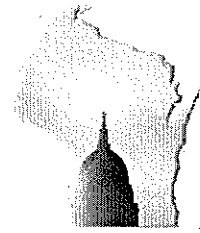


ID# 06590



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

05/23/07 12:04

JIM DOYLE
GOVERNOR

MICHAEL MORGAN
SECRETARY

Division of Intergovernmental Relations
101 E Wilson Street, 10th Floor
Madison, WI 53702-0001
(608) 264-6102, Fax (608) 267-6917
<http://www.doa.wi.gov/>

May 22, 2007

PETITION FILE NO 13049

MARIBETH WITZEL-BEHL, CLERK
CITY OF MADISON
210 MARTIN LUTHER KING JR BLVD
MADISON, WI 53703

THOMAS G. WILSON, CLERK
TOWN OF WESTPORT
5387 MARY LAKE RD
WAUNAKEE, WI 53597

Subject: CHEROKEE PARK, INC ANNEXATION

Please find enclosed an amended petition for this annexation. The original petition was submitted on April 4, 2007 but included some legal description errors. This amended petition addresses those errors. Please contact me at 264-6102 or George Hall at 266-0683 prior to June 6, 2007 if you have any questions or comments because that is our review deadline for this annexation.

For additional information on annexation or other land use issues, visit our web site at www.doa.wi.gov and type 'annexation' in the search box.

Sincerely,

Erich Schmidtke

Enclosures

AMENDED PETITION FOR DIRECT ANNEXATION

Pursuant to Wis. Stats. § 66.0217(2), the undersigned, being the owners of all of the real property in the territory, and there being no electors within the territories which are shown on the scale maps attached hereto as Exhibits A and B, and legally described on the attached Exhibits C and D, do hereby petition to annex said territory from the Town of Westport, Dane County, Wisconsin, to the City of Madison, Dane County, Wisconsin. The population of said territory is zero (0) and there are zero (0) electors residing within the territory.

Upon annexation to the City of Madison, the City may designate a temporary zoning classification which is consistent with the City of Madison Zoning Code

	<u>Property Owner</u>	<u>Elector</u>
By: <u><i>D. Tiziani</i></u> Dennis Tiziani, President Cherokee Park, Inc. 13 Cherokee Circle Madison, WI 53704	<u>X</u>	<u> </u>

Date: 5.8.07

Q:\CLIENT\013929\0003\B1023173.1

Dennis Tiziani
07 MAY 10 PM 1:30
TOWN OF WESTPORT

RECEIVED
MAY 10 2007
BY: *LINE*



**BIRRENKOTT
SURVEYING, INC.**

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI. 53590
Phone (608) 837-7463
Fax (608) 837-1081

ANNEXATION MAP

**PART OF LOT 1, CERTIFIED SURVEY MAP NO.
2225, PART OF THE SOUTHEAST 1/4 OF THE
SOUTHEAST 1/4 OF SECTION 24, T8N, R9E, TOWN
OF WESTPORT, DANE COUNTY, WISCONSIN**

ANNEXATION DESCRIPTION:

Part of Lot 1, Certified Survey Map No. 2225, and part of the Southeast 1/4 of the Southeast 1/4 Section 24, T8N, R9E, Town of Westport, Dane County, Wisconsin being more particularly described as follows: Commencing at the Southeast Corner of said Section 24; thence along the East line of the said Southeast 1/4 $N02^{\circ}02'25''E$, 739.01 feet to the point of beginning; thence continuing along said East line $N02^{\circ}02'25''E$, 70.00 feet to the Easterly extension of the Northerly right of way line of Golf Parkway; thence along said Northerly right of way line $N88^{\circ}03'24''W$ (recorded as $N88^{\circ}25'00''W$), 600.06 feet; thence continuing along said Northerly right of way line $N82^{\circ}57'11''W$ (recorded as $N83^{\circ}18'47''W$), 175.25 feet; thence $N00^{\circ}33'02''E$, 254.69 feet; thence $N48^{\circ}48'27''W$, 168.71 feet to a Westerly corner of said Lot 1, Certified Survey Map No. 2225; thence $S40^{\circ}59'35''W$, 140.30 feet; thence $S86^{\circ}03'20''W$, 132.80 feet; thence $S00^{\circ}23'49''W$, 128.85 feet (recorded as $S00^{\circ}00'14''E$, 130 feet \pm) to the Southerly right of way line of said Golf Parkway; thence along said Southerly right of way line $S42^{\circ}09'19''E$ (recorded as $S42^{\circ}33'13''E$), 108.75 feet to a point on a curve; thence continuing along said Southerly right of way line along a curve to the left having a radius of 190.00 feet and a chord bearing and distance of $S62^{\circ}21'47''E$, 133.65 feet (recorded as $S62^{\circ}56'00''E$, 132.33 feet) to a point of tangency; thence continuing along said Southerly right of way line $S82^{\circ}57'11''E$, 331.82 feet (recorded as $S83^{\circ}18'47''E$, 334.45 feet); thence continuing along said Southerly right of way line $S88^{\circ}03'24''E$, 568.77 feet (recorded as $S88^{\circ}25'00''E$, 367.86 feet) to the Westerly right of way line of North Sherman Avenue; thence along said Westerly right of way line $S02^{\circ}02'25''W$, 30.00 feet; thence $S88^{\circ}03'24''E$ (recorded as $S89^{\circ}23'08''E$), 33.00 feet to the said East line of the Southeast 1/4 and the point of beginning. The above described parcel contains 132,580 square feet, or 3.0436 acres, or 0.004755 square miles.

L:\2006\060409\070086_ANNEX
J:\2006\060408
Sheet 1 of 2
Office Map No. 070086_ANNEX

PREPARED FOR:

CHEROKEE PARK, INC.
13 CHEROKEE CIRCLE
MADISON, WI 53704



**BIRRENKOTT
SURVEYING, INC.**

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI 53590
Phone (608) 837-7463
Fax (608) 837-1081

ANNEXATION MAP

**PART OF THE NORTHWEST 1/4 OF THE
NORTHEAST 1/4 OF SECTION 24, T8N, R9E,
TOWN OF WESTPORT, DANE COUNTY,
WISCONSIN**

ANNEXATION DESCRIPTION:

Part of the Northwest 1/4 of the Northeast 1/4 of Section 24, T8N, R9E, Town of Westport, Dane County, Wisconsin being more particularly described as follows: Beginning at the Northwest corner of Lot 223, Fourth Addition to Cherokee Park, thence N23°32'28"E, 10.00 feet; thence S66°27'32"E, 274.65 feet; thence N10°58'48"E, 300.17 feet; thence N53°11'38"E, 117.12 feet; thence S81°10'16"E, 40.85 feet; thence N08°17'00"E, 280.45 feet; thence N18°07'06"W, 126.76 feet to the North line of the said Northeast 1/4 of Section 24; thence along said North line N88°56'44"W, 365.94 feet to the Easterly shoreline of Cherokee Lake; thence along said Easterly line S00°54'20"E, 76.50 feet; thence continuing along said Easterly line S30°13'52"W, 94.53 feet; thence continuing along said Easterly line S67°57'49"W, 30.60 feet; thence continuing along said Easterly line S34°43'35"W, 159.46 feet; thence continuing along said Easterly line S24°53'29"W, 186.72 feet; thence continuing along said Easterly line S17°05'24"W, 112.68 feet to the Northerly line of said Fourth Addition to Cherokee Park, thence along said Northerly line S66°27'32"E (recorded as S66°52'E), 212.81 feet to the point of beginning. The above described parcel contains 321,793 square feet, or 7.3874 acres, or 0.011542 square miles.

L:\2006\060409\060409_ANNEX
W:\2007\011088

Sheet 2 of 2

Office Map No. 060409_ANNEX



BIRRENKOTT SURVEYING, INC.

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI. 53590
Phone (608) 837-7463
Fax (608) 837-1081

NORTHWEST CORNER
SECTION 19-B-10
FOUND BRASS MONUMENT

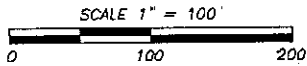
CITY OF MADISON

TOWN OF BURKE

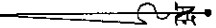
ANNEXATION MAP

PART OF LOT 1, CERTIFIED SURVEY MAP NO. 2225, PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24, T8N, R9E, TOWN OF WESTPORT, DANE COUNTY, WISCONSIN

PREPARED FOR:
CHEROKEE PARK, INC.
13 CHEROKEE CIRCLE
MADISON, WI 53704



BEARINGS REFERENCED TO THE DANE COUNTY COORDINATE SYSTEM AND THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 24-B-9 BEARING N02°02'25"E



ANNEXATION TO THE CITY OF MADISON

ORDINANCE NUMBER _____

I.D. NUMBER _____

DATE ADOPTED _____

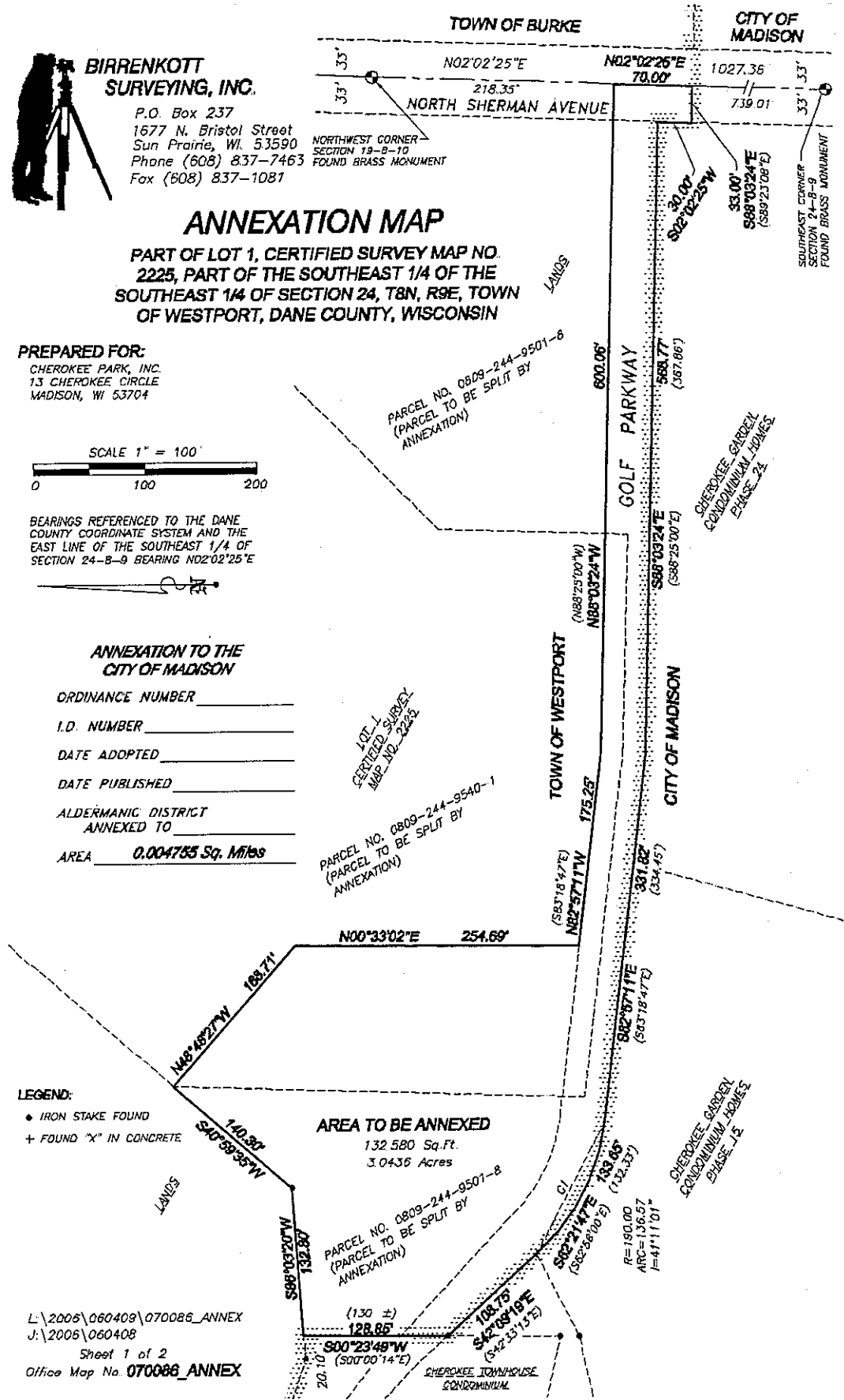
DATE PUBLISHED _____

ALDERMANIC DISTRICT ANNEXED TO _____

AREA 0.004755 Sq. Miles

LEGEND:
● IRON STAKE FOUND
+ FOUND "X" IN CONCRETE

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Sheet 1 of 2
Office Map No. 070086_ANNEX





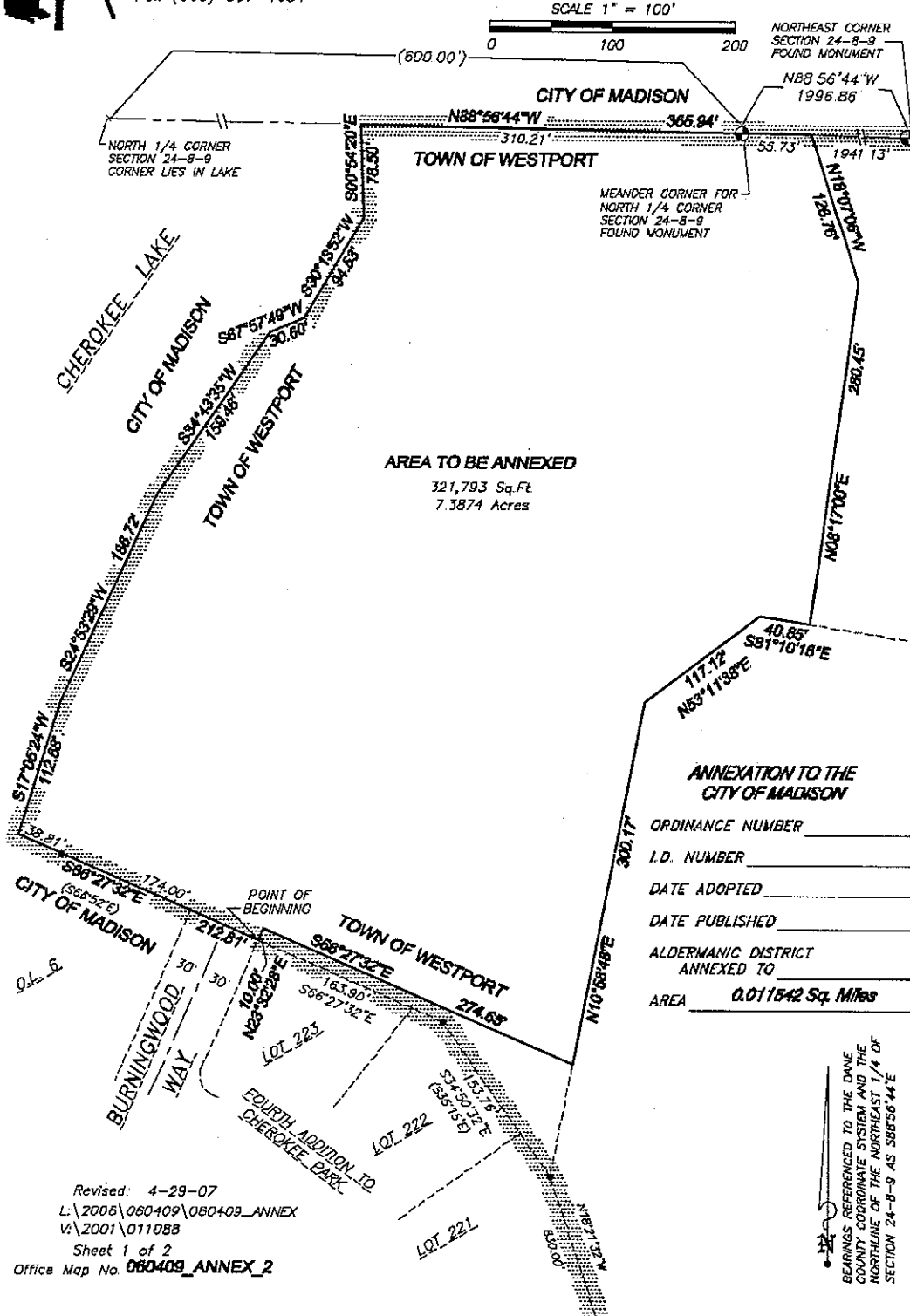
BIRRENKOTT SURVEYING, INC.

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI 53590
Phone (608) 837-7463
Fax (608) 837-1081

ANNEXATION MAP

PART OF THE NORTHWEST 1/4 OF THE
NORTHEAST 1/4 OF SECTION 24, T8N, R9E,
TOWN OF WESTPORT, DANE COUNTY,
WISCONSIN

SCALE 1" = 100'

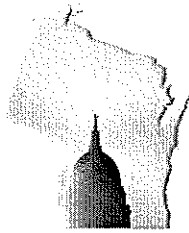


AREA TO BE ANNEXED
321,793 Sq.Ft
7.3874 Acres

ANNEXATION TO THE CITY OF MADISON
ORDINANCE NUMBER _____
I.D. NUMBER _____
DATE ADOPTED _____
DATE PUBLISHED _____
ALDERMANIC DISTRICT ANNEXED TO _____
AREA **0.011542 Sq. Miles**

BEARINGS REFERENCED TO THE DANE COUNTY COORDINATE SYSTEM AND THE NORTHLINE OF THE NORTHEAST 1/4 OF SECTION 24-8-9 AS S88°56'44\"/>

Revised: 4-29-07
L:\2006\060409\080409_ANNEX
V:\2001\011088
Sheet 1 of 2
Office Map No. **060409_ANNEX_2**



07 JUN 12 PM 11:09
**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JIM DOYLE
GOVERNOR

MICHAEL MORGAN
SECRETARY

Division of Intergovernmental Relations
Municipal Boundary Review
101 E Wilson Street, 10th Floor
Madison, WI 53702-0001
(608) 264-6102, Fax (608) 267-6917
<http://www.doa.wi.gov/>

June 11, 2007

DOA PETITION FILE NO. 13049

MARIBETH WITZEL-BEHL, CLERK
CITY OF MADISON
210 MARTIN LUTHER KING JR BLVD
MADISON, WI 53703

THOMAS G. WILSON, CLERK
TOWN OF WESTPORT
5387 MARY LAKE RD
WAUNAKEE, WI 53597

Subject: CHEROKEE PARK, INC ANNEXATION

The proposed annexation submitted to our office on April 5, 2007, has been reviewed and found to be in the public interest.

The subject petition is for territory that is reasonably shaped and contiguous to the City of MADISON.

We received a revised petition on May 17th, that was the subject of a conference call with City staff, as well as email sent to me dated Friday, May 11th.

With respect to the map and legal description associated with part of Lot 1, CSM 2225, I do not believe any part of Town of Burke is involved, as the centerline of North Sherman Ave., appears to be the dividing line between Town of Westport and Town of Burke. Although not marked on the annexation map, there is indeed a point of beginning. And, following case law, towns need not sign for right-of-way included in an annexation petition, particularly when the right-of-way is not by easement. Another question concerning this part of the annexation petition is whether or not the southerly boundary along the south right-of-way line of Golf Parkway actually coincides with the existing City boundary; this is something that only City of Madison can verify. An additional question associated with this description and map is whether parcels can be divided by annexation, even if an un-build-able remnant remains in the town/county, and the answer is yes. Land division by annexation, although not necessarily the best practice, occurs quite frequently, and is a clear statutory option available to petitioners.

The second legal description and map, for Part of the NW1/4 of the NE 1/4, Section 24 ..., includes a 10-foot gap between the existing municipal limit line and the platted property line of the Shabaz parcel (Lot 223) that continues part way behind Lot 222. I understand that this 10-foot by 163.9 + foot-long strip is owned by Shabaz, who for whatever reason declined to include it within the annexation petition. This points out again that property owners are free to draw the petition as they may, as other than hewing to a requirement of contiguity, current annexation law does not require petitions to coincide with established lotlines, section or 1/4-1/4 lines, etc. Although the boundaries are somewhat convoluted, one appears to represent a meander line, and two other boundaries coincide with the existing municipal limit line (except for the 10-foot offset).

The Department reminds clerks of annexing municipalities of the requirements of s. 66.0217 (9)(a), Wis Stats., which states:

"The clerk of a city or village which has annexed shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district."

MARIBETH WITZEL-BEHL, CLERK

THOMAS G. WILSON, CLERK

June 11, 2007

Page 2

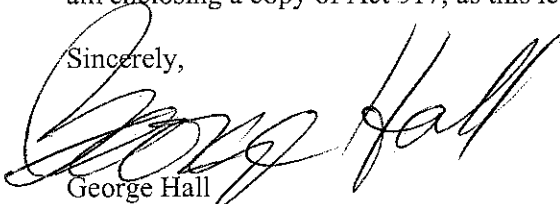
State and federal aids based on population and equalized value may be significantly affected through failure to file with the Secretary of State. Please file a copy of your annexing ordinance, including a statement certifying the population of the annexed territory. **Please also include the MBR number with your ordinance as this assists with record keeping. Your MBR number is: 13049**

The address of the Office of the Secretary of State is:

Annexations and Railroads
Division of Government Records
Office of the Secretary of State
P.O. Box 7848
Madison, WI 53707-7848

Please call me at (608) 266-0683, should you have any questions concerning this annexation review letter. I am enclosing a copy of Act 317, as this legislation may affect the passage of any annexation ordinance.

Sincerely,



George Hall
Municipal Boundary Review

Cc: Attorney William F. White, Michael Best & Friedrich, LLP
Attorney Katherine Noonan, City of Madison

2003 Senate Bill 87

Date of enactment: April 22, 2004

Date of publication*: May 6, 2004

2003 WISCONSIN ACT 317

AN ACT to renumber and amend 66.0223; to amend 66.0217 (2), 66.0217 (3) (intro), 66.0219 (intro) and 66.0221 (1); and to create 66.0217 (11) (c), 66.0217 (14), 66.0219 (10), 66.0221 (3) and 66.0223 (2) of the statutes; relating to: limiting the authority of cities and villages to annex territory and specifying the boundaries for certain annexations

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0217 (2) of the statutes is amended to read:

66.0217 (2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL. If Except as provided in sub. (14), and subject to s. 66.0307 (7), if a petition for direct annexation signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (4). In an annexation under this subsection, subject to sub. (6), the person filing the petition with the city or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the scale map and a legal description of the territory to be annexed to the department and the governing body shall review the advice of the department, if any, before enacting the annexation ordinance

SECTION 2. 66.0217 (3) (intro) of the statutes is amended to read:

66.0217 (3) OTHER METHODS OF ANNEXATION (intro) Subject to s. 66.0307 (7), and except as provided in sub. (14), territory contiguous to a city or village may be annexed to the city or village in the following ways:

SECTION 3. 66.0217 (11) (c) of the statutes is created to read:

66.0217 (11) (c) No action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation under sub. (2), may be brought by any town

SECTION 4. 66.0217 (14) of the statutes is created to read:

66.0217 (14) LIMITATIONS ON ANNEXATION AUTHORITY (a) 1. Except as provided in subd. 2, no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located

* Section 991.11, WISCONSIN STATUTES 2001-02: Effective date of acts "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment]

in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

SECTION 5. 66 0219 (intro.) of the statutes is amended to read:

66.0219 Annexation by referendum initiated by city or village. (intro.) As a complete alternative to any other annexation procedure, and subject to sub. (10) and s. 66 0307 (7), unincorporated territory which contains electors and is contiguous to a city or village may be annexed to the city or village under this section. The definitions in s. 66 0217 (1) apply to this section.

SECTION 6. 66 0219 (10) of the statutes is created to read:

66.0219 (10) LIMITATIONS ON ANNEXATION AUTHORITY. (a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70 65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66 0225, 66 0301, or 66 0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

SECTION 7. 66 0221 (1) of the statutes is amended to read:

66 0221 (1) Upon its own motion and subject to sub. (3) and s. 66.0307 (7), a city or village, by a two-thirds vote of the entire membership of its governing body, may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those that are exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file 6 certified copies of the ordinance in the office of the secretary of state, together with 6 copies of a scale map. The secretary of state shall forward 2 copies of the ordinance

and scale map to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located on the land. No town island may be annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. Section 66 0217 (11) applies to annexations under this subsection. Except as provided in sub. (2), after December 2, 1973, no city or village may, by annexation, create a town area which is completely surrounded by the city or village.

SECTION 8. 66 0221 (3) of the statutes is created to read:

66 0221 (3) (a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70 65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66 0225, 66 0301, or 66 0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

SECTION 9. 66.0223 of the statutes is renumbered 66 0223 (1) and amended to read:

66 0223 (1) In addition to other methods provided by law and subject to sub. (2) and ss. 59 692 (7) and 66 0307 (7), territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the city or village is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached, and attaches the territory to the village or city upon the filing of 7 certified copies of the ordinance in the office of the secretary of state, together with 7 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of administration, one copy to the department

of natural resources, one copy to the department of revenue and one copy to the department of public instruction. Within 10 days of filing the certified copies, a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county in which the annexed territory is located. Section 66 0217 (11) applies to annexations under this section.

SECTION 10. 66 0223 (2) of the statutes is created to read:

66 0223 (2) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

(a) The town board adopts a resolution approving the proposed annexation

(b) The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

(c) The city or village, and the town, enter into a boundary agreement under s 66 0225, 66 0301, or 66 0307

SECTION 11. Initial applicability.

(1) This act first applies to any annexation that has not taken effect on the effective date of this subsection
