of rural hamlets exist in the Town of Bristol. The primary hamlet is 'Bristol Hamlet', located in the northwest corner of the Town along STH 45 in Sections 7, 8, 17, and 18. However, smaller hamlet-type areas are located surrounding George Lake, Mud Lake, and a corner of Lake Shangri-La, although these areas might more appropriately be considered lake communities or neighborhoods. A hamlet known as 'Woodworth' is located in the proposed Town remnant, along CTH MB in Section 10, south of STH-50. Bristol Hamlet and two of the three lake neighborhoods do not currently have any kind of separate legal or statutory identity; the exception being the *George Lake Protection and Rehabilitation District*, which is a lake management district. However, these rural hamlets and lake neighborhoods represent distinct places to area residents.

Schools

The determination of school district boundaries has become an entirely separate process from municipal governance. This was not the case when the incorporation statute was created in 1959. Therefore, whether or not Bristol incorporates will have no effect on school district boundaries. However, as the Department noted in its determination in *Pewaukee*¹⁹, schools nonetheless have an impact in molding community allegiance through scholastic, social, and recreational activities and influence where people choose to live. Map 6, Appendix B, shows the school districts serving the area. Students in the proposed village attend four main school districts: 1) the Bristol Consolidated School District, 2) the Paris Consolidated School District, 3) Westosha Central High School, and 4) Salem School District.

Table 2, below, shows the number of students within the proposed village area enrolled in three of the school districts, compared with the total number of students in those districts.

Table 2: Bristol Students by School District²⁰

School District	Village area	Total	% of total
Bristol Consolidated	413	629	65.7%
Paris Consolidated	32	196	16.3%
Westosha High School	255	1241	20.5%
Salem School District	No data	No data	No data
Total students	700	2,066	33.9%

The table shows that the majority of students in the proposed village area are part of the Bristol Consolidated School District. Bristol parents also have the choice of sending their elementary-age children to Salem Consolidated Grade School in Salem, Faith Lutheran School in Antioch, Illinois, Providence Catholic School in Union Grove, and Union Grove Christian School also in Union Grove. In addition to Westosha Central High School, students may choose to attend Catholic Central High School in Burlington, St. Joseph High School in Kenosha, and Shoreland Lutheran High School in Somers.²¹

Map 6 shows that a one-half mile strip of Town territory along the boundary with Paris is within the Paris Consolidated School District, and 32 village area children attend the Paris Consolidated School. The map also shows that students living in the Lake Shangri-La neighborhood attend the Salem Consolidated Grad School in Salem. However, no data was provided for these children.

¹⁹ *Pewaukee* (1991).

²⁰ Town of Bristol Incorporation Application, p. 31.

²¹ *Ibid.*

The current Bristol Consolidated School District is the result of gradual mergers of smaller school districts in Bristol. Originally, there were seven smaller districts in Bristol. The Bristol Grade School is the district's sole school facility and the sole school within the proposed village area. Located at 20121 83rd Street in Bristol Hamlet, it serves as a community center for the Town, and a meeting space for many community organizations. Along with the business park and Richard Hanson Memorial Park, this school is one of the activity hubs that most defines Bristol Hamlet. The Town and school district share services, so that the Town's public works department supplies needed heavy equipment in exchange for school district maintenance staff stripping and waxing the floors for the Town Hall. There are no proposed modifications or additions to the school planned at this time.

The Paris Consolidated School is located at 1901 176th Avenue in the City of Kenosha. Although the facility is not located within the proposed village area, 32 village area students do attend the school. Also, Town residents use the Paris school facilities for baseball and soccer practices, events held in the gymnasium, and 4-H and scouting activities.

The majority of high school students from the proposed village area attend Westosha Central High School located at 24617 75th Street in the Town of Salem. The high school also has a community education and recreation program, so community use of the school and its facilities is frequent.²²

Territory has been designated and a site reserved by the Town for a future high school to be located within the proposed village along STH 45, just north of George Lake. The designated territory is shown by the future land, Map 7, Appendix B. The area is shown in the map as I-1/A-1, which is a combination of 'Institutional' and Agricultural land uses. There have been discussions about the need for an additional high school in the area at some point in the future, so this parcel has been identified to accommodate this need should it arise.²³

Sanitary District

The Town of Bristol Utility District No. 1 provides sanitary sewer service to Bristol Hamlet and surrounding lands extending south to CTH C, north to STH 50, west to CTH D, and east to the Town of Salem. The sanitary district also provides service to the George Lake and Mud Lake neighborhoods. Map 8, Appendix B, shows the specific areas served. The sewer service area was amended in 2006 to include an additional 109 acres in Section 18. The district anticipates expanding north into Sections 4, 5, and 6 in the vicinity of the Bristol Hamlet north of STH-50 within the next five years.²⁴

The map shows that a small spur of the Town of Salem Utility District No. 2 juts into the far southwest part of the proposed village area to serve the Lake Shangri-La neighborhood.

Remaining lands within the proposed village area are not contained within a sewer service area and therefore would be ineligible to receive municipal sewer and water service. Development in these areas requires on-site sewerage systems that are limited by existing soil conditions.

Lake Management Districts

The *George Lake Protection and Rehabilitation District* is the only lake management district within the Town that is a separate governmental unit with its own taxing authority. However, the *Lake Shangri-La Property Owners Association* also exists and oversees management of Lake

²² Town of Bristol Incorporation Application, p. 33.

²³ Petitioner's November 17th, 2008 submittal.

²⁴ Town of Bristol Incorporation Application, p. 40.

Shangri-La, although it is considered a voluntary organization from a statutory standpoint, rather than being a stand-alone jurisdiction with other powers.

The George Lake Protection and Rehabilitation District was created in 1978 and is actively engaged in monitoring water chemistry, aquatic plants, and wildlife, harvesting weeds, developing the *George Lake Aquatic Plant Management Plan*, and the *Lake Protection Plan for George Lake*, controlling invasive species, stocking fish, applying for state and federal grants, administering a boating ordinance, creating and distributing a newsletters, and holding social events such as a carp fishing contest. The district board holds regular meetings of its elected officials at the Town hall. Agendas and minutes for these meetings are available on the Town's web site. The district has two hourly employees as well as many volunteers, and equipment includes a harvester, dump truck, and conveyor. Funds are raised via a tax levied on residents within the district.

The Lake Shangri-La Property Owners Association is engaged in the same types of lake protection activities as the George Lake district. Examples of activities are: Aquatic plant and wildlife monitoring, controlling invasive species, stocking fish, applying for state and federal grants, developing lake management plans, and organizing many social events. In order to fund all these activities, the association collects from members annually a \$100 fee. Unlike the George Lake Management District, membership in the association is voluntary.²⁵

Shopping and Social Customs

A reasonable number of employment opportunities exist for residents of the proposed village area, as well as a more limited degree of shopping opportunities. Numerous social and recreational opportunities also exist. However these opportunities do not bear a clear relationship to the entirety of the proposed area. Instead they relate more to specific neighborhood areas. The paragraphs below provide specifics.

Shopping and employment

Seventy-one businesses are located within the proposed village area. These are shown in Map 9, Appendix B, and listed in the table at Appendix B. The table provides the name of each business, its location, the number of full-time and part-time employees, whether the business operates year-round, and whether it is located within Bristol Hamlet.

The majority of businesses are located within Bristol Hamlet. Specifically, fifty-four businesses, representing 76% of the total businesses in the proposed village area, are located within the hamlet. The types of businesses include: manufacturers of high-end or value-added products, restaurants and cafés, a realty office, a land development company, a landscape architect and design firm, several automobile-related businesses, a fire department station, two churches, a post office, a school, a billiards store, a bank, several gas station/convenience stores, a bakery, a heating & cooling installation and repair business, an investment firm, a daycare, a Kenosha County Extension center, an engineering company, a natural healing retreat, a senior center, an excavating business, hotel, and an antiques shop.

Some of the businesses, such as the manufacturing companies, have a global market, while others are more local. However, the overall effect of all these businesses is that a great deal of the shopping, employment, and economic activity in the Town is centered within Bristol Hamlet. Furthermore, this activity spawns yet additional activity to create a kind of dynamic, interdependent, and sustaining network of economic activity that one would typically find in a medium-size village or a small city, rather than a town hamlet.

²⁵ See Lake Shangri-La Property Owners Association website at www.lakeshangrila.com.

However, outside of Bristol Hamlet, business activity is relatively non-existent. The map shows just a handful of businesses scattered throughout the remaining sections and along USH 45 and STH 50. These businesses tend to be related to the rural environment of which they are a part, such as a kennel, a nursery, a pick-your-own farm, a mink farm, a nature center, a country club, and several country saloons.

A total of 138 acres, or 1.2% of the proposed village area is in commercial and industrial land use, so business activity comprises just a fraction of the overall land uses within the proposed village area. Of this 138 acres of business activity, almost all of it is located within Bristol Hamlet.

Labor Force

Approximately 2,423 Town residents, 53.4% of the total population, were in the labor force in 2000. Of that number, 2,312 persons (95.4%) were employed, and 111 persons (4.6%) were unemployed. Of those who were employed:

- 30% in management, professional and related occupations;
- 30% in sales and office occupations;
- 15% in production, transportation and material moving occupations;
- 14% in construction, extraction and maintenance occupations;
- 11% in service occupations;
- Less than 1% in farming, fishing and forestry occupations.²⁶

In 1999, approximately 17% of employed Town of Bristol residents (386 persons) worked in the Town. Map 10, Appendix B, shows the employment distribution per square mile within the Town. This map reinforces the notion that Bristol Hamlet contains the highest concentration of jobs.

Persons commuting elsewhere for work commute to the following destinations:

- Lake County, Illinois 18%;
- City of Kenosha 12%;
- Elsewhere in Kenosha County 7%;
- Racine County, Wisconsin 5%;
- Cook County, Illinois 7%²⁷

Social and recreation opportunities

Town residents have a variety of social and recreational opportunities available. Table 3 on the next page lists a number of regularly-held events and Table 4 lists some of the groups and clubs that residents may join. Most of these events and many of the groups and clubs meet in Bristol Hamlet. However, residents from all over the Town may, and do, take advantage of these opportunities.

Bristol Progress Days is a Town-wide event which began in 1970 to celebrate Bristol's heritage and to honor its history. The event consists of: coronation of a King and Queen, a Miss Bristol pageant, a beer tent, food, vendors, a fastpitch softball tournament, kids' games, a volleyball tournament, a parade, an auction, and fireworks.²⁸

²⁶ Town of Bristol Incorporation Application, p. 19.

²⁷ Ibid.

²⁸ Town of Bristol Incorporation Application, p. 16.

The Bristol Renaissance Faire is another annual event, although it is much more regional in scope. It is located on 30 acres in Section 36, which is the furthest southeast corner of the Town remnant. The faire is one of the largest of the renaissance faires celebrated across the country, and runs for nine weekends beginning in early July.²⁹

Many of the social events occur at the Bristol Elementary School within Bristol Hamlet. For example, the school provides space for: a 4-H Club, the American Heart Association's annual triathlon event, before and after school child care, Boy Scouts and Girl Scouts, Bristol Progress Days events, adult volleyball, basketball, and exercise programs, and youth basketball, soccer, baseball, choir, and summer camp.³⁰

Westosha High School provides a similar venue for area activities. A little league baseball program uses the softball fields for practices and games, and the Kenosha Area Soccer League uses the school's soccer fields. The football field is used by the Western Kenosha County Bulldogs Youth Football League on Saturdays and Sundays.³¹

Table 3: Annual Events³²

Event	Host	Location	Date	Comments
Bristol Progress Days	Town of Bristol	Throughout town	July	Since 1970
Bristol Renaissance Faire	Bristol Renaissance Faire	12550 120 th Avenue (Town remnant)	July to Sept.	Since 1988
Classic Car Cruise-In	George Hockney	Veterans' Park (Bristol Hamlet)	June to Aug.	Once a month
Concert in the Park	George Hockney	Veterans' Park (Bristol Hamlet)	July	
Downhill Cub Mobile Derby	Cub Scout Pack 328	196 th Avenue (Bristol Hamlet)	May	
Farmers' Market	Lisa Hendricks	Veterans' Park (Bristol Hamlet)	June - Sept	Every Wed

Outside of Bristol Hamlet, social activities tend to occur within the neighborhoods surrounding George Lake, Lake Shangri-La, and Mud Lake. For example, the Lake Shangri-La Property Owners Association produces a line of Lake Shangri-La merchandise (t-shirts, sweatshirts, hats, mugs, and pens), maintains a website (www.lakeshangrila.com) and an online photo archive, online newsletter, and online blog discussion group. The group holds monthly meetings and maintains several parks, community boat piers, a community center, playground equipment, and a beach. Additionally, the group holds: Halloween and Christmas parties, an Easter Egg Hunt, a Family Fun Day, a Football Party/Chili-Cook Off, a 4th of July parade, a fishing derby, a carp derby, a volunteer appreciation dinner, and an ongoing Welcome Wagon to welcome new community members to the area. Most of these events are held at the Lake Shangri-La Community Center which is located at 22112 121st Street. The association has updated and remodeled the center by installing a new roof, windows, insulation, and wiring. The center has a kitchen, bar, large seating areas upstairs and downstairs, as well as bathrooms. The Lake Shangri-La neighborhood seems more socially oriented to the Town of Salem than to the Town of Bristol. For example, neighborhood residents receive sewer service from the Town of Salem Utility District No. 1, and students attend Salem School District. Also, the association's website contains links to the Town of Salem, but none to the Town of Bristol.

²⁹ Bristol Renaissance Faire website at <http://www.renfair.com/bristol/>

³⁰ Town of Bristol Incorporation Application, pgs. 31-32.

³¹ Ibid., p. 33.

³² Ibid., p. 16.

The Lake George Lake Management District similarly holds many social events for members of the George Lake neighborhood.³³

Table 4: Local Groups and Clubs³⁴

Group Name	Village Membership	Meeting Location	Comments
Bristol Challengers 4-H Club	7	Wesley Methodist Church	Meetings held monthly on first Tuesday at 7pm
Bristol Strivers 4-H Club	22	Bristol Grade School	Meetings held monthly on first Tuesday at 7pm
Mustangs 4-H Club	7	Westosha High School	Meetings held on first Friday of the month at 7pm
Bristol United Methodist Church	20	8014 199 th Avenue	Services and various activities and outreach programs
Boy Scouts	Not available	Not available	
Girl Scouts	56	Not available	
Independent Apostolic Lutheran Church	Not available	6721 156 th Avenue (Town remnant)	Services held 3 time per month
Kenosha County Conservation Club	30	21007 85 th Street (Bristol Hamlet)	Hunting organization and shooting range and clubhouse
St. Scholastica Church	239	18700 116 th Street	Regular mass and various activities and outreach programs
Washburn Masonic Lodge	9	8102 199 th Avenue (Bristol Hamlet)	Order of the Eastern Star, Order of Job's Daughters
Wesley Chapel United Methodist Church	9	10239 136 th Avenue (Town remnant)	Services held on Sundays
Western Kenosha County Senior Center	72	19200 93 rd Street	Offers a variety of senior services and programs
Zion Evangelical Lutheran Church	67	19800 80 th Street (Bristol hamlet)	Regular services and activities

Participating in Town government is another social opportunity for Bristol residents. Residents may serve on the town board, planning commission, fire department, and other committees and groups. Communication between residents and the Town is facilitated by a website as well as a newsletter called *Bristolboard* that is circulated to approximately 2,700 property owners in both the proposed village area and Town remnant.³⁵

Petitioner's believe that Bristol Hamlet, the lake neighborhoods, and the rural lands outside of these areas are connected via a social fabric that relies heavily on Bristol Hamlet. For example, a great many functions occur at the Bristol Grade School which are attended by residents living throughout the proposed village area, including the lake neighborhoods.³⁶

Parkland is perhaps the most important facet of recreation in Bristol. Table 5 lists the publicly available parks and lands within the proposed village area.

Table 5: Bristol Parks

³³ Lake George Management District meeting minutes, provided online at the Town's website, identify social activities such as fishing derbies, clean-up gatherings, holiday parties, and others.

³⁴ Town of Bristol Incorporation Application, p. 17.

³⁵ Ibid., Appendix B.

³⁶ Petitioner's December 18th submittal to the Department.

Park Name	Acres	Activities	Jurisdiction
State of Wisconsin Wetland Area	160	Wetland conservation area, limited access	Department of Transportation
Bristol Woods Park and Pringle Nature Center	206	Nature center, historic building, hiking and ski trails, picnic shelter, playing field, playground	Kenosha County
Richard Hanson Memorial Park	4.6	Baseball and softball diamonds, concession stand, playground, basketball court, two picnic shelters	Town of Bristol
Veteran's Park	10.47	Former landfill, undeveloped because of steep slopes	Town of Bristol
Bristol School	6.85	Playfield, playground, two soccer fields, one baseball diamond, two softball diamonds, basketball area with 6 baskets	Bristol School District #1
Cherri Vista Dells Subdivision Park	3.4	Playfield and playground	Town of Bristol
Fireman's Park	1.5	Playfield and playground	Town of Bristol
Former Wastewater Treatment Facility Site	2.83	Site of the old Bristol wastewater treatment plant, consists of open space surrounded by chain link fence	Town of Bristol
Town Hall/Veteran's Memorial Park	1.78	Open space, veterans memorial	Town of Bristol
Bristol Road/Hillcrest Subdivision Lift-Station and Open Space Site	.15	Small open space	Town of Bristol
George Lake North Beach	.07	Grass beach area, picnic tables	Town of Bristol
George Lake North Shore Park	.34	Grass open space	Town of Bristol
George Lake East Shore Park	1.28	Lake shore open space, beach, and picnic tables	Town of Bristol
Shangri-La Lake Dam	.47	Steeply sloped open space, dam	Town of Bristol
Shangri-La Lake Boat Launch	.13	Lake shore open space, boat launch	Town of Bristol
122 nd Street Wetland	6.2	Wetlands	Town of Bristol
191 st Avenue Woods	.29	Woodland	Town of Bristol
190 th Avenue Lift-Station and Woods	.14	Woodland	Town of Bristol
189 th Avenue Woods	.14	Woodland	Town of Bristol
189 th Avenue Woods	.79	Woodland	Town of Bristol
Total public acres	407.43		

Table 5 shows that over 407 acres are available to area residents, split among a number of jurisdictions. The state of Wisconsin owns a large wetland complex just east of George Lake, Kenosha County owns Bristol Woods Park and Pringle Nature Center, also just east of George Lake. Bristol School District #1 owns a six-acre playground, and the remaining public lands are owned by the Town.

Bristol's park and public lands are categorized into various park types by the Town's outdoor recreation plan. For example, the large areas owned by the State of Wisconsin and Kenosha County are considered *regional parks*, attracting visitors from throughout southeast Wisconsin. Two Town parks – Richard Hanson Memorial Park and Veterans Park – are considered *community parks*, serving residents from several neighborhoods with a radius of about 2 miles. Bristol School is considered to be a *neighborhood playground*, serving an entire neighborhood with a radius of approximately one square mile. Cherri Vista Dells Subdivision Park and Firemans' Park are considered *mini-parks*. Mini parks provide recreation and open space at a subdivision level or less and are typically quite small. The Town's remaining public lands are considered *special parks*. Special parks are important to a community's overall outdoor recreation system, but are undeveloped or limited regarding use. Examples of special parks are conservancy areas, floodplains, steep slopes, dense woodlands, and historic sites.

The Town's two community parks are located within Bristol Hamlet, as is the neighborhood playground and two of the special parks. Furthermore, the Town's outdoor recreation plan recommends that a number of future parks also be located in, or very near to, Bristol Hamlet. The plan calls for five neighborhood parks to be developed by 2020, three inside the current Bristol Hamlet, as well as one just to the north and one just to the east. Map 5, Appendix B, shows the location of these proposed parks. The outdoor recreation plan also calls for new private mini parks as part of the design of all new subdivisions, condominium plats, or multi-family dwellings.

Outside Bristol Hamlet, public lands are grouped around the three lakes. George Lake has a number of special parks along its northern and southern shore that provide lake access. Lake Shangri-La also has a number of small public beach areas. The neighborhood along Mud Lake has one mini park.

In addition to these parks and public lands, residents may also utilize private open space lands owned by the Conservation Club of Kenosha County and the Bristol Oaks Country Club. The conservation club owns 226 acres in Sections 7 and 18, just west of Bristol Hamlet, used for conservation and hunting purposes. This land is available to members, as is the shooting range and clubhouse. Bristol Oaks Country Club operates an 18-hole golf course and restaurant located along STH 50 in Section 10 that is open to the public.

Also, it is important to recognize the role that privately-owned yards and lakefront along George Lake and Lake Shangri-La play in community social patterns.

Land Uses

Map 12, Appendix B, shows current land uses within the proposed village area and the Town remnant. The map shows residential development in Bristol Hamlet and the three lake neighborhoods, consistent with the population distribution shown by Map 11. Urban, commercial, and industrial land uses are shown in Bristol Hamlet. Large wetland complexes are shown north of George Lake and north of Mud Lake and Lake Shangri-La. Table 6 provides land use data for the proposed village area. The table shows that the majority of the area consists of non-urban land uses such as woodlands, wetlands, lakes, and agricultural lands. Wetlands comprise over 16% of the area, while agriculture is the most dominant use, comprising 5,871 acres, or over 50% of the total area.

Urban land uses, including housing, industrial and commercial, transportation facilities, parks, and government institutions, comprise only 21.6% of the area. Of designated urban land uses, single-family homes comprise the largest component, at 13.4% of the total proposed village area.

Commercial and industrial land uses comprise only 138 acres, or 1.2%, and are almost exclusively found within Bristol Hamlet.

Agricultural Lands

Agricultural land use was very evident from Department staff's site visit to the area, and is also quite evident from Table 6, and from the existing land use map, Map 12. As mentioned above under 'Soils', the Wisconsin Glacial Stage ground the area flat and left behind good soils for agricultural land uses. Figure 2, shows a breakdown of the type of agriculture occurring in the Town. A total of 11,579 acres are being cultivated in the Town, 1,968 acres are active pasture land, 384 acres are in orchard, nursery, and specialty crops, and 258 acres are farm buildings.³⁷

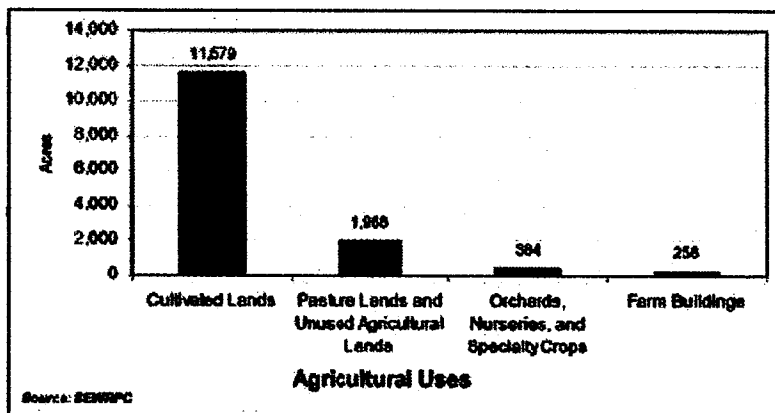
The Town's draft comprehensive plan calls for preservation of agricultural lands, particularly in the southern part of the proposed village area.

Map 7, Appendix B, the future land use map, shows agricultural lands in white. These areas comprise roughly one-half of the proposed village area and are all south and southeast of Bristol Hamlet.

Furthermore, areas in yellow are shown as a combination of conservation subdivisions and agriculture. These types of developments

would cluster residential development in order to permanently preserve open space which could continue to be used for agricultural purposes. Adding these yellow areas to the white areas shows that more than one-half of the total area is proposed to remain in agricultural use in the future. Petitioners claim that agriculture will be eliminated over the next several years.³⁸ However, the materials submitted and plans for the area do not support this supposition. Instead, the future land use map, Town land use plan, and draft comprehensive plan, show that agriculture will be an important part of the area's future, particularly the southern one-half of the area where the proposed future does not differ markedly from the present.

Figure 2 Agricultural activity by Acreage



Natural Resource Lands

Natural resource areas, which make up one-quarter of the proposed village area, include surface water, wetlands, and woodlands. The Town has 255 acres of surface water, 1,895 acres of wetlands, and 758 acres of woodlands.³⁹ Twenty-three of these woodlands acres are enrolled in the Wisconsin DNR's Managed Forest Program.⁴⁰

SEWRPC has identified several of these natural resource lands as having county-wide or regional significance.⁴¹ These are:

³⁷ Kenosha County Comprehensive Plan Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. 17f.

³⁸ Petitioner's December 3rd submittal to the Department.

³⁹ See Table 6, on page 23. Data was provided by SEWRPC. Email Correspondence from Nancy Anderson of SEWRPC, November 26, 2008.

⁴⁰ Kenosha County Comprehensive Plan Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. 17a.

⁴¹ Ibid.

- Bristol Woods Park –located in Sections 21 and 22 east of George Lake, and owned by Kenosha County - 181 acres;
- Merkt Woods – located in Bristol Hamlet, and privately owned - 91 acres;
- Mud Lake Sedge Meadow, located adjacent to Mud Lake, and privately owned - 55 acres;
- Des Plaines River Wetlands – located along the Des Plaines River, and privately owned - 66 acres;
- Salem Marsh Road – located in Sections 7 and 18, and owned by the Kenosha Conservation Club - 27 acres.

SEWRPC has also identified five critical aquatic sites within the proposed village area that are important in supporting threatened or rare fish, reptiles, or mussel species. These five sites include 12.2 stream-miles of Brighton Creek, Salem Branch, and the Des Plaines River, and about 172 acres of George Lake, Mud Lake, and a portion of Lake Shangri-La.⁴²

Map 2, Appendix B, shows Bristol's designated environmental corridors. These are areas that were initially identified in 1990 by SEWRPC for preservation because of their importance to wildlife, threatened plant and animal species, reducing flood flows, reducing noise pollution, and maintaining air and water quality. These areas are found along the Des Plaines River and Brighton Creek, and also include the large wetland complexes east of George Lake, and north of Mud Lake and Lake Shangri-La. Merkt Woods and the Kenosha Conservation Club lands also lie within an environmental corridor. All are recommended for preservation by the future land use map, Map 7, the Town's land use plan, and the draft comprehensive plan.

Land Use Regulations

Zoning in the Town is administered at the county level through the *Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance*. The county's ordinance consists of 29 basic zoning districts and 7 overlay districts. Map 13, Appendix B, shows how these districts are applied to Town lands. The map shows that Bristol Hamlet is zoned for the most intensive land uses, including residential, commercial, and industrial, while the areas around Mud Lake, Lake Shangri-La and George Lake are zoned nearly exclusively for residential use. An area just east of Lake Shangri-La and abutting the state line is zoned for a mobile home subdivision in order to accommodate the existing mobile home park. Areas in between Bristol Hamlet and these lake neighborhoods are primarily zoned for agricultural and conservation, with occasional pockets of residential land use. The county also administers floodplain and shoreland zoning that limits land uses and vegetation removal within certain areas. Were it to become a village, Bristol could either adopt its own shoreland and floodplain ordinance and incorporate the county's language, adopt its own language that complies with state regulations, or it could also allow the county to continue to enforce its ordinance.

The Town administers its own land division ordinance that applies to subdivisions, certified survey maps, minor land divisions, and condominiums. As part of this ordinance, the Town recently approved guidelines for sanitary systems, water mains, storm sewers, paving, landscaping, and lighting.⁴³ The Villages of Paddock Lake and Pleasant Prairie have the ability to enforce extraterritorial platting authority within the Town, as does the City of Kenosha, and have chosen not to exercise this power, as the boundary agreements between Bristol and its incorporated neighbors limits their exercise of these extraterritorial powers in areas of the

⁴² Kenosha County Comprehensive Plan Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, p. 19.

⁴³ Town of Bristol Incorporation Application, p. 33.

Town.⁴⁴ Specific impacts of these agreements are described later in the 'Metropolitan Impact' section.

Bristol also has a construction site erosion control ordinance which includes: performance standards, permitting requirements, an erosion and sediment control plan, a fee schedule, and inspection and enforcement Sections.⁴⁵

⁴⁴ Kenosha County, "Multi-jurisdictional Comprehensive Plan Kenosha County Fact Sheet, Existing Plans and Ordinances"

⁴⁵ Town of Bristol Incorporation Application, p. 34.

Population Distribution

Map 11, Appendix B, shows the distribution of population by section, both the 2000 census estimate as well as SEWRPC's 2035 projection. The map shows that sections 7 and 8 in Bristol Hamlet were the most heavily populated areas in 2000, with 644 persons and 686 persons respectively. The three lake neighborhoods also showed higher populations than the other sections. For example, the Lake George neighborhood in Section 20 had 503 persons, the Mud Lake neighborhood in Sections 32 and 33 had 577 persons, and the Lake Shangri-La neighborhood in Section 21 had 423 persons. Remaining sections in the proposed village area contained substantially fewer persons per square mile. For example, Sections 21 and 18 contained 17 and 20 persons respectively.

Table 6: EXISTING LAND USES IN THE WESTERN ONE-HALF OF THE TOWN OF BRISTOL: 2007⁴⁶

Land Use Category ⁴⁷	Acres	Percent of Total
Urban		
Residential		
Single-Family	1,550	13.4
Two-Family	1	-. ⁴⁸
Multi-Family	17	0.2
Subtotal	1,568	13.6
Commercial	64	0.6
Industrial	74	0.6
Transportation and Utilities		
Street Rights-of-Way	481	4.2
Other Transportation and Utilities ⁴⁹	48	0.4
Subtotal	529	4.6
Governmental and Institutional ⁵⁰	92	0.7
Recreational	169	1.5
Urban Subtotal	2,496	21.6
Nonurban		
Natural Resource Areas		
Woodlands	758	6.5
Wetlands	1,895	16.4
Surface Water	255	2.2
Agricultural	5,871	50.7
Open Lands ⁵¹	299	2.6
Nonurban Subtotal	9,078	78.4
Total	11,574	100.0

⁴⁶ Data provided by SEWRPC. Email Correspondence from Nancy Anderson of SEWRPC, November 26, 2008.

⁴⁷ Parking is included in the associated use.

⁴⁸ Less than 0.05 percent.

⁴⁹ Other Transportation" includes bus depots, airports, truck terminals, and transportation facilities other than street rights-of-way.

⁵⁰ Includes public and private schools, government offices, police and fire stations, libraries, cemeteries, religious institutions, hospitals, nursing homes, and similar facilities.

⁵¹ Includes lands in rural areas that are not being farmed and other lands that have not been developed.

DETERMINATION

According to Pleasant Prairie⁵², the various factors enumerated in section 66.0207(1)(a) Wis. Stats., the *Compact and Homogenous* standard, are to be viewed not as individual determinants, but as considerations to be weighed together along with the other factors. In this way, a petition may be weaker with certain factors or considerations and stronger with others, but a petition must show that on balance it supports a finding of compactness and homogeneity. All of the factors are to be used by the Board to arrive at a final determination.

The Bristol Hamlet relates very favorably to all of the compact and homogenous factors enumerated in s. 66.0207(1)(a), Wis. Stats. Its network of interconnecting local roads facilitates movement throughout the hamlet, including bicyclists and pedestrians. The hamlet contains the majority of the Town of Bristol Utility District No. 1 sewer service area. It contains an impressive amount of business and employment activity for being a rural hamlet. Also, Bristol Hamlet serves as the social center of the larger area. A majority of the clubs, events, and other social activities identified occur in Bristol Hamlet. Furthermore, beyond these formal social activities, the concentration of businesses, homes, restaurants, the elementary school, the Town hall, the Kenosha County extension center, churches, and the Town's two major parks, means that a great deal of informal and spontaneous social activity also occurs in Bristol Hamlet. This dense network of mixed land uses creates synergies and opportunities that build upon one another. For example, a trip to church can easily also include stops at work or school or the park. Bristol Hamlet has the physical appearance of a village or small city. Driving into the community from any one of the highways, a person senses that he or she has arrived at an urban place.

However, Petitioners included the entire western one-half of the existing Town as the proposed boundaries, rather than limiting the proposal to Bristol Hamlet. This means that the entire western one-half of the Town must satisfy a finding of compactness and homogeneity. Unfortunately, it fails with most of the enumerated factors. For example, the eastern and western boundaries of the proposed village lack any kind of physical definition to identify a change in jurisdiction. For example, a person standing along the eastern or western boundary cannot rely on a river, ridge, road, forest, lake, change in elevation, change in land use, or any other physical sign that might let him or her know whether or not they are standing in the proposed village.

Access throughout the proposed area is also problematic due to a lack of existing or planned future local roads to provide connection. As a result, residents must rely on busy federal, state, and county highways to move throughout the area, an option that is essentially impossible for individuals without access to a motor vehicle. Furthermore, there are no plans to add local connecting roads in the future. Rather, the intention is to continue to rely on the highways, which may be repaved and reconstructed at some point. The Town's outdoor recreation plan does recommend development of trails and bicycle routes throughout the area, and if these existed today the access situation would be much improved for pedestrians and bicyclists.

Socially and economically, the proposed village area also seems focused in a number of different nodes. Bristol Hamlet is the most notable and strongest center of activity. However, the three lake neighborhoods are separated physically from Bristol Hamlet and appear more internally focused on individual lake-related activities. This internal focus is most pronounced with the Lake Shangri-La neighborhood, where residents may participate in a long list of activities occurring on the lake itself or in the Lake Shangri-La community center. Because the Shangri-La neighborhood is divided with the Town of Salem, served by the Town of Salem Utility District No. 2, and Shangri-La students attend the Salem elementary school, this neighborhood seems more aligned with the Town of Salem than with the Town of Bristol.

⁵² Pleasant Prairie v. Local Affairs Dept., 113 Wis.2d 327, 340 (1983).

The population distribution map, Map 11, shows that population is unevenly distributed throughout the 18 square miles contained in the incorporation petition, and is primarily located in Bristol Hamlet and within the three lake neighborhoods. The existing land use map, Map 12, reinforces this point, since almost all developed land uses occur in Bristol Hamlet and the three lake neighborhoods. Remaining lands within the proposed village area consist primarily of natural resource or agricultural lands. The large complexes of wetlands and environmental corridors in the southern one-half of the area might also tend to divide the area rather than promoting compactness and homogeneity.

Petitioners contend that Bristol Hamlet, the three lake neighborhoods, and the surrounding rural lands are connected via the transportation network, Bristol Utility District No. 1, and by the numerous social activities that occur in Bristol Hamlet.⁵³ For example, residents from throughout the entire Town and surrounding area attend Bristol Days events in Bristol Hamlet. Students from throughout the area attend Bristol Grade School, and residents participate in sports events, church, work, etc. in Bristol Hamlet. Petitioner's argument seems to be that the proposed village area is connected through Bristol Hamlet, like spokes are connected to a hub. Petitioners argue that the straight rectangular boundaries are the most appropriate shape for a new community and are supported by a long history of incorporated communities in Wisconsin such as Janesville, Oshkosh, Racine, Sheboygan, Brookfield, among others.

However, these communities were incorporated prior to the inception of the Board's standards found in s. 66.0207 Wis. Stats. Since the adoption of these standards in 1959, the Department (and now the Board) has examined how the boundaries proposed by incorporation petitions are explained by natural features, physical boundaries, transportation facilities, and the other factors contributing to compactness and homogeneity. In this instance, the proposed village area was selected because it is the area that comprises the "Town Center," which represents the area negotiated through successive boundary agreements between Town of Bristol and its incorporated neighbors. While the current statutes are not interpreted to inherently prohibit rectilinear boundaries, the inference to be drawn from these standards is that any boundaries chosen must also relate to the statutory standards. In recent incorporation determinations, for example Richfield (2007), straight line boundaries also just happen to coincide with the presence of a sub-continent groundwater divide, and also separate lands demarcated by natural resource protection ordinances and various public and private ownerships. These conditions specifically relate to enumerated statutory criteria found in s. 66.0207 (1) (a), Wis. Stats.

While the utility district, lying within the petitioned territory, does extend beyond Bristol Hamlet, it does so only to the extent that it includes the Lake George and Mud Lake neighborhoods and no other territory in between or beyond these lake neighborhoods. Previous incorporation determinations, such as Mount Pleasant (2003) considered and accepted territory that at that time was un-developed but for which extensive approvals had been granted by the SEWRPC and the Wisconsin DNR for the extension of urban services over several square miles, and a major sewer line was even then already in the capital budgeting and planning stages. These do not exist with this petition.

Regarding social connections, Petitioners are no doubt correct that residents of the lake neighborhoods and other lands are socially connected via Bristol Hamlet. However, residents in the Town remnant also likely participate in these same activities, as well as residents in the Village of Paddock Lake, and Towns of Brighton, Paris, and Salem. This does not mean that these areas too should be added to the petition. Bristol Hamlet clearly contains a great deal of social and economic activity typical of a village or small city. However, the connections between

⁵³ Petitioner's December 18th 2008 submission to the Department.

Bristol Hamlet, the three lake neighborhoods, and the rural lands are not sufficient to support a finding of compactness and homogeneity.

In conclusion, the Board finds that on balance, the petitioned territory as submitted does not meet the Compact and Homogenous standards in s. 66.0207(1)(a), Wis. Stats. for all of the reasons described above. However, the Board finds that the area of Bristol Hamlet does indeed meet these standards. Therefore, the Board suggests that Petitioners re-file the petition with new proposed village boundaries that include Bristol Hamlet and the immediately surrounding territory. This refilling could include either all or some of the lands in Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18. At petitioner's discretion, the westerly border of the Des Plaines River environmental corridor could possibly be used as an easterly boundary between the village and Town remnant, with CTH C forming the southerly boundary.

SECTION 1(B), TERRITORY BEYOND THE CORE

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

The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other land use development on a substantial scale within the next three years. The Department may waive these requirements to the extent that water, terrain or geography prevents such development.

Most Densely Populated Square Mile

The most densely populated square mile of the proposed village area, as specified in s. 66.0205(3), Wis.Stats. is Bristol Hamlet which is located in Sections 7, 8, 17, and 18. As described previously, Bristol Hamlet contains hundreds of households, a school, a post office, restaurants, parks, and 54 businesses.

Lands Subject to Waiver

The statute permits the Board to waive certain lands from the 'substantial development within three years' standard to the "extent that water, terrain or geography prevents such development." Large areas within the proposed village area either consist of wetlands, surface water, or other significant natural resources, along with unbuildable soils that greatly limit development.

Bristol has 1,895 acres of wetlands, or 16.4% of the total proposed village area. Map 2, Appendix B, shows the location of these wetlands (shown in green). Large wetland complexes are found to the east of George Lake, north of Mud Lake and Lake Shangri-La, and also along the Des Plaines River.

The proposed village area has 255 acres of surface water, split between George Lake, Mud Lake, Lake Shangri-La, Brighton Creek, Dutch Gap Canal, and the Des Plaines River. Surface water comprises 2.2% of the proposed village area.

In addition to the previously mentioned wetlands and surface waters, Salem Road Marsh, Merkt Woods, the Mud Lake Sedge Meadow, and Bristol Woods Park should all be considered for exemption also because these areas have been identified as important natural resource lands and designated for continued protection. These three areas total 354 acres in size, or 3% of the proposed village area.

All of these natural resources are designated for continued protection both as distinct resources and also because they are included in identified environmental corridors. Map 2 shows Bristol's designated environmental corridors. Adding these areas together yields a total of 2,504 acres, or 21.75% of the total area. Therefore, roughly one-fifth of the total proposed village area is appropriate for waiver from the substantial development standard. These natural areas correspond almost perfectly to the poor soils shown in Map 3, Appendix B. This means that development of these areas would be inappropriate not only from a resource conservation standpoint, but also from a building and engineering standpoint.

Most of the remaining developable lands are agricultural, comprising over one-half of the total village area. Specifically, 5,871 acres are in agricultural use, mostly cultivation. There also 758 acres of woodlands, 314 of which are Merkt Woods and the Kenosha County Conservation Club's lands that are located within environmental corridors. Subtracting these from total woodlands leaves 444 woodlands which are not protected by state, local, or federal law and are therefore potentially available for development. Finally, there are 299 acres of 'open lands' in the area that also appear appropriate for development. Open lands are defined as 'rural areas that are

not farmed and not developed'.⁵⁴ Adding together these remaining agricultural, woodlands, and open lands yields a total of 6,614 acres that are subject to 'substantial development within three years standard. This acreage constitutes 57.4% of the total proposed village area.

Petitioners estimate that the acreage subject to the standard is considerably less. They estimate that a total of 3,730 acres, or 32.4% of the total petitioned area is developable. They arrive at this figure by totaling the amount of agricultural land on the zoning map, Map 13, adding it to the other exclusions, and comparing the zoning map to the future land use map, Map 7.⁵⁵ Because local preferences may change over time, and because zoning maps, plans, and future land use may be quickly amended, the Board believes that relying on land use totals provides a more accurate estimate of developable area.

Future Growth

The paragraphs below examine Bristol's future growth potential, and whether this potential rises to the level of 'substantial development within 3 years'. Population trends are examined as well as data regarding building permits, subdivision platting, and rezonings. Recommendations made by Bristol's land use plan and draft comprehensive plan are also discussed. The trends for all of these factors show that Bristol has been growing slowly but steadily over the years, and this will likely continue into the future.

Population Growth

Table 7, shows the Town's historical population growth. The table shows that population remained stable from 1850 to 1930. The post-World War II period in the 1940s brought an era of growth, peaking in the 1960s, 1970s, and 1980s, and still continuing at a slower pace today. However, even these peak years only resulted in 50-100 newcomers annually. Table 8 shows the projected population for both the Town and the proposed village area to the year 2025. The table predicts a slow but steady growth rate of roughly 5% per 5-year interval.

Table 7
HISTORICAL POPULATION LEVELS IN
THE TOWN OF BRISTOL: 1850-2006

Year	Population	Change From Preceding Census	
		Number	Percent
1850	1,125	--	--
1860	1,392	267	23.7
1870	1,140	-252	-18.1
1880	1,069	-71	-6.2
1890	1,071	2	0.2
1900	1,151	80	7.5
1910	1,215	64	5.6
1920	1,198	-17	-1.4
1930	1,299	101	8.4
1940	1,397	98	7.5
1950	1,564	167	12.0
1960	2,155	591	37.8
1970	2,740	585	27.1
1980	3,599	859	31.4
1990	3,968	369	10.3
2000	4,538	570	14.4
2006 ^a	4,786	248	5.5

^aThe 2006 population is an estimate prepared by the Wisconsin Department of Administration. Other years are from the U. S. Census.

Source: U. S. Census Bureau, Wisconsin Department of Administration, and SEWRPC.

[Revised 3-19-07]

SEWRPC projects that the proposed village area will have a population of 5,539 by the year 2035, and that the vast majority of these newcomers will live within Bristol Hamlet.⁵⁶ **Map 11, Appendix B**, shows SEWRPC's section-level population projections. The first number shown in each section is the year 2000 US Census estimate. The second number is SEWRPC's year 2035 projection. The map shows a total of 1,762 new persons residing in Sections 7, 8, 17, and 18 by

⁵⁴ Email Correspondence from Nancy Anderson of SEWRPC, November 26, 2008.

⁵⁵ Town of Bristol Incorporation Application, p. 50.

⁵⁶ Ibid, at p. 49.

the year 2035. These four sections, which constitute Bristol Hamlet, account for 93% of SEWRPC's total projected population increase. The Lake George neighborhood is expected to gain 135 persons, and the sections north of Bristol Hamlet will gain 15 persons. However, populations for the remaining sections are expected to either remain stable or decline. For example, Sections 31, 32, and 33 which constitute the Mud Lake and Lake Shangri-La neighborhoods are projected to lose population.

Table 8: Population Projections⁵⁷

	2000	2005	2010	2015	2020	2025	2030	2035
Town of Bristol	4,538	4,757	4,991	5,254	5,526	5,781	6,009	No data
Proposed Village area	3,648	3,842	4,029	4,221	4,416	4,620	No data	5,539
% change (village area)		5%	4.6%	4.5%	4.4%	4.4%	No data	16%

Table 9 shows Bristol's historical and projected population growth as a share of Kenosha County's growth. The table shows that Bristol has had a small but steady role in the county's growth, and this is expected to continue in the future.

Petitioner's believe the projections by the State and SEWRPC are too low. They anticipate that population within the proposed village area will already by 6,231 by the year 2015, substantially more than the State's 2030 projection for the whole Town and SEWRPC's 2035 projection for the proposed village area. Petitioners' higher projection is based on complete build-out of all subdivision plats that are anticipated to be available in the Town within the next three years. Specifically, the residential developments referred to as Brighton Creek Highlands, Bristol Bay, Bristol Meadows, Bristol Trails, Chaucer Woods, Crosswinds, Hollister Hollow, and Rastol Investments are expected to have 876 buildable lots with dwelling units completed, sold, and occupied. Assuming that these 876 lots are built upon by the year 2015, and assuming a household size of 2.65 (the average household size in 2000), Petitioner's contend that 2,321 newcomers should be added to the projection. Adding 2,321 to the 2008 estimate of 3,910 yields a 2015 projection of 6,231.⁵⁸ This is in sharp contrast to the state's projection which shows only a 391 person increase for both the town and proposed village during the same period.

The difference in projections is due to the fact that Petitioners are looking at the number of lots that will be available, while the state and SEWRPC's projections are broader in scope and capture a wide range of local, regional, and statewide factors.

Rezoning

Table 9: Bristol's share of County growth

	Census 1970	Census 1980	Census 1990	Census 2000	2005 Estimate	2010 Projection	2015 Projection	2020 Projection	2025 Projection	2030 Projection		
Town of Bristol	2,740	3,599	3,968	4,538	4,757	4,991	5,254	5,526	5,781	6,009		
Kenosha County	117,917	123,137	128,181	149,577	Table 10: Bristol Rezonings						205,203	
Bristol as a Percent of County	2.32	2.92	3.10	3.03	2001	2002	2003	2004	2005	2006	2007	2.93
					2.32	2.92	3.10	3.03	2.32	2.92	3.10	

Rezoning of land from a less intense

8	9	6	9	6	12	10
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⁵⁷ Data from the Wisconsin Department of Administration Demographic Service Center and Southeast Regional Planning Commission (SEWRPC)

⁵⁸ Petitioner's October 23rd submittal, Exhibit C.

land use zoning classification to one more intense use is often an initial first step in the development process. Therefore, data on recent rezonings can give an indication of current and future building activity. Table 10 shows that Bristol has approved 60 zoning petitions between 2001 and 2007. However, it is unknown how much acreage was involved, where in the Town it is located, or whether the rezoning was from a less intensive land use such as agriculture to a more intensive use such as residential. Rezonings typically move land from a less intensive use to a more intensive use, but this is not always the case.

Building Permits

Review of building permits is useful because recent past building activity provides an estimate of future building activity. Table 11 shows building permit data in the Town of Bristol from 2002 to 2007. The table shows that both miscellaneous and new-home building permits are remarkably steady from year to year, ranging from 218 to 288 for miscellaneous permits, and from 18 to 40 for new home permits. The data does not indicate where in the Town this building activity is occurring.

Table 11: Building Permits⁵⁹

	2002	2003	2004	2005	2006	2007
Total # of Building Permits	285	265	288	238	218	229
Total # of New Home Permits	40	25	27	22	28	18

Subdivisions

Because subdivision of land is often another step preceding new development, examining trends in new subdivision plats can yield insight into future development activity. Table 12

Table 12: Plat and Certified Survey Map (CSM) Approvals⁶⁰

	2001	2002	2003	2004	2005	2006	2007
Plats⁶¹	1	1	2	0	1	1	4
CSMs	0	0	0	2	1	3	7

shows plat and certified survey map approvals in the Town from 2001 to 2007. The Table shows modest activity, especially when measured against the amount of vacant developable land. This fact is confirmed by Table 13 which shows the plats that have been reviewed by the State of Wisconsin since 1994. The table shows that only four plats have been certified by the State for the Town of Bristol, and only one since 2005. The table shows that final plats approved to date yielded 61 lots, while another 339 lots may become available in the future should the preliminary plats become approved final plats.

⁵⁹ Town of Bristol Incorporation Application, p. 51.

⁶⁰ Town of Bristol Incorporation Application, p. 51 and Table 6.

⁶¹ Includes both preliminary and final plats.

Table 13: Town Subdivision Plats Reviewed by State of Wisconsin: 1994 – 2008⁶²

Map Letter	Located in Bristol Hamlet?	Plat Name	Submittal Type	Action	Action Date	Lots
--	Town remnant	Hazeldell Estates	Final Plat	Certified	2004	9
B	Yes	Bristol Bay	Final Plat	Certified	2004	3
F	Yes	Chaucer Woods	Final Plat	Certified	2005	45
D	Yes	Bristol Meadows	Preliminary Plat	Certified	2006	224
A	No	Brighton Creek Highlands	Preliminary Plat	Certified	2006	11
H	Yes	Hollister Hollow	Preliminary Plat	Certified	2007	76
G	Close	The Crosswinds	Final Plat	Certified	2008	4
E	Close	Bristol Trails Estates	Preliminary Plat	Certified	2008	28

Housing data collected by the Department's Demographic Service Center also shows modest but steady growth. Table 14 shows the number of new housing units in the Town of Bristol. Between 2000-2007, an average of 31 new dwelling units per year were added. This corresponds to the population growth data presented previously.

Table 14: New Housing Units in Bristol 2000-2007

2000	2001	2002	2003	2004	2005	2006	2007
28	17	38	24	43	51	35	17

Petitioners identify nine subdivision developments that are in progress that will ultimately yield a total of 920 dwelling units.⁶³

Figure 3 shows the location of these developments. All are located within or immediately adjacent to Bristol Hamlet. Map 14; Appendix B, shows the location of these proposed developments in more detail, and the pages that accompany Map 14 provide details related to each specific development. In a subsequent submission to the Department, Petitioner's amended the total number of future dwelling units to 876.⁶⁴ According to Petitioners, 56 of the 876 proposed dwelling units have already been built.⁶⁵

The following are the specific residential developments that are anticipated, and where they are in the development process:

1) Brighton Creek Highlands

- 11 units
 - Final Plat Approval
 - Plan Commission: April 17, 2007
 - Town Board: May 14, 2007
- [Preliminary plat certified by State in 2006]

2) Bristol Bay

- 172 units
- Second phase under construction

⁶² Data from the Wisconsin Department of Administration's Plat Review Program. The State reviews all proposed subdivisions of land that create 5 or more parcels of 1½ acres each or less in area or 5 or more parcels of 1½ acres each or less in area that are created by successive divisions within a period of 5 years. See s. 236.02.12 Wis. Stats.

⁶³ Town of Bristol Incorporation Application, pgs. 51-2.

⁶⁴ Petitioner's October 23rd submittal to the Department, Exhibit C.

⁶⁵ Ibid.

- Final Plat Approval
 - Plan Commission: December 23, 2003
 - Town Board: January 12, 2004
- [Final plat certified by State in 2004]

3) Bristol Estates

- 105 units
 - Land Use Plan Approval
 - Plan Commission: May 16, 2006
 - Town Board: May 22, 2006
- [Preliminary plat certified by State in 2008]

4) Bristol Meadows

- 319 units
 - Preliminary Plat and Zoning Approval
 - Plan Commission: August 23, 2005
 - Town Board: February 27, 2006
- [Preliminary plat certified by State in 2006]

5) Bristol Trails

- 25 units
- Final Plat Approval
- Plan Commission: March 25, 2008
- Town Board: April 14, 2008

6) Chaucer Woods

- 42 units approved: 32 units under construction
 - Final Plat Approval
 - Plan Commission: August 23, 2005
 - Town Board: September 12, 2005
- [Final plat certified by State in 2005]

7) Crosswinds

- 4 units
 - Final Plat Approval
 - Plan Commission: April 17, 2007
 - Town Board: April 23, 2007
- [Final plat certified by State in 2008]

8) Hollister Hollow

- 250 units
 - Preliminary Plat and Zoning Approval
 - Plan Commission: December 19, 2006
 - Town Board: December 27, 2006
- [Preliminary plat certified by State in 2007]

9) Rastol Investments (West of Hwy 45; South of Hwy CJ)

- 4 units
- CSM Recorded
- Plan Commission: March 20, 2007

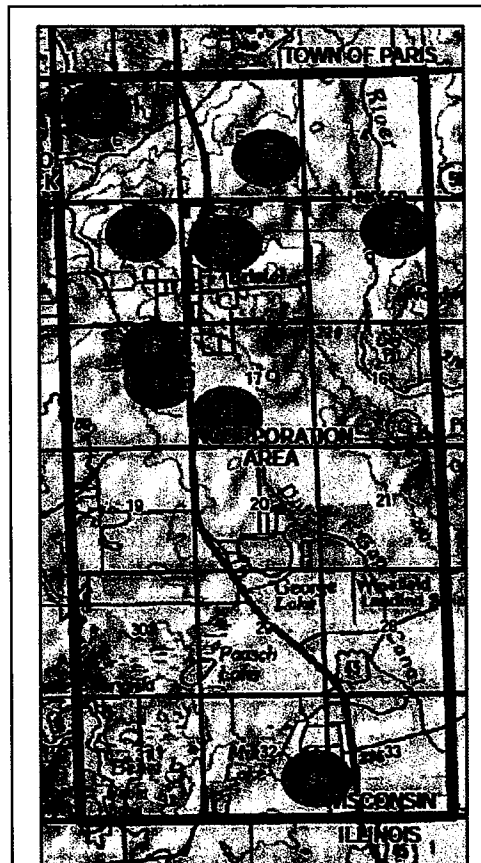


FIGURE 36: Residential Development Areas in the Proposed Village of Bristol.
Source: Strand Associates Inc. and Planning and Design Institute, Inc.

- Village Boundary
- Most Densely Populated Square Mile (2000)
- Residential Development Areas:
 - 1: Brighton Creek Highlands
 - 2: Bristol Bay
 - 3: Bristol Estates
 - 4: Bristol Meadows
 - 5: Bristol Trails
 - 6: Chaucer Woods
 - 7: Crosswinds
 - 8: Hollister Hollow
 - 9: Rastol Investments

- Town Board: March 26, 2007

Petitioners expect that 436 of the 876 dwelling units in these developments will be built within the next five years, based on the Town's land use plan which estimates growth in the range of 436 dwelling units per 5-year interval.⁶⁶

In testimony submitted at the Board's October 14th hearing in Bristol, and also in post-hearing submissions, Petitioners contend that lands within the proposed village area will soon transition to developed land uses and that agricultural and rural lands will vanish or become part of the urban fabric.⁶⁷ To visually illustrate this idea, Petitioner's created and submitted to the Department a proposed future development map. See Map 14, Appendix B. The map shows that roughly 2/3 of the parcels within the proposed village area have development activity already underway (shown in red), are being considered for development (shown in purple), or are planned for future development (shown as brown). Areas designated for future agriculture are shown in white. Areas shown as designated for future agriculture are less than those recommended by the Town land use plan and the draft comprehensive plan, but still constitute roughly 1/3 of the proposed village area.

The Department requested clarification of the proposed development map, Map 14, regarding how the various categories are to be defined. For example, how is the category in red, 'Development activity already underway' defined and what does 'underway' mean? With respect to the purple category, the Department enquired about what 'Being considered for development' means?

In response to these specific questions, Petitioners submitted an additional map, shown as Map 15, Appendix B as well as tables showing parcel-level detail. The map and tables separate proposed parcels into two groups:

- Group One – parcels for which development has already started or is about to start in 2008, and which have completed at least one or more of the following attributes:
 - received an approved building and zoning permit;
 - lie within the designated sewer service area;
 - have a signed contract to build;
 - builder's takeout financing is in place, and
 - public right-of-way access is provided;
- Group Two – parcels for which one or more of the following issues has been resolved or will be resolved within 3 years:
 - current owner is capable of initiating a development project;
 - sewer service area amendment or wastewater treatment plant expansion;
 - plat or CSM approval;
 - zoning permit;
 - architect/engineer engaged for preliminary development proposals;
 - building permit request submitted but not issued, and
 - conceptual construction financing approval received.

The tables accompanying Map 15 are also provided in Appendix B. Map 15 shows the same themes as Map 14, only with different categories. Group One parcels in Map 15 are the same parcels that were shown in red on Map 14, and Group Two parcels in Map 15 are the same

⁶⁶ Town of Bristol Incorporation Application, pgs. 51-2.

⁶⁷ Petitioner's October 23rd, November 17th, and December 4th submittals to the Department.

parcels that were shown in purple in Map 14. However, the second proposed development map and tables provide valuable information at the parcel level about where in the development process these projects are. For Group One developments, the parcels associated with the Bristol Bay subdivision have met all of the development steps and appear to be available for immediate development. Other parcels in Group One have met one or more of the development steps, but still require additional steps before building may occur. For example, roughly one-half of the remaining Group One parcels still require an amendment of the sewer service area, financing, a signed contract to build, and access to public right-of-way. Roughly one-third of the Group One developments still require building and zoning permits. Petitioners believe that all of these activities will be accomplished yet in 2008 and that these parcels will become available for development.⁶⁸

Regarding Group Two parcels, the table accompanying Map 15 shows that almost no development steps have yet occurred. For example, all but three of the parcels will require a sewer service area amendment, and none of the parcels have an approved zoning permit, building permit, or plat or CSM. Nonetheless, Petitioners believe that these parcels will develop within the next three years.⁶⁹

Map 16, Appendix B, was created by Department staff using Petitioners' proposed development maps. Map 16 includes only the Group One developments, since these are closer to completion. Group Two developments have been removed because they remain speculative in nature or, at best, have not yet begun any of the development steps. Map 16 shows that almost all of the Group One developments lie either within or adjacent to Bristol Hamlet, while the southern part of the proposed village area remains primarily agricultural and rural in nature.

Sewer Service Area

Analysis of municipal sewer service is useful because generally urban development requires public sewer service. Map 16, Appendix B, shows the sewer service area boundaries affecting the proposed village area. The map shows that the Town of Bristol Utility District No. 1 serves Bristol Hamlet, stretches south to serve the George Lake neighborhood, and then stretches still further south to serve the Mud Lake neighborhood. These areas are served with both municipal sewer and water. The Lake Shangri-La's neighborhood is served by the Town of Salem Utility District No. 1. All other areas within the proposed village area are not served by municipal sanitary sewer service and instead must rely on private on-site sewer systems.

The sewer service area boundary for the Town of Bristol Utility District No. 1 was amended in 2006 to include a 100 acre area at the southwest corner of Bristol Hamlet in Section 18. The documentation created as part of this amendment process indicates that wastewater is treated at the Town of Bristol Utility District No. 1 sewage treatment facility, which currently has a capacity of 480,000 gallons per day (MGD). However, this capacity will increase to 870,000 gallons per day once construction is completed to upgrade the plant. The amendment area is expected to generate .02 mgd, so the upgraded plant will have sufficient capacity.⁷⁰

The Town of Bristol Utility District No. 1 also added a new well to the system in 2007 with a capacity of 750 gallons per minute. The new well is located within Bristol Hamlet, south of STH 50 and north of 81st Street in the vicinity of STH 45. A future storage facility is also planned. These new facilities will serve new urban development within Bristol Hamlet and north and east of the current sewer service area.⁷¹

⁶⁸ Petitioner's November 17th and December 3rd submittals to the Department.

⁶⁹ Ibid.

⁷⁰ Town of Bristol Incorporation Application, p. 46.

⁷¹ Ibid., p. 48.

The Town's land use plan recommends that urban and suburban development be served by public sanitary sewer and water facilities, but new rural development is not required to be served.⁷⁹ The existing sewer service areas could also be expanded, however there are no proposals to do so.

Table 15: EXISTING LAND USES IN THE WESTERN ONE-HALF OF THE TOWN OF BRISTOL: 2035⁷²

Plans

An analysis of plans provides insight into a community's future development intentions. Several plans pertain to the proposed village area. These are:

- Town land use plan - the *Town of Bristol Land Use Plan: 2035* was adopted in 2006 and updates the Town's previous land use plan adopted in 1992. The 2006 update encourages new urban development to radiate out from Bristol Hamlet. In particular, a node of businesses, institutions, and mixed uses will continue to expand at the intersection of STH 50 and USH 45, taking advantage of good transportation access, as well as proximity to the Kenosha County extension office and Bristol Hamlet's other related land uses, activities and services. Bristol Hamlet will continue to be considered the 'downtown' area of Bristol. The majority of new residential growth is planned to occur in Bristol Hamlet, as well as eventually extending outward from Bristol Hamlet in an

Land Use Category ⁷³	Acres	Percent of Total
Urban		
Residential		
Single-Family	5,346	46.2
Medium Density ⁷⁴	28	.02
High Density ⁷⁵	157	1.4
Subtotal	5,531	47.8
Commercial	104	0.9
Industrial	157	1.4
Mixed Use ⁷⁶	56	.5
Professional/Office	151	1.3
Business Park	560	4.8
Institutional	363	3.1
Park and Recreational	811	7.0
Urban Subtotal	7,733	66.8
Nonurban		
Surface Water	18	.2
Agricultural	3,823	33.0
Nonurban Subtotal	3,841	33.2
Natural Resource Overlays	255	2.2
100-Year Floodplain ⁷⁷	1,982	17.1
Primary Environmental Corridor ⁷⁸	2,049	17.7
Secondary Environmental Corridor	482	4.2
Isolated Natural Resource Area	400	3.5

⁷² Data provided by SEWRPC Source: Town of Bristol, Kenosha County, and SEWRPC. Email Correspondence from Nancy Anderson of SEWRPC, November 26, 2008.

⁷³ Does not include a separate land use category for existing or planned street rights-of-way. Rights-of-way are included in the adjacent land use acreage, and parking is included in the associated use.

⁷⁴ Includes two-family and multi-family residential development.

⁷⁵ Includes multi-family residential development.

⁷⁶ Includes commercial, institutional, office, and residential development.

⁷⁷ The 100-year floodplain will be updated once the FEMA map modernization project for Kenosha County is completed.

⁷⁸ Environmental corridors and isolated natural resource areas include concentrations of woodlands, wetlands, surface waters, and other natural resources. The Town of Bristol land use plan includes the year 2000 environmental corridor and isolated natural resource area inventory conducted by SEWRPC. Delineations will be updated as part of the multi-jurisdictional comprehensive planning process currently underway.

⁷⁹ Town of Bristol Incorporation Application, p. 44.

easterly direction, ultimately reaching the Des Plaines River. For areas outside Bristol Hamlet, the plan recommends preserving rural character and avoiding sprawling, unplanned, and haphazard development.⁸⁰

- Comprehensive Outdoor Recreation Plan - the *Town of Bristol Comprehensive Outdoor Recreation Plan: 2020* was adopted in 2004 to guide the future of the Town's outdoor recreation sites and facilities. The plan recommends maintaining existing parks and natural areas, and adding a new park pavilion, bandstand, swimming pool, tennis courts, and additional athletic fields to Richard Hansen Memorial Park. As mentioned previously, the plan also recommends adding a number of new neighborhood parks, primarily within and proximate to Bristol Hamlet. The plan also seeks to create a system of trails, pedestrian paths and bicycle routes called Planned Recreation Corridors.⁸¹ Map 5, Appendix B, shows the specific location of these proposed parks and trails.

- Draft Comprehensive Plan – the Town is currently participating in a multi-jurisdictional comprehensive planning process in cooperation with Kenosha County, the City of Kenosha, the Villages of Pleasant Prairie and Silver Lake, and the Towns of Brighton, Bristol, Paris, Salem, Somers, and Wheatland. Kenosha County is leading the effort, while SEWRPC is providing data, analysis, and technical support. This planning effort will result in a multi-jurisdictional plan for the region as well as comprehensive plans for each participating community that will comply with the comprehensive planning law in s. 66.1001 Wis. Stats. Draft plan elements and chapters have already been developed and are being edited and finalized. Final approval is expected in the near future. The comprehensive plan draft chapters have already been described throughout this determination. The future land use map, Map 7, contains plan recommendations. As with the land use plan, the draft comprehensive plan seeks to develop Bristol Hamlet while preserving rural areas.

Table 15 provides an estimate of future land use totals based on the above plans. The table shows substantial growth in single-family residential and steady growth in business and other urban uses. Agriculture remains important as well, with 33% of the area continuing to be in agricultural land uses. The future land use map for 2035, Map 7, provides the location for these anticipated uses. Urban uses are anticipated for Bristol Hamlet, while rural uses are anticipated for the southern part of the proposed village area.

Other Plans that Guide the Proposed Village of Bristol are:

- A Lake Protection Plan for George Lake
- George Lake Aquatic Plant Management Plan
- Regional Land Use Plan: 2035
- Regional Transportation System Plan: 2035
- Regional Natural Areas Plan
- Regional Water Quality Management Plan
- Regional Water Supply Plan
- Regional Telecommunications Plan
- Stormwater Management Plan
- City of Kenosha and Environs Sanitary Sewer Service Area Plan
- Sanitary Sewer Service Area for the Town of Salem Utility District No. 1, Village of Paddock Lake, and Town of Bristol Utility District Nos. 1 and 1B, Kenosha County, Wisconsin
- Kenosha County Park and Open Space Plan

⁸⁰ Town of Bristol Incorporation Application, pgs. 22 and 39, and Chapter 6 of Town Land Use Plan.

⁸¹ Town of Bristol Incorporation Application, p. 22.

- Kenosha County Farmland Preservation Plan
- Kenosha County Economic Summit Report
- Land and Water Resources Management Plan
- Des Plaines River Watershed Plan
- Flood Mitigation Plan for Kenosha County.⁸²

Determination

The proposed village area contains at least 2,504 acres of wetlands and significant natural areas that are appropriate for waiver from the 'substantial development within three years' standard. This constitutes roughly one-fifth of the total petitioned area. This leaves approximately 6,614 acres, or 57.4% of the total area, subject to the standard. Petitioners arrive at a different estimate of 3,730 acres, or 32.4% of the total area. Their estimate is based on zoning and future land use maps, apparently by calculating the type and density of development which is preferred and which may occur. However, zoning districts and classifications can be easily amended, as are future land use maps. Even build-able lands zoned for exclusive agriculture have been counted as developable by past determinations. Therefore, these are not the best means of calculating the amount of developable land subject to the standard. The Department's estimate is more reliable. However, the question of which estimate to use does not affect the determination of this standard because the petition comes up short on either measure.

Recent data on population growth, rezonings, building permits, and subdivision platting shows that the Town has been growing steadily but modestly. Only one subdivision, Bristol Bay, has lots that are currently available to be built upon. Another handful of subdivisions are close to having lots being ready for sale and dwelling unit construction, pending completion of a number of development steps. However, Bristol Bay and the subdivisions that are close to being ready are within or adjacent to Bristol Hamlet, rather than being dispersed throughout the proposed village area. Plans and other materials submitted indicate that the southern part of the proposed village area is not recommended for urban development at all. Rather, this area is recommended to remain rural in nature. Since this southern area contains a high concentration of wet soils and wetlands, maintaining rural land uses makes appropriate sense.

Petitioners have submitted a population projection that is six times higher than projections prepared either by the state or the SEWRPC. Petitioners base their projection of 2,231 newcomers between now and 2015 on the Town's proximity to the major metropolitan areas of Kenosha, Chicago, Racine, and Milwaukee, and also on the number of vacant lots they expect will become available for development within the next three years. However, this projection may be overly optimistic because it relies on proposed subdivisions actually being completed as well upon Bristol capturing a greater percentage of the area's growth than it has at any time in recent history. Completion of subdivisions is always speculative in nature, but particularly so at present because market forces greatly disfavor development. Of the Group One subdivisions, only Bristol Bay is ready for development and sale. The other Group One projects still require that additional steps be completed, including major steps such as amending the existing sewer service area boundary. None of the Group Two projects have formally moved forward, and may remain speculative for quite some time.

As was the case with waivable lands, the question of which population projection to use is not determinative for this standard, because both SEWRPC and Petitioner's agree that future development will occur in Bristol Hamlet rather than throughout the proposed village area. This is shown by SEWRPC's population projections, the future land use map, as well Petitioner's proposed development maps. These materials clearly show that the southern part of the proposed

⁸² Town of Bristol Incorporation Application, p. 28.

village area will remain rural until at least the year 2035, far beyond the substantial development within three years standard required by the statute.

However, Petitioner's have shown that the lands immediately surrounding Bristol Hamlet show potential for substantial urban development over the next three years. This includes substantial residential development east to the Des Plaines River, a major business area at STH 50 and USH 45, creation of at least five new neighborhood parks, a recreational trail circling the hamlet, among many other projects. The Group One subdivisions are almost all located in or adjacent to Bristol Hamlet, and are all nearing completion, or have the potential to be completed within the next three years.

For all of the preceding reasons, the Board determines that the petition as submitted does not meet the *Territory Beyond the Core* standard set forth in §66.0207(1)(b), Wis. Stats. However, the Board suggests resubmitting the petition to include only Bristol Hamlet and the immediately surrounding lands contained in Sections 4, 5, 6, 7, 8, 9, and 16, 17, and 18, because based on exhibits already supplied by Petitioners, this area would meet this standard.

SECTION 2(A) TAX REVENUE

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

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

Petitioner's Budget for Proposed Village and Remainder of the Town

Table 16, on the next page, provides an abbreviated overview of salient variables taken from "Table 13: Budget Analysis Assumptions," from Petitioner's *Town of Bristol Incorporation Application*, page 60. These assumptions were used by petitioners with the assistance of Renee Messing, CPA, Town Administrator Randy Kerkman, Town board members, and other Town staff to develop a proposed budget for the proposed village and remainder of the town that is shown on Table 17, on page 43. The assumptions highlighted in Table 16 drive the prospective division of assets, continuation of services, and separation of the various funds that ultimately provide the basis for dividing costs and revenues between the proposed village and the remainder of the town, resulting in an estimated local tax levy of \$2.64/\$1,000 of equalized valuation for the proposed village and \$2.37/\$1,000 of equalized valuation for the remainder of the town.

In order to determine whether or not these proposed local government activities, equalized values, and local tax levies/rates "...compare favorably with the tax rate in a similar area for the same level of services," several comparison towns and villages have been selected that are similarly affected either by development pressure coming north from across the Wisconsin-Illinois state line or from the growing Lake Geneva and Kenosha/Pleasant Prairie areas, and some either have a historic lake orientation originally as summer communities or were crossroads communities that served the farming activities of the region and now have become attractive places to live and work – much like the Bristol Hamlet. The comparison towns, including the existing town of Bristol, are: Bloomfield and Walworth in Walworth County, Dover in Racine County, and the Kenosha County towns of Salem, Brighton, Paris, Randall and Wheaton. Comparison villages include: Genoa City and Sharon in Walworth County, Union Grove and Rochester in Racine County, and Silver Lake and Paddock Lake in Kenosha County.

Total Equalized Value, Town Comparison, Figure 4, on page 44, shows that the existing Town of Bristol, other than for Town of Salem, has property values slightly greater than the other comparison towns, and that, except for town of Salem, the values are growing at about the same rate.⁸³ Total Equalized Value Per Capita, Town Comparison, Figure 5 on page 44, while including only 2006 data, shows that the projected per capita value for the remaining Town of Bristol of \$199,580, is likely higher than the other comparison towns.

⁸³ This table as well as the following tables use the most recently published data available from Wisconsin Department of Revenue as compiled by UW-Extension, and do not reflect the current economic troubles.

Table 16
Town of Bristol
Budget Assumptions⁸⁴

	<u>Village</u>	<u>Town</u>	<u>Total</u>
Assessed Value	\$417,301,500 69.4%	\$184,013,600 30.6%	\$601,315,100 100%
2008 Assessed Value ⁸⁵			\$608,897,700
Square miles	18 56%	14 44%	32 100%
Population	3,648 80%	922 20%	4,570 100%
Fire and rescue calls	67%	33%	100%
Developable acres	3,730 61%	2,390 39%	6,120 100%
Miles of road	21.57 81%	5.14 19%	26.71 100%
Shared Revenue allocation	69%	31%	100%
Board	President	Chairperson	
Supervisors	-	4	
Trustees	6	-	
Interdepartmental revenue allocation: Weighted 1/3 by total miles of road and 2/3 by proportion of population in each community			
Polling places	2	1	
Recycling cost	-	100%	
Equipment replacement funding:			
	\$150,000	\$40,000	
Allocation of administrative expense: Nominally by 14% of proposed village administrator, accountant, other clerical costs plus new clerk/treasurer for remainder of town, with an additional \$10,000 planned for potential additional clerical assistance for the remainder of the town, if necessary.			
Proposed local tax levy per \$1,000 of equalized value	\$2.64	\$2.37	
Actual 2008 Town of Bristol tax levy ⁸⁶			\$2.69

⁸⁴ Town of Bristol Incorporation Application, Table 13.

⁸⁵ Town of Bristol, Budget Hearing – November 12, 2008. Value used for preparing the 2008 property tax bill, payable in 2009.

⁸⁶ Ibid.

Table 17
Village and Town of Bristol Proposed 2009 Budgets

Account Description	Village	Town
General Fund		
General property taxes	\$759,655	\$436,908
Other taxes	108,044	4,200
Intergovernmental grants and aids	125,000	42,454
Intergovernmental charges for services	242,081	0
Licenses and permits	68,712	38,024
Fines and forfeitures	24,720	6,180
Public charges for services	17,191	57,289
Interdepartmental revenue	106,525	0
Commercial revenue	146,580	70,695
Total Revenues	1,598,508	655,750
General government		
Legislative	47,866	35,127
Judicial	2,341	0
Legal	66,844	42,285
Administrative	155,729	28,723
Clerk/Treasurer	64,407	11,364
Elections	2,415	1,208
Audit fees	44,440	10,000
Assessment	22,775	9,757
Buildings and grounds	43,323	7,616
Other	10,169	0
Insurance	48,300	8,000
Engineering	23,533	16,867
Total General Government	532,142	170,947
Protection of persons and property		
Police	311,109	6,2222
Fire	77,560	197,225
Inspection	97,872	38,170
Total Protection of Persons and Property	486,541	297,617
Public works		
Public works operations	340,586	72,441
Road maintenance and construction	154,916	30,599
Total Public Works	495,502	103,040
Health and human services		
Recreation	5,959	56,286
Planning and development	46,186	6,813
Capitol outlay	22,180	14,180
	10,000	46,867
Total Expenditures	\$1,598,509	695,750
Total Budgeted Revenues over Expenditures	0	\$-40,000

Figure 4

**TOTAL EQUALIZED VALUE
TOWN COMPARISON**

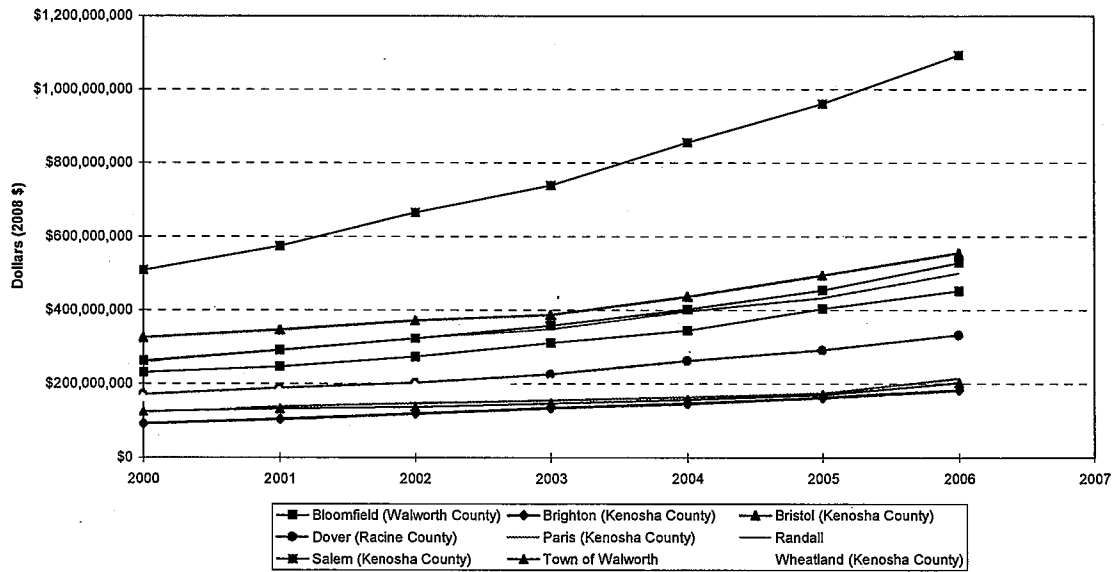


Figure 5

**TOTAL EQUALIZED VALUE PER CAPITA
TOWN COMPARISON**

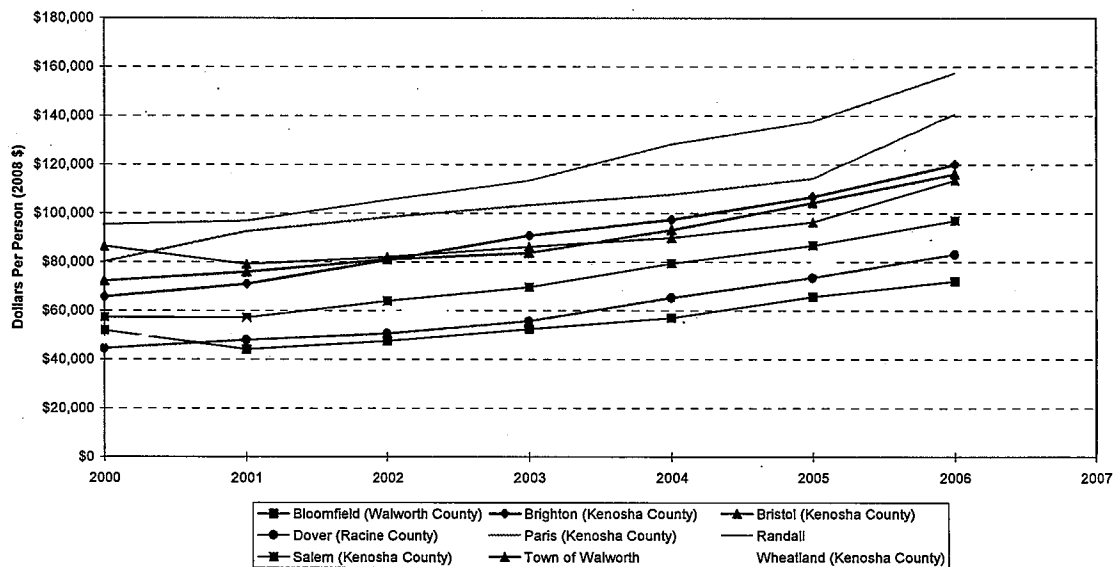


Figure 6

**TOTAL EQUALIZED VALUE
VILLAGE COMPARISON**

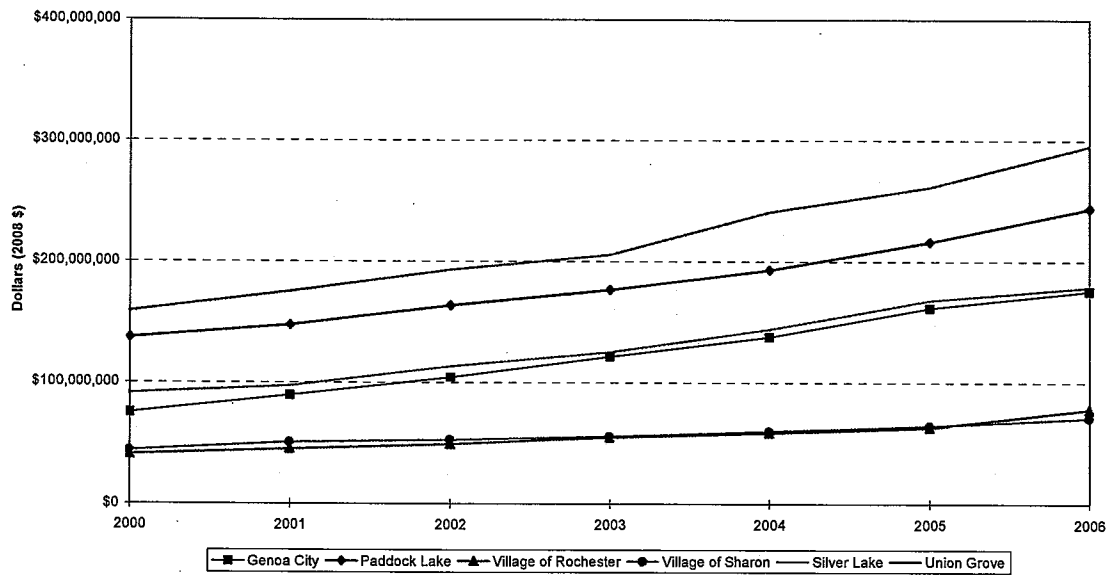
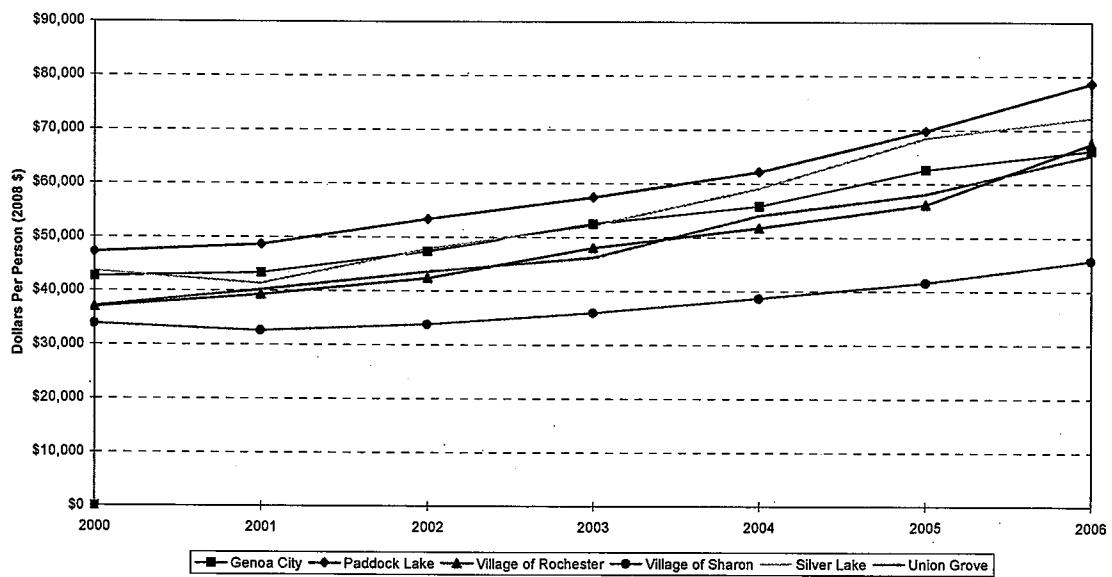


Figure 7

**TOTAL EQUALIZED VALUE PER CAPITA
VILLAGE COMPARISON**

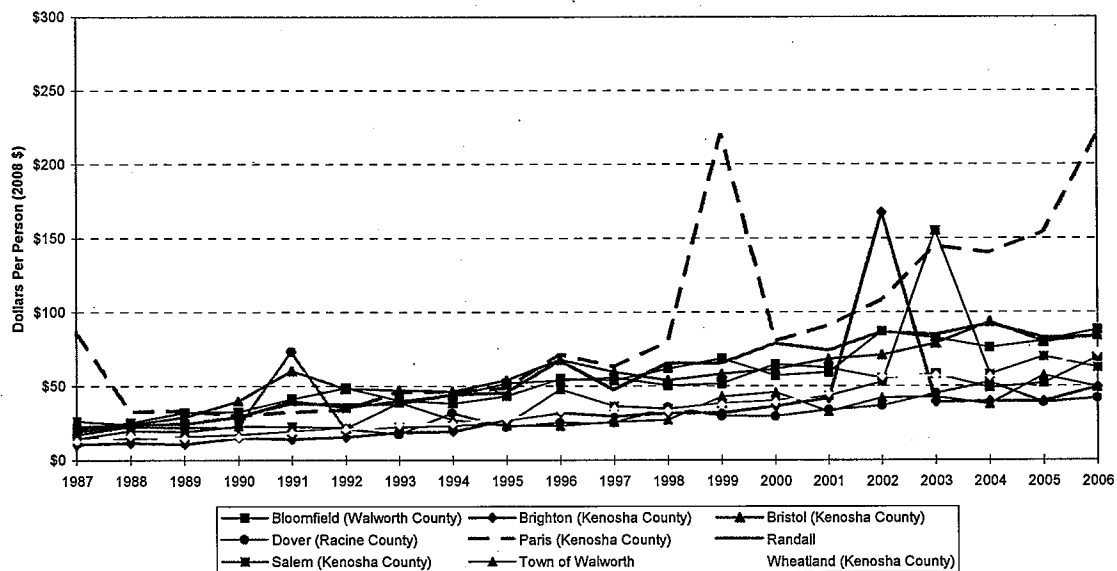


Similar total and per-capita equalized values for the comparison villages start with Figure 6 on page 45, where a similar result is obtained, insofar as this graph as well as the following Figure 7, Total Equalized Value Per Capita, Village Comparison, illustrate that the proposed village on both an absolute and per capita basis is likely to be equal to, or have values greater than most of their comparison neighbors, based on the year 2000-2006 data.

A brief look at selected per capita operating expenditures, beginning with the General Government Comparison for the current town of Bristol and the comparison towns (with the exception of Paris), suggests that Town of Bristol is relatively consistent with how it approaches general government, public safety, transportation and conservation and development (where planning and economic development program costs are accounted for) expenditures.

Figure 8

**PER CAPITA GENERAL GOVERNMENT
TOWN COMPARISON**



The historical Per Capita Law Enforcement Comparison, Figure 9, on the following page, is somewhat misleading, as Town of Bristol now is spending upwards of ~\$80 per capita, which is consistent with Town of Salem and likely more than the comparison towns. Following Figure 10, Per Capita Fire Expenditures Comparison, suggests that, from the proposed budget, budgeted per capita fire protection expenditures may continue their slowly upward trend, consistent with the comparison group, but not by as much as, for example either Paris, Bloomfield, or Salem.

Figure 9

**PER CAPITA LAW ENFORCEMENT
TOWN COMPARISON**

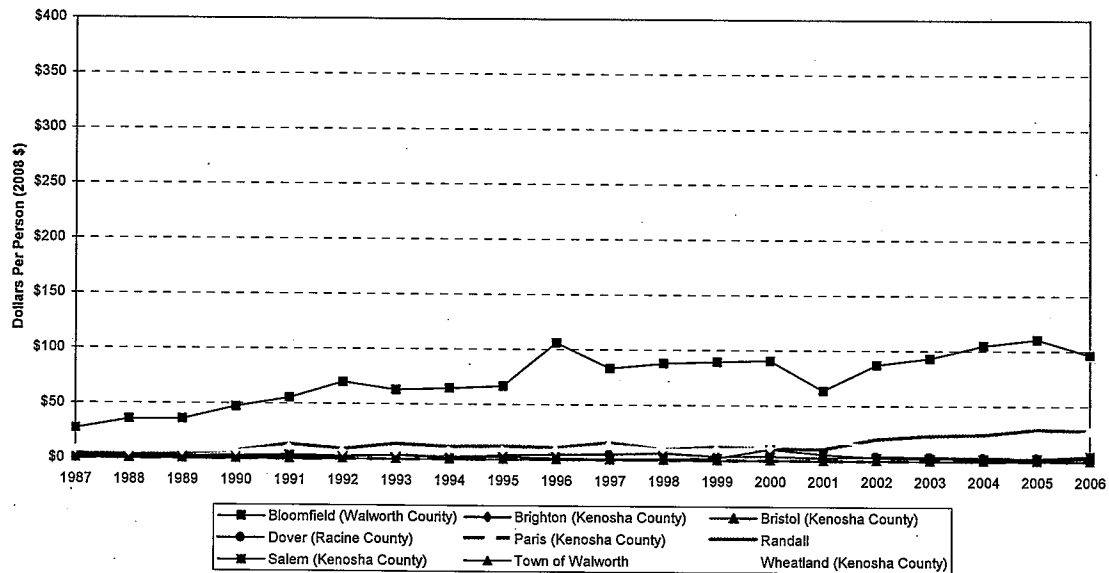
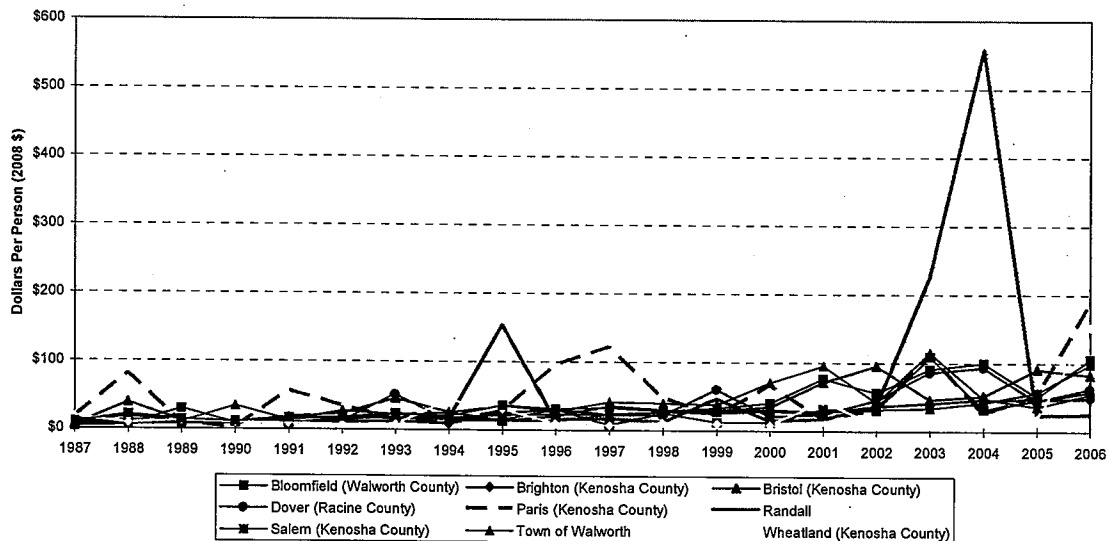


Figure 10

**PER CAPITA FIRE EXPENDITURES
TOWN COMPARISON**



The following Figure 11, Per Capita Total Transportation Expenditures, suggests that Town of Bristol, at least in the recent past, with the exception of Town of Walworth, was very much like its neighbors. For the remainder of the Town of Bristol, petitioners project spending to be approximately \$112 per capita, consistent with the historic level of expenditure. However for the proposed village, petitioners project spending ~\$134 per capita, a higher amount, and one consistent with the concentration of local roads found within the Bristol Hamlet.

Figure 11

**PER CAPITA TOTAL TRANSPORTATION EXPENDITURES
TOWN COMPARISON**

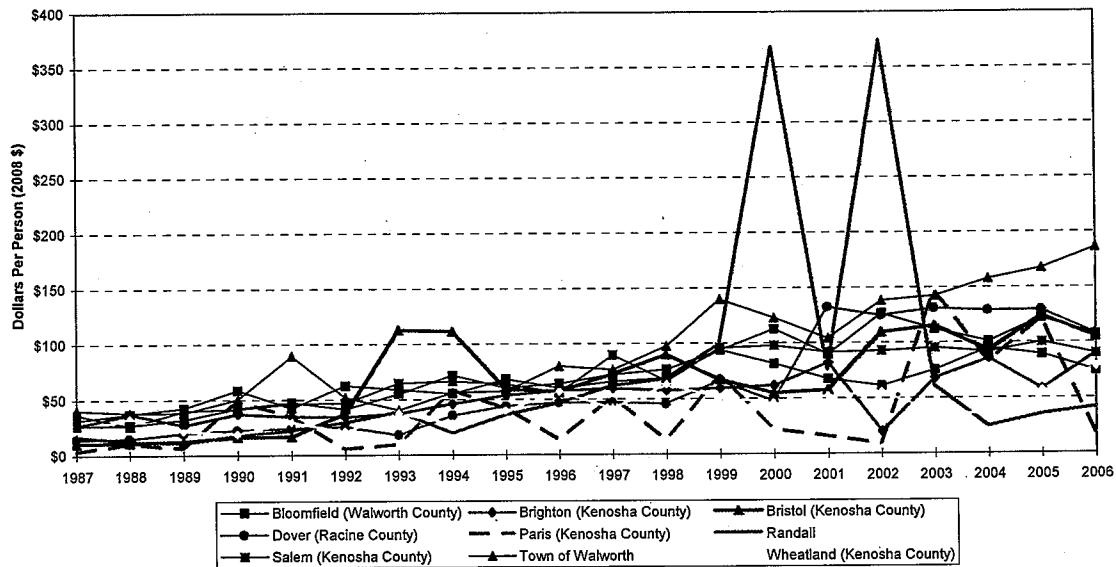


Figure 12

**PER CAPITA CONSERVATION AND DEVELOPMENT
COMPARISON**

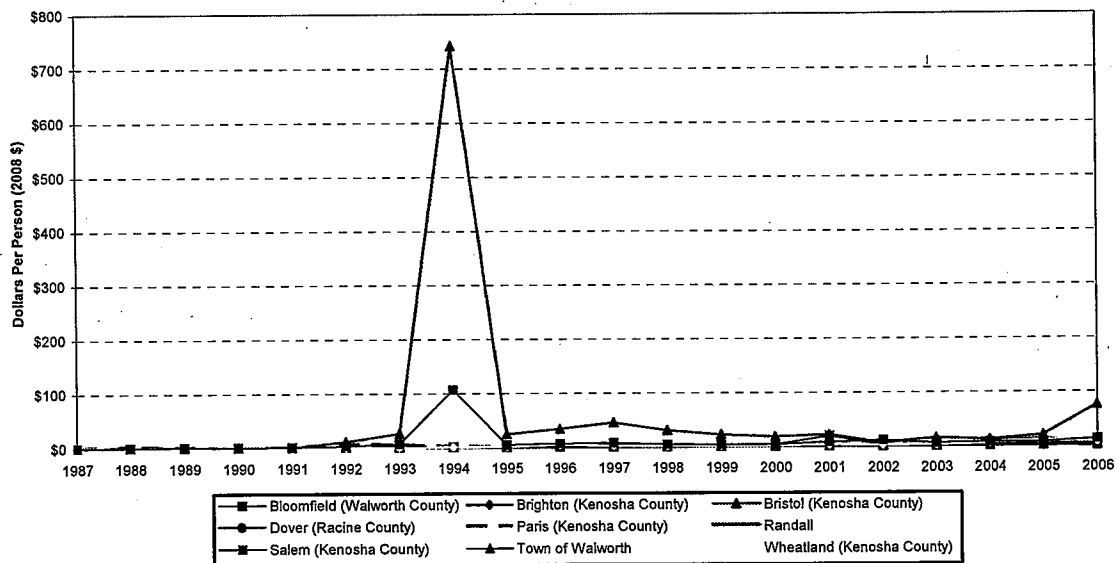


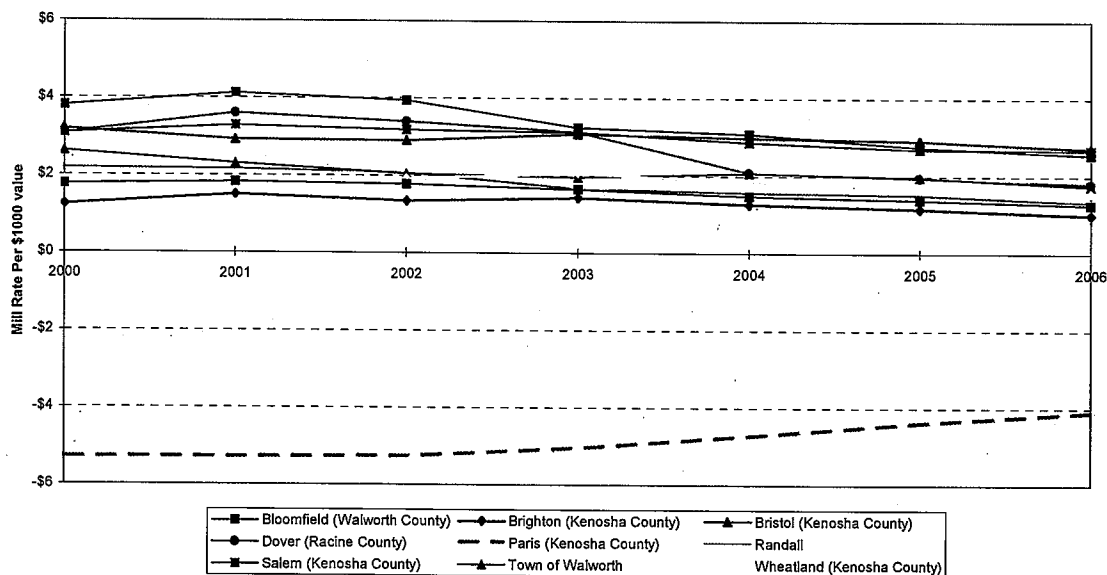
Figure 12, above, illustrates that Town of Bristol is unique in allocating more dollars per capita to developing plans and engaging in pro-active economic development activity. 1994 represents the acquisition of the Town of Bristol Community development Authority property adjacent to I-94, and 2006 represents completion of the Town Comprehensive Plan. This is more activity than evidenced any of the comparison towns, including Town of Salem, which is unique among the

comparison towns, insofar as it is slated by the 2035 Regional Land Use Plan (2006)⁸⁷ to become nearly totally developed outside of the existing villages, in either medium-density, or low-density urban area development, whereas Town of Bristol, outside of the Bristol Hamlet and lake development areas, in contrast to projections by petitioners,⁸⁸ was expected to remain largely rural.

How projected tax levies relate to the comparison towns and villages, is first illustrated by the following Figure 13, Town Local Tax Mill Rate Comparison, that suggests that at a projected ~\$2.37 per \$1,000 of full equalized value, the remainder of the town falls within the range of tax levies experienced by the comparison towns. The pattern exhibited in this table suggests that tax rates are likely falling due to absolute and per capita increases in property values shown on preceding Figures 3 and 4. Currently falling land values and the condition of the real estate market will eventually likely impact these tax rates, but the point to be made here is that currently the revenue and expenditure picture for the remainder of the Town of Bristol is not unlike that of its comparison neighbors. And, petitioners project a slight decrease in tax rates for the remainder of the town, should incorporation occur.

Figure 13

**TOWN LOCAL TAX MILL RATE
COMPARISON**



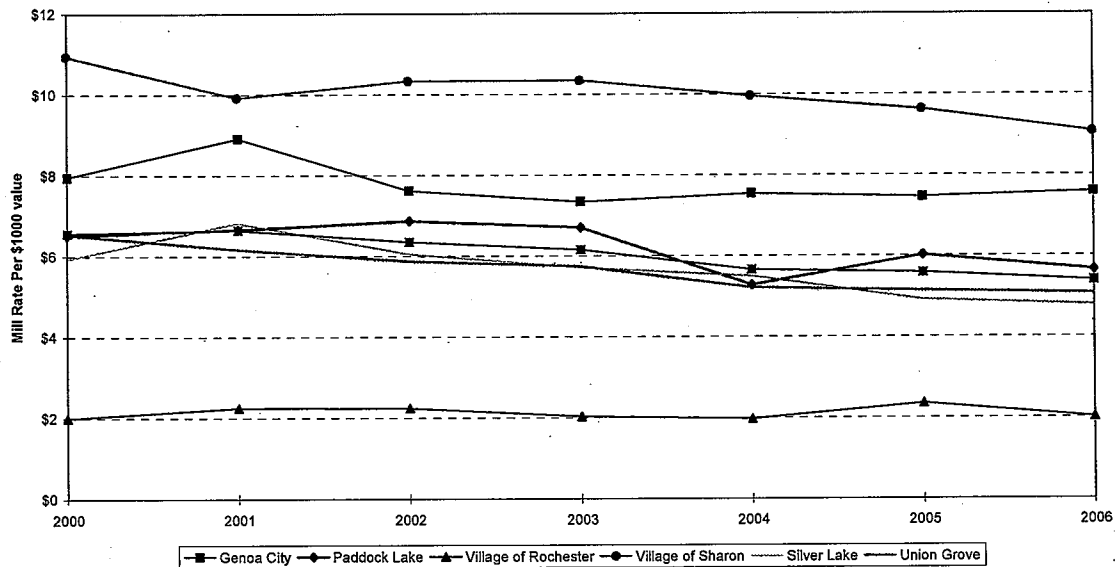
The following Figure 14, on the following page, Village Local Tax, suggests that even at a projected ~\$2.64 per \$1,000 of equalized value, petitioners are at the bottom of the comparison group, more like the Village of Rochester, than the other villages that are all levying higher local tax rates. In the long run however, the land extensive development

⁸⁷ Kenosha County Multi-jurisdictional Comprehensive Plan Kenosha County Fact Sheet

⁸⁸ See the preceding discussion for Section (1)(b), beginning on page 29.

Figure 14

**VILLAGE LOCAL TAX MILL RATE
COMPARISON**



envisioned by petitioners will trigger the need for increased capital facilities and services – protection of people and property, the very types of expenditures that tend to drive the tax rates in the comparison villages.

Usually municipal incorporation brings with it unforeseen requests for municipal services that heretofore did not receive much prominence simply because the town board was historically trying to minimize expenditures for both a rural and semi-urban community. Other unknown variables include charges for services provided by others; a recent example is the \$30,000 increase in contracted services received from the Kenosha County Sheriff's Department.⁸⁹ Other unknown variables include the amount of revenues in the form of shared aids that are likely to flow in future years to the proposed village and remainder of the town as the 2009 and future state budgets are developed and passed. Page 6 of the Town of Bristol, Financial Statements, December 31, 2007, provides an answer to this question this "Statement of Revenues, Expenditures, and Changes in Fund Balances, Governmental Funds, For the Year Ended December 31, 2007," illustrates that intergovernmental transfers, including state shared aids are, in comparison to other municipalities petitioning for incorporation in the past, a relatively small percentage of the revenue stream derived from the combined funds, equaling about 13% of the general fund revenue, and about 5% of total fund revenue for the existing town. Of the six fund groups, the majority will remain with the proposed village, with the remainder of the town being responsible for its' general fund, a stormwater utility fund,⁹⁰ and Utility District 3.

⁸⁹ Communication from Town Administrator Randy Kerkman, December 23, 2008, summarizing general fund expenditure differences from 2008 to 2009.

⁹⁰ The remnant town is projected to use the stormwater fund to accumulate a reserve anticipating the need for future projects.

DETERMINATION

For the preceding reasons, it is the Board's finding that should incorporation occur, that petitioners have realistically and adequately accounted for local purpose revenues and expenditures necessary to effectuate typical home-rule powers and, even allowing for possible variation in local property tax rates and expenditure as previously described, the potential property tax rate envisioned would continue to compare favorably with tax rates of similarly situated local governments. From evaluative statistics developed to date, petitioners appear to be at the top of the range of comparison municipalities for per capita equalized value, and at the bottom of the range of comparison municipalities for their projected local tax levy rate per \$1,000 of equalized value.

Therefore, the Board determines that the petition meets the *Tax revenue* standards set forth in §66.0207 (2) (a), Wis. Stats.

SECTION 2(B) LEVEL OF SERVICES

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

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

Because no intervenors filed a certified copy of a resolution to annex the entire petitioned territory with the Kenosha County circuit court, this standard is not applicable.

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

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."

The remainder of the Town comprises slightly over 15 sections lying between the westerly boundaries of the City of Kenosha and Village of Pleasant Prairie, I-94, and the easterly boundary of the proposed village, and from Town of Paris on the northerly border, to the Wisconsin/Illinois state line on the southerly border. These Town sections contain an estimated population of 922 persons. Section (1) (a) of this Determination, has already characterized the physiographic nature of the territory. Only 5.1 miles of local road exist, scattered in small segments across the remaining town, with CTH WC, MB, U, Q, C, and K, and STH-50, providing primary transportation access. One hamlet, "Woodworth," along CTH MB south of STH-50 in Section 10, lies among the scattered farm fields and small subdivisions,

As previously discussed in Section (2) (a), the budgets for the proposed village and town remnant are predicated on a future town board agreeing to the proposed levels of service, and proposed use of the town remnant's share of the assets realized from the sale of the town's CDA property, which is being used to in part offset the projected \$40,000 in remainder of the town expenses over revenues (refer to preceding Table 17 on page 43). The proposed village will retain all debt, and hold cash to pay for it. Should incorporation occur, the remnant town is to receive an estimated 5 million dollars from the CDA land sale proceeds.

Remaining special purpose districts

Of the three special-purpose districts expected to remain with the "remainder of the town," the Community Development Area parcel near I-94 and CTH-K is being liquidated and had only 62 acres remaining to be sold as of August, 2008.⁹¹ The proceeds from this land sale, after debt service and other expenditures and disbursements are to be divided between the proposed village and the remainder of the town, leaving the remainder of the town with approximately five million dollars as a capital reserve.

Town Utility District No. 3 serving 1,700 acres in the northeast corner of the remainder of the town, lies near the interchange of I-94 and STH-50. Reviewing the Town's audited financial statement "Statement of Cash Flows, Proprietary Funds, For the Year Ended December 31, 2007,"⁹² suggests that this sewer district has an insufficient cash flow from which to pay the principal and interest due on long-term advances. But this negative balance is partially offset by interest earned from investing activities, resulting in a decrease in cash and cash equivalents of -\$17,848 leaving a cash balance and cash equivalence balance of \$561,891 for end of year 2007. This may be a deliberate policy choice to draw down the cash balance rather than raise sewer rates in an amount to at least cover principal and interest payments of \$39,736. This policy choice of whether or not to raise sewer rates will continue to exist, regardless of whether incorporation occurs or not.

The remaining special purpose district is the Storm Water Utility that is currently structured on paper, with minimal expenditures recorded.⁹³ This utility was created anticipating the need to begin implementing the Stormwater Management Plan (2007), in order for the Town to comply with forthcoming EPA/WDNR non-point pollution/water quality standards.

⁹¹ Town of Bristol Incorporation Application, p. 54.

⁹² Town of Bristol Financial Statements, December 31, 2007, p. 10.

⁹³ Ibid.

Besides overseeing the afore-mentioned special purpose districts, a future town board would also be responsible for continuing oversight of the existing town land division/subdivision ordinance, maintaining a planning commission, and whatever committees or commissions would be necessary to oversee implementation of the several intergovernmental agreements, as well as those shared services such as fire protection and emergency medical service that involve the proposed village. As enumerated in Section (1)(a), park and recreation sites are minimal in the remainder of the town, with only three sites available that are currently in private hands.⁹⁴

The remainder of the town is not likely to be subject to extensive development due to the unavailability of sewage treatment capacity and conveyance infrastructure,⁹⁵ indeed the 2035 Regional Land Use Plan (2006) prepared by the Southeastern Wisconsin Regional Plan Commission, that includes Kenosha County, foresees this area remaining as a low-density rural area.

Remainder of the town subject to intergovernmental agreements or other powers

The *City of Kenosha/Town of Bristol Cooperative Plan Boundary Agreement* (2000) provides that Town residents/owners in Section 1 and 2 who are affected by the agreement with the City of Kenosha⁹⁶ may petition for attachment at anytime prior to 2030, at which time all remaining Town territory becomes part of the City.

Similarly the Village of Pleasant Prairie and Town of Bristol *1997 Settlement and Cooperation Agreement* establishes a boundary between the Village and the Town that, in this instance, is fixed and, unlike the agreement with Kenosha, no subsequent Town land transfers are envisioned to occur – unless the agreement is amended at some future date.

The *Village of Paddock Lake and Town of Bristol* (2008) is a continuation and expansion of many years of cooperation between the Town and Village regarding services, as well as a shared vision of preserving rural and agricultural land uses in the Town. The agreement maintains the current boundary between the Town and Village, and limits the extent of extraterritorial zoning, land division, condominium platting, and official mapping by the Village inside the Town.

Currently no jurisdictions exert extraterritorial zoning or platting authority over the Town of Bristol, and this circumstance would remain true for a remainder of the town as well. Kenosha County would continue to regulate land use, buildings, and other structures in the remainder of the town, as well as shoreland and floodplain areas, including monitoring set-back regulations from the ordinary high-water mark of navigable waters, and limiting land uses that can occur in the 100-year floodplain. The Town of Bristol, having submitted its' Town of Bristol Land Use Plan (2006), continues to participate with Kenosha County as it prepares s Multi-Jurisdictional Comprehensive Plan for Kenosha County (ongoing).⁹⁷

⁹⁴ Draft Kenosha County Comprehensive Plan, Draft Inventory of Agricultural, Natural, and Cultural Resources chapter, Appendix G, Tables Specific to the Town of Bristol, Table G-4 and Map III-19.

⁹⁵ Comments made by Attorney Bill White and Town Administrator Randy Kirkman at the Wisconsin Incorporation Review Board meeting on December 10, 2008.

⁹⁶ Parts of the Town in Sections 1 and 2 were transferred to City of Kenosha following approval of the Cooperative Boundary Agreement.

⁹⁷ As draft chapters of the Multi-Jurisdictional Comprehensive Plan for Kenosha County become available, they can be viewed on the Kenosha County web site at:

http://www.co.kenosha.wi.us/plandev/smart_growth/DraftPlanChapters.html .

DETERMINATION

The foregoing analysis of territory (including location and shape), town services and the operating budget discussed previously in Section (2)(a), suggests that the remainder of the town of Bristol would not be unduly disadvantaged by the separation of territory and incorporation of the proposed village of Bristol.

The potential town tax rate of \$2.37, while possibly understated, is certainly not considered to create an undue burden for remaining town taxpayers. Petitioners have set forth a reasonable formula for cooperation, establishing an equitable division of services between the proposed village and the remainder of the town. However, for the activity and subsequent budgetary premise suggested by petitioners to be successful will require that future town boards actively participate with any future village board in the provision and management of shared staff and services, as well as other shared physical resources, such as the municipal building and other structures. While this proposed cooperative arrangement could become a model for intergovernmental collaboration, a few post-1959 incorporations resulted in a remnant town board that later chose not to closely collaborate with the newly incorporated village in a manner originally envisioned. In this particular case however, the remainder of the Town is contractually obligated to continue to maintain the several intergovernmental agreements with all of its surrounding neighbors that are either currently in force or being drafted, and similarly to maintain land use in the remainder of the Town in a manner consistent with and subject to the regulatory oversight and collaboration involving the Kenosha County Board and county staff.⁹⁸ For all of the preceding reasons, the Board determines that the petition meets the Impact on the Remainder of the Town standard set forth in §66.0207 (2) (c), Wis.Stats.

⁹⁸ For example, see "Draft Town of Bristol/Town of Salem Cooperative Plan Under Section 66.0307, Wisconsin Statutes," pp. 4, 6-7, and 9. Draft agreements with Towns of Paris and Brighton are similarly worded.

SECTION 2(D), IMPACT UPON THE METROPOLITAN COMMUNITY

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

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

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

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

The metropolitan communities for this determination are the Villages of Paddock Lake and Pleasant Prairie, the City of Kenosha, and the Towns of Paris, Salem, and Brighton. These communities share some of the same infrastructure systems and natural features as the Town, including environmental corridors, highways, regional shopping and economic opportunities, and overlapping school districts. According to the statute, the Board must make an express finding that the proposed incorporation will not have a negative impact on planning, service provision, infrastructure, intergovernmental cooperation, environmental resource protection, and other types of regional issues. In other words, the incorporation must cause no harm.

With regard to this petition,, there appear to be no obvious regional or intergovernmental problems that would result from incorporation of the proposed village area. There are no intervenors, nor has the Board received any negative comments or testimony from neighboring municipalities, Kenosha County, or the SEWRPC.

As mentioned previously, Bristol has boundary agreements in place with the Villages of Pleasant Prairie and Paddock Lake, and the City of Kenosha. These agreements are briefly described below:

- *City of Kenosha and Town of Bristol Cooperative Boundary Agreement under s. 66.0307 Wis. Stats. (October 2000).* This agreement resolves contested annexation, commercial development, and sewer service area issues through creative use of general agreements under s. 66.0301 Wis. Stats. and stipulation and order agreements under s. 66.0225, Wis. Stats. The cooperative boundary agreement acts as an umbrella agreement, coordinating these more specific agreements. Three square miles of the Town of Bristol will be transferred over 30 years to the City of Kenosha. The agreement describes the service and regulatory roles of the county, town, and city as attachments occur. A citizen appealed the Department’s approval to circuit court, but this appeal was dismissed.
- *Village of Paddock Lake and Town of Bristol Cooperative Boundary Agreement under s. 66.0307 Wis. Stats. (May 2008).* This Agreement is a continuation and expansion of many years of cooperation between the Town and Village regarding services, as well as a shared vision of preserving rural and agricultural land uses in the Town. The agreement maintains the current boundary between the Town and Village, and limits extraterritorial

zoning, land division, condominium platting, and official mapping by the Village inside the Town. The Village also agrees not to oppose future efforts by the Town to incorporate or consolidate.

- *Pleasant Prairie and Bristol Agreement*⁹⁹ (1997)- this agreement, entered into under s. 66.0225 Wis. Stats., resolved litigation over a number of annexations from the Town to the Village, as well as litigation regarding sewage treatment of certain areas west of Interstate 94. The agreement permanently establishes the boundaries between the Town and Village, limits the authority of the village to annex Town land, consents to incorporation of the 'Town Center', and encourages the municipalities to formalize the agreement in a s. 66.0307 cooperative boundary agreement.

In addition to these approved agreements, the Town of Bristol is currently in the process of developing agreements with the neighboring Towns of Paris, Salem, and Brighton.¹⁰⁰ Currently these three agreements contain the exact same language, even though different land use, provision of utility service, and other unique issues may exist between the 4 towns. Although a provision is made in these agreements for possible incorporation or consolidation of part or all of the Town of Bristol, it is unclear how any future incorporated entity would relate to the existing town borders, as there is no mention made of any prospective limitation on the use of either annexation or jurisdictional control of cross-border land use and/or land division through prospective extraterritorial powers that would accrue to a new city or village. Nor do the draft agreements mention how a prospective city or village would participate in coordinating and implementing cross-border land use planning and zoning changes, a role currently played by Kenosha County. This issue illustrates the difficulty of committing an entity of government that does not yet exist to cooperate with its neighbors. But there is a precedence for this type of agreement, insofar as the current City of Pewaukee, while still a town, negotiated a cooperative boundary agreement with the City of Waukesha that obligated any newly incorporated entity to respect the terms of the agreement, including the transfer of several square miles to the City of Waukesha of what later became City of Pewaukee territory.¹⁰¹

Although in the past, Town of Bristol relied upon Kenosha County for police services rather than fund its own police department, this is no longer entirely the case, as the current 2008 budget adopted for 2009 provides for an increase in existing payments made to the County Sheriff for police protection. The Town of Bristol already provides for its own fire department with mutual aid agreements with neighboring departments. Also, as mentioned under the *Compactness and Homogeneity* standard, the Town relies heavily on federal, state, and county highways for transportation throughout the area, rather than its own system of local roads. However, many Towns similarly situated to Bristol also rely on the county and state for these services. Were it to become a village, it is likely that Bristol would gradually take increasing responsibility for these services.

⁹⁹ The full title of the agreement is the *1997 Settlement and Cooperation Agreement by and Between the Village of Pleasant Prairie, the Pleasant Prairie Water Utility, the Pleasant Prairie Sewer Utility District D, the Pleasant Prairie Sewer Utility District No 1, and the Pleasant Prairie Sewer Utility District F and the town of Bristol, the Town of Bristol Utility District No 3, the town of Bristol Utility District no 5, and the town of Bristol Water Utility District.*

¹⁰⁰ Petitioner's November 20th submittal to the Department by email with attached draft agreements between Town of Bristol, and Towns of Brighton, Paris, and Salem.

¹⁰¹ *Town of Pewaukee and City of Waukesha (Waukesha County)*, approved March 12, 1998 This agreement resolved long-standing irregular boundary, and public service questions, and settled litigation, thereby setting the stage for the incorporation of the Town of Pewaukee. The agreement explains how individual property owners will be treated during the term of the agreement.

Determination

The metropolitan impact standard is a difficult one to meet. The Court in Pleasant Prairie wrote:

"The statute is peculiarly worded, in that the incorporation can proceed only if there is a finding that it will not substantially hinder the solution of governmental problems. Obviously, this requirement for a finding places a very substantial burden on the proponent of incorporation."¹⁰²

In the case of Bristol, there are no obvious regional or intergovernmental problems resulting from incorporation. The Town has developed boundary agreements with its municipal neighbors which proactively identified and resolved the types of issues and disagreements which might otherwise have been raised as part of this incorporation petition. Bristol appears to be a good citizen of its metropolitan community.

For all of the preceding reasons, the Board determines that the petition meets the *Metropolitan Impact* standard set forth in §66.0207(2)(d), Wis. Stats.

¹⁰² Pleasant Prairie v Local Affairs Dept., 108 Wis.2d 465 (1982), page 481.

APPENDIX

Appendix A: Incorporation Review Board

The Incorporation Review Board was created by 2003 Wisconsin Act 171. It is charged with reviewing incorporation petitions forwarded by the circuit court in order to ensure that these petitions meet the public interest standards in s. 66.0207 Wis.Stats. The board advises the circuit court on whether incorporation petitions should be granted, dismissed, or resubmitted with new boundaries. The Board is also authorized to set and collect an incorporation review fee to pay for the costs of reviewing the petition. The Board has currently set the fee at \$20,000.

Members

Department of Administration Member and Chair

Harald (Jordy) Jordahl, Deputy Administrator
Division of Intergovernmental Relations

Wisconsin Towns Association Member #1

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

Wisconsin Towns Association Member #2

Lonnie Muller, Clerk
Town of Stark (Vernon County)

Wisconsin League of Municipalities Member

Jeff Speaker, Mayor
City of Brookfield

Wisconsin Alliance of Cities Member

Rich Eggleston, Communications Manager
Wisconsin Alliance of Cities

Staff

George Hall
Erich Schmidtke

APPENDIX B: Maps

Appendix C: List of Submitted Materials

Petitioner's Submittal in Support of Incorporation, December 6, 2006

- *Town of Bristol Incorporation Application* document, a 402-page bound compilation of text, tables, pictures, and maps showing how the petition meets the standards in s. 66.0207 Wis.Stats.
- Town of Bristol Financial Statements for 2003-2007.
- 1997 intergovernmental agreement between the Village of Pleasant Prairie and Town of Bristol.
- Agendas and presentation materials of informational meetings held by the Town regarding incorporation.

Petitioner's Submittals following the October 14th 2008 Public Hearing in Bristol

- Petitioner's October 23rd 2008 submittal to the Department, which includes:
 - letter from attorney Bill White;
 - list of potential subdivision developments;
 - legal descriptions and scale maps of Wisconsin cities and villages that incorporated with straight line square and rectangular boundaries;
 - Petitioner's population estimates;
 - letter from the Kenosha County describing the status of the county's ongoing comprehensive planning process;
 - letters from the Towns of Brighton, Salem, and Paris indicating that these communities are currently developing boundary agreements with the Town of Bristol;
 - photographs and information about Bristol Progress Days;
 - photographs and information about the Bristol Car Show;
 - certificate of Bristol being an award winner of the Ford Foundation's Innovations in American Government, and
 - newspaper articles about churches in the Town of Bristol.
- Petitioner's November 12th 2008 submittal to the Department, which includes a 'Proposed Development Map' and text interpreting the map.
- Petitioner's December 3rd 2008 submittal to the Department, which includes a letter from attorney Bill White, a revised 'Bristol Development Map' and two tables that accompany this map.
- Copies of draft boundary agreements between the Town of Bristol and the Towns of Brighton, Salem, and Paris.

Petitioner's Submittals following the December 10th 2008 meeting of the Incorporation Review Board in Madison

- Petitioner's December 18th 2008 submittal to the Department, which includes a letter from attorney Bill White, a portion of the Town of Bristol Land Division ordinance pertaining to sidewalks, and a bus route map and schedule of the Western Kenosha County Transit system.
- Petitioner email to the Department on January 7th 2009 with an attached January 7, 2009 letter from the Department of Natural Resources thanking the Town for being the fiscal agent for the Keep Our Waters Clean storm water public education program.
- Petitioner email to the Department on January 2, 2009 with the attached transcripts of the public hearings held for the proposed cooperative boundary agreements with the Towns of Salem, Paris, and Brighton.