



# CITY OF LA CROSSE COUNCIL LEGISLATION

File #

2004-02-001

**CAPTION:**

Intergovernmental Boundary Agreement with the Town of Campbell and Resolution regarding same.

**REFERRAL ROUTE:**

Special Council Mtg 02/12/04, 6:00 p.m.

**ACTIONS AND DATES: (for Clerk's Office use only)**

RESOLUTION ADOPTED  
FEB 12 2004  
BY COUNCIL

REQUESTED BY:

INTRODUCED BY:

RESOLUTION

BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby approves the Stipulation and Intergovernmental Agreement between the Town of Campbell and the City of La Crosse with the following provisions:

1. That the remedies section not include attorney fees.
2. That the formula and map relative to the four square miles, which has not been received yet, be subject to approving verification of the boundary map by the Mayor, Common Council President and City Attorney.

BE IT FURTHER RESOLVED that upon receipt of the requisite exhibit in connection with said agreement, the Mayor and City Clerk are authorized to execute the same and the appropriate City officials are authorized to take any and all steps necessary to effectuate said agreement.

FILE 2004-02-001

APPROVED  
FEB 24 2004

FEB 24 2004

RJH  
Mayor

AGREEMENT BETWEEN THE CITY OF LA CROSSE AND  
THE TOWN OF CAMPBELL

The City of La Crosse, a Wisconsin municipal corporation with offices at 400 La Crosse Street, La Crosse, Wisconsin, 54601, and the Town of Campbell, a Wisconsin municipality with offices at 2219 Bainbridge Street, La Crosse, Wisconsin, 54603, enter into this stipulation and agreement, subject to approval of the courts having jurisdiction, compromising and settling the litigation and determining the common boundary line between the municipalities under authority of Wisconsin Statutes §§66.0225, to the extent applicable and 66.0301.

RECITALS

- A. There are boundaries of the City and the Town that are immediately adjacent as shown on Exhibit 1.
- B. The City and the Town are parties to multiple court actions for the purpose of testing the validity or invalidity of annexations and an incorporation.
- C. It is the intention of the City and Town that the courts having jurisdiction of the litigation, subject to this stipulation, may enter a final judgment incorporating the provisions of the stipulation and agreement and fixing the Common Boundary Line between the municipalities involved.
- D. On February 12, 2004, the Common Council of the City of La Crosse, approved this stipulation and agreement.
- E. On February 24, 2004, the Town Board of the Town of Campbell approved this stipulation and agreement.
- F. The City and Town enter into this stipulation and agreement for the purposes of establishing a long-term boundary, assuring orderly growth and development, allowing the Town to maintain land area of at least four (4) square miles, protecting town property owners from annexations against their will and facilitating annexation of lands to the City at the will of the owners who need city services, without threat of lawsuits.
- G. The City and Town have independently determined that this agreement best promotes the mutual public health, safety, order, convenience, prosperity and general welfare as well as efficiency and economy of development within both the City and the Town.

NOW, THEREFORE, it is agreed by and between the parties as follows:

TERMS OF AGREEMENT

- A. This agreement shall commence as of the date of entry of judgment of this stipulation and agreement and shall terminate on January 1, 2025.
- B. The parties mutually agree to the Common Boundary Line between the municipalities as described on the attached Exhibit 1 and request the court having jurisdiction to enter a final judgment incorporating the provisions of this stipulation and fixing the Common Boundary Line.
- C. The Town shall retain a minimum of four (4) square miles at all times during the term of this Agreement.
- D. All pending lawsuits between the Town of Campbell and the City of La Crosse shall be dismissed.
- E. The City may approve annexations on Hiawatha Island and any property deemed necessary by the Federal Aviation Administration for the safety of airport operations.

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F. The Town and the City shall jointly request the Department of Administration to dismiss the currently pending incorporation petition.

G. The Town may seek incorporation after June 30, 2024.

(Insert Exhibit 1)

EXHIBIT 1

Dated this 27<sup>th</sup> day of May, 2004.

TOWN OF CAMPBELL  
Daniel E. Kapanke, Chairperson  
Gerald J. Weis, Clerk

CITY OF LA CROSSE  
John D. Medinger, Mayor  
Teri Lehrke, City Clerk

NOTE: This publication is made pursuant to sec. 66.0225, Wis. Stats. The complete legal description of the areas on Exhibit 1 is on file in the offices of the City Clerk for La Crosse and the Town Clerk for Campbell. This Agreement is the substance of stipulations and judgments to resolve annexation litigation. Complete copies of the stipulations and judgments are also on file in the Clerks' offices.

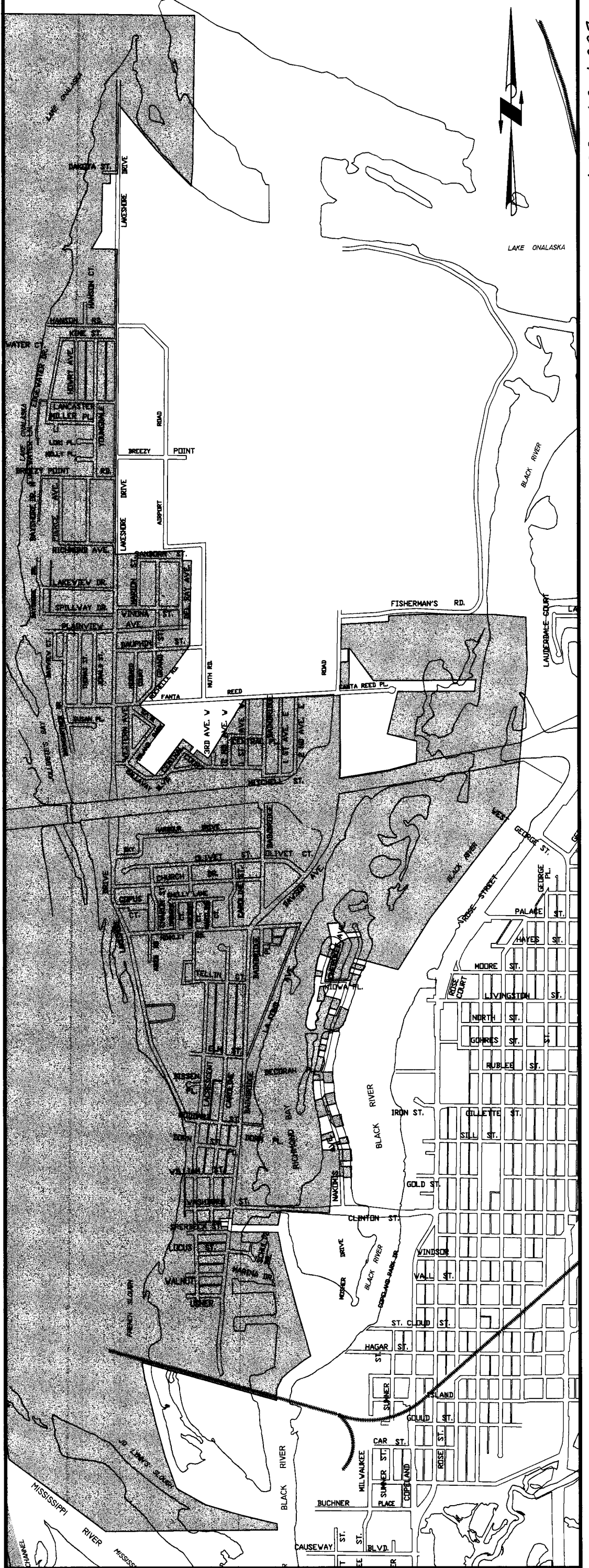
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Publish: August 10, 2004  
(Map to be provided electronically by Jay Crandall, City Engineering Dept.)  
1 Affidavit to each Clerk below

Bill 50/50 to: City of La Crosse Clerk  
400 La Crosse St.  
La Crosse, WI 54601

Campbell Town Clerk  
2219 Bainbridge St.  
La Crosse, WI 54603

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LAKE ONALASKA



2004-02-001

TOWN OF CAMPBELL,

Plaintiff

vs.

CITY OF LA CROSSE,

Defendant.

Case No. 97-CV-126 (Smith)  
Case No. 97-CV-127 (Becker)  
Case No. 97-CV-128 (McCormick)  
Case No. 97-CV-134 (Edwards)

STIPULATION AND INTER-GOVERNMENTAL AGREEMENT  
BETWEEN THE TOWN OF CAMPBELL AND THE CITY OF LA CROSSE

The City of La Crosse, (hereinafter referred to as "City"), a Wisconsin municipal corporation with offices at 400 La Crosse Street, La Crosse, Wisconsin, 54601, and the Town of Campbell, (hereinafter referred to as "Town"), a Wisconsin municipality with offices at 2219 Bainbridge Street, La Crosse, Wisconsin, 54603, enter into this stipulation and agreement, subject to approval of the courts having jurisdiction, compromising and settling the litigation and determining the common boundary line between the municipalities under authority of Wisconsin Statutes §§66.0225, to the extent applicable and 66.0301.

RECITALS

- A. There are boundaries of the City and the Town that are immediately adjacent as shown on Exhibit 1.
- B. The City and the Town are parties to multiple court actions for the purpose of testing the validity or invalidity of annexations and an incorporation.
- C. It is the intention of the City and Town that the courts having jurisdiction of the litigation, subject to this stipulation, may enter a final judgment incorporating the provisions of the stipulation and agreement and fixing the Common Boundary Line between the municipalities involved.
- D. On February 12, 2004, the Common Council of the City of La Crosse, approved this stipulation and agreement.
- E. On February 24, 2004, the Town Board of the Town of Campbell approved this stipulation and agreement.

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F. The City and Town enter into this stipulation and agreement for the purposes of establishing a long-term boundary, assuring orderly growth and development, allowing the Town to maintain land area of at least four (4) square miles, protecting town property owners from annexations against their will and facilitating annexation of lands to the City at the will of the owners who need city services, without threat of lawsuits.

G. The City and Town have independently determined that this agreement best promotes the mutual public health, safety, order, convenience, prosperity and general welfare as well as efficiency and economy of development within both the City and the Town.

SECTION I: TERM OF AGREEMENT

This agreement shall commence as of the date of entry of judgment of this stipulation and agreement and shall terminate on January 1, 2025.

SECTION II: PARTICIPATING MUNICIPALITIES

This stipulation and agreement applies to the City of La Crosse and the Town of Campbell, located in La Crosse County, Wisconsin.

SECTION III: COMMON BOUNDARY LINE

The parties mutually agree to the Common Boundary Line between the municipalities as described on the attached Exhibit 1 and request the court having jurisdiction to enter a final judgment incorporating the provisions of this stipulation and fixing the Common Boundary Line.

SECTION IV: FOUR (4) SQUARE MILE REQUIREMENT

A. The City and the Town understand that Wisconsin Statute §66.0205 provides that the minimum area requirement for a metropolitan village is four (4) square miles. It is the intent of the City and the Town that a sufficient area for incorporation under Wisconsin Statute §66.0205 shall be retained by the Town during the term of this agreement in order to meet the statutory requirement.

B. The total land area of the Town as a result of the Common Boundary Line described in Section III is 4.0569 square miles.

C. Under no circumstances shall the City be allowed to annex property if doing so would cause the Town to go below four (4) square miles.

SECTION V: DISMISSAL OF LAWSUITS

A. Upon the entry of a final judgment incorporating the provisions of this stipulation, the following lawsuits shall be dismissed:

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<u>CASE NO.</u>	<u>CAPTION</u>
96-CV-764	Town of Campbell v. City of La Crosse (Trueblood)
97-CV-126	Town of Campbell v. City of La Crosse (Smith, Vogel, et al.)
97-CV-127	Town of Campbell v. City of La Crosse (Becker, et al.)
97-CV-128	Town of Campbell v. City of La Crosse (McCormick)
97-CV-134	Town of Campbell v. City of La Crosse (Edwards, et al.)
97-CV-129	Town of Campbell v. City of La Crosse (Mahnke, Swanson, Scott)
97-CV-130	Town of Campbell v. City of La Crosse (Dahle)
97-CV-131	Town of Campbell v. City of La Crosse (Henriksen, Pfister)
97-CV-132	Town of Campbell v. City of La Crosse (Gallagher)
97-CV-133	Town of Campbell v. City of La Crosse (Briggs)
97-CV-324	Town of Campbell v. City of La Crosse (Bertram)
97-CV-325	Town of Campbell v. City of La Crosse (Giese)
97-CV-326	Town of Campbell v. City of La Crosse (Hoffman)
97-CV-327	Town of Campbell v. City of La Crosse (Morkwed)
97-CV-328	Town of Campbell v. City of La Crosse (Schroeder)
97-CV-329	Town of Campbell v. City of La Crosse (Wakeen)
97-CV-456	Town of Campbell v. City of La Crosse (Burrirt)
97-CV-457	Town of Campbell v. City of La Crosse (Gallagher 2nd)
97-CV-631	Town of Campbell v. City of La Crosse (Plueger)
97-CV-632	Town of Campbell v. City of La Crosse (Boyd)
97-CV-633	Town of Campbell v. City of La Crosse (Jandt)
97-CV-634	Town of Campbell v. City of La Crosse (Johnson)
97-CV-635	Town of Campbell v. City of La Crosse (Binsfield)
97-CV-636	Town of Campbell v. City of La Crosse (Melby)
00-CV-075	Town of Campbell v. City of La Crosse (Graf)
00-CV-754	Town of Campbell v. City of La Crosse (Smith)
01-CV-577	Town of Campbell v. City of La Crosse (3431 Lakeshore Drive)
02-CV-699	Town of Campbell v. City of La Crosse (Hetzel)
02-CV-700	Town of Campbell v. City of La Crosse (.01 Acres)
02-CV-711	In the Matter of the Incorporation as a Village of Certain Territory in the Town of Campbell
03-CV-109	Town of Campbell v. City of La Crosse (Jarchow)
02-1150	In the Matter of the Incorporation as a Village of Certain Territory in the Town of Campbell
02-2541	Town of Campbell v. City of La Crosse (Smith, Becker, McCormick)
02-2586	Town of Campbell v. City of La Crosse (Edwards)

B. The City and the Town agree that there shall be no division of assets or liabilities nor tax pro ration as it relates to the annexation disputes dismissed by this stipulation.

C. No costs or attorneys fees shall be assessed against either party.



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SECTION VI: FUTURE ANNEXATIONS

A. The City will not accept any annexation request from any property owner on the main island, except as provided for in Paragraph B of this section.

B. La Crosse shall not accept nor approve any annexation requests from any property owner in the Town of Campbell except those on Hiawatha Island and any property deemed necessary by the Federal Aviation Administration for the safety of airport operations. The territory making up Hiawatha Island is attached as Exhibit 2. Annexation of territory on Hiawatha Island must be unanimous direct annexation pursuant to §66.0217(2).

C. The City shall give the Town at least twenty (20) days notice, in writing, of its intent to annex said lands (see also procedure to calculate area being annexed). The Town and the City shall calculate the remaining area within the Town at the time of the consideration of each annexation and no annexation shall be accepted by the City if, based upon the calculations set forth in Exhibit 3, the Town will fall below the required four (4) square miles. Any disagreement as to whether the Town will fall below the four (4) square miles shall be resolved by the court that entered judgment in this case, on motion by either party for determination by the court.

D. The Town shall not contest, nor support opposition to, annexations, on any grounds whatsoever, including contiguity, consistent with the terms of this agreement.

SECTION VII: INCORPORATION PETITIONS

A. Upon entry of judgment incorporating this stipulation and agreement, the Town and the City shall jointly request the Department of Administration to dismiss the currently pending incorporation petition.

B. The Town shall not assist or support in any way, including financially, any effort to incorporate the whole Town or any part of the Town until after June 30, 2024. The purpose of this agreement is to preserve the Town's ability to seek incorporation during the last six (6) months of this agreement (after June 30, 2024), and provide financial and any other assistance it deems necessary to accomplish incorporation. The area of the Town proposed for incorporation may include all lands remaining in the Town as of June 30, 2024.

C. The City reserves the right to oppose and/or contest any incorporation on any basis except the land area of the Town, which is understood and agreed to be preserved at or above four (4) square miles throughout the term of this agreement.

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SECTION VIII: MUNICIPAL SERVICES

The parties acknowledge that the City and the Town currently have agreements for cooperation and provision of services related to sanitary sewer treatment, bus service and recycling services. This agreement is not intended to affect or impair agreements that are currently in existence. The City and the Town further agree that the existing agreements for bus service and recycling may be discontinued if the City and the Town cannot reach an agreement to renew or continue said services. The parties agree that the sanitary sewer service contract will not be discontinued during the term of this agreement. The City shall not be obligated to provide any other City service during the term of this agreement. The agreement does not prevent the City and the Town from making agreements for the provision of other municipal services on terms and conditions subsequently agreed to by the parties.

SECTION IX: INTERPRETATION OF AGREEMENT

This document has been jointly drafted by representatives of the City and the Town.

SECTION X: CHALLENGE TO AGREEMENT

A. Should a third party challenge the validity or enforceability of this agreement or any of its provisions, the City and the Town shall fully cooperate to vigorously defend the agreement. Settlement of any action shall be permitted only with the approval of the governing bodies of both the City and the Town.

B. A challenge to this agreement by the City or the Town or a failure to vigorously defend this agreement constitutes a breach.

C. If a challenge to the validity or enforceability of this agreement or any statutory provision under which this agreement is entered into is declared unconstitutional or any part of this agreement is declared invalid, the City and the Town agree to proceed to establish a cooperative boundary agreement, pursuant to Wisconsin Statute §66.0307, or any successive statute upon the same terms and conditions as provided herein. The goal of the City and the Town is to ensure the enforceability of the terms of this agreement.

SECTION XI: BINDING EFFECT OF AGREEMENT

This agreement shall bind, and accrue to the benefit of, all successors of the City and Town, whether one or more.

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SECTION XII: REMEDIES

A. In the event of a breach of this agreement, the City and the Town shall meet to seek a resolution within thirty (30) days following written notice by one party to the other party of the breach.

B. Either party may seek declaratory judgment or specific performance of this agreement by court action in addition to any other remedies available at law or in equity.

C. In the event it is determined that an annexation would cause the Town area to fall below four (4) square miles, the Town may apply to the circuit court in La Crosse County to enforce the terms of this agreement related to the preservation of the four (4) square miles.

SECTION XIII: AMENDMENT

This agreement may be amended upon the mutual agreement of the parties during the term hereof.

CITY OF LA CROSSE, a Wisconsin Municipal Corporation

05/27/04  
Date

*J. Medley*  
Mayor

5/27/04  
Date

*Jeri Lybke*  
Clerk

TOWN OF CAMPBELL, a Wisconsin Municipality

5/28/04  
Date

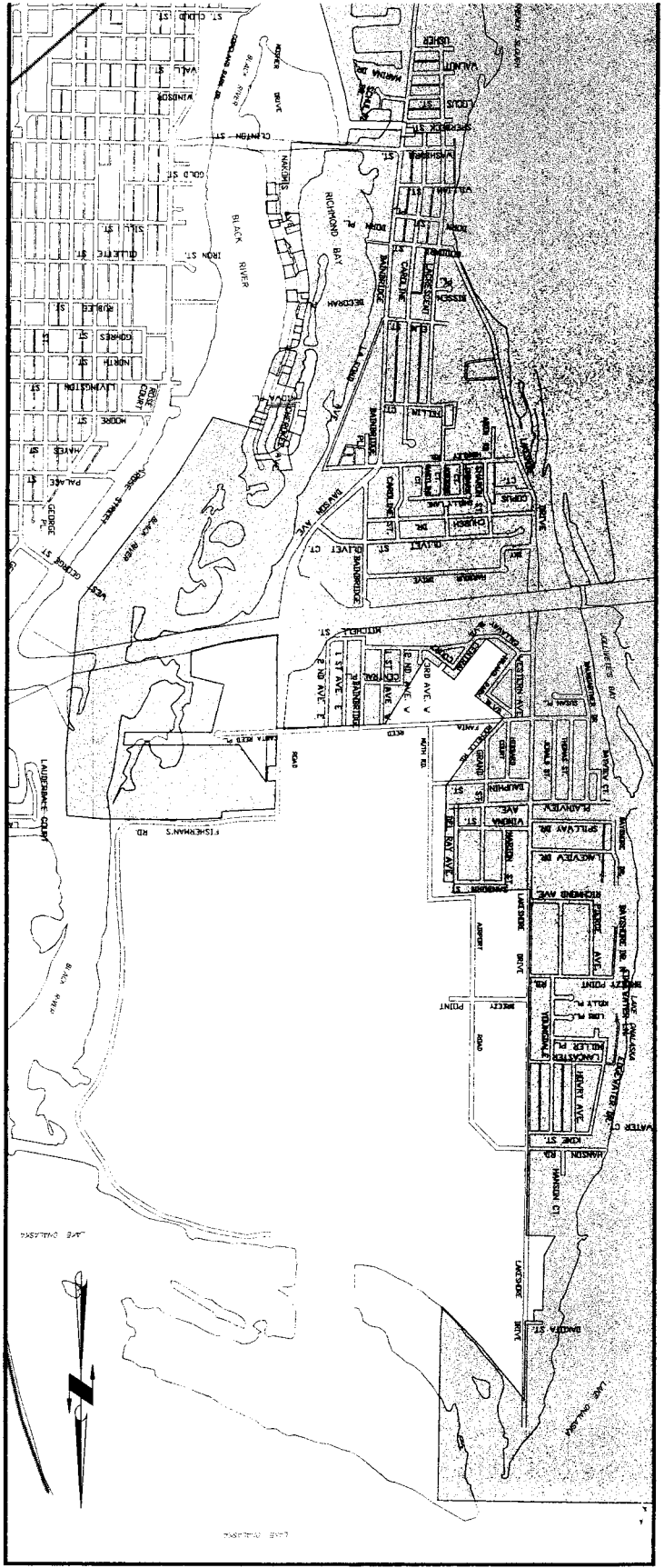
*Daniel E Lyman*  
Town Chairperson

5/25/04  
Date

*Handwritten Signature*  
Town Clerk

Drafted by: Patrick J. Houlihan, SBN: 1014519  
Pamela A. Captain, SBN: 1023192  
John D. Claypool, SBN: 1003743

2004-02-001



LEGAL DESCRIPTION  
OF  
HIAWATHA ISLANDS

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Part of Government Lots 3 and 4, Section 19, T16N, R7W, Town of Campbell, La Crosse County, Wisconsin including all of the following additions: Terpstra Addition to Hiawatha Islands Addition, Hiawatha Islands Addition, First Addition to Hiawatha Islands Addition, Second Addition to Hiawatha Islands Addition, Third Addition to Hiawatha Islands Addition, Fourth Addition to Hiawatha Islands Addition, and Fifth Addition to Hiawatha Islands Addition. Also a part of the Northwest Quarter of the Northwest Quarter of Section 20, T16N, R7W, Town of Campbell, La Crosse County, Wisconsin all more particularly described as follows:

Beginning at the intersection of the Centerline of the Black River Channel and the North line of Section 20, T16N, R7W and commencing Westerly along said North line to the NE Corner of Section 19, T16N, R7W and continuing along the north line of Section 19 to its intersection of the Centerline of Richmond Bay (Cat Gut Slough);

Thence Southerly along the Centerline of Richmond Bay to the former South right-of-way line of Clinton Street;

Thence Easterly along the former South right-of-way to its intersection with the Centerline of the Black River;

Thence Northerly along the Centerline of the Black River to the Point of Beginning.

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**METHODOLOGY FOR**  
**DETERMINING THE OFFICIAL LAND AREA**  
**OF PARCELS BEING REMOVED FROM THE**  
**TOWN OF CAMPBELL VIA ANNEXATIONS**

WHENEVER THE FINAL SETTLEMENT DATE IS DETERMINED BY THE COURTS, THE FOLLOWING METHODOLOGY WILL BE USED TO DETERMINE THE OFFICIAL LAND AREA OF ALL PARCELS BEING REMOVED FROM THE TOWN OF CAMPBELL VIA ANNEXATION.

**BACKGROUND:**

THE OFFICIAL LAND AREA FOR THE TOWN OF CAMPBELL IS BASED ON THE LOCATION OF TERRESTRIAL VEGETATION AS DETERMINED FROM MAPS PROVIDED BY THE U.S. FISH AND WILDLIFE SERVICE. THE SEPARATION OF AQUATIC AND TERRESTRIAL VEGETATION IS BASED ON THE ORDINARY HIGH-WATER MARK. (SEE THE FOLLOWING DEFINITIONS). Maintaining 4 square miles of land area is an integral part of this agreement and at no time during the term of this agreement shall the Town's land area be less 4 square miles.

**ORDINARY HIGH WATER MARK:** The ordinary high water mark (OHWM) is the point on the bank or shore where the water is present often enough to leave a distinct wear mark. More specifically, the OHWM is the point on the bank or shore up to which the water, by its presence and action or flow, leaves a distinct mark indicated by erosion, destruction of or change in vegetation or other easily recognizable characteristic. For more information, refer to the DNR Publication "*Public or Private? II - Ordinary High Water Mark*".

**RIPARIAN =** LOCATED ON THE BANK OF A NATURAL WATERCOURSE, OR SOMETIMES OF A LAKE OR TIDEWATER.

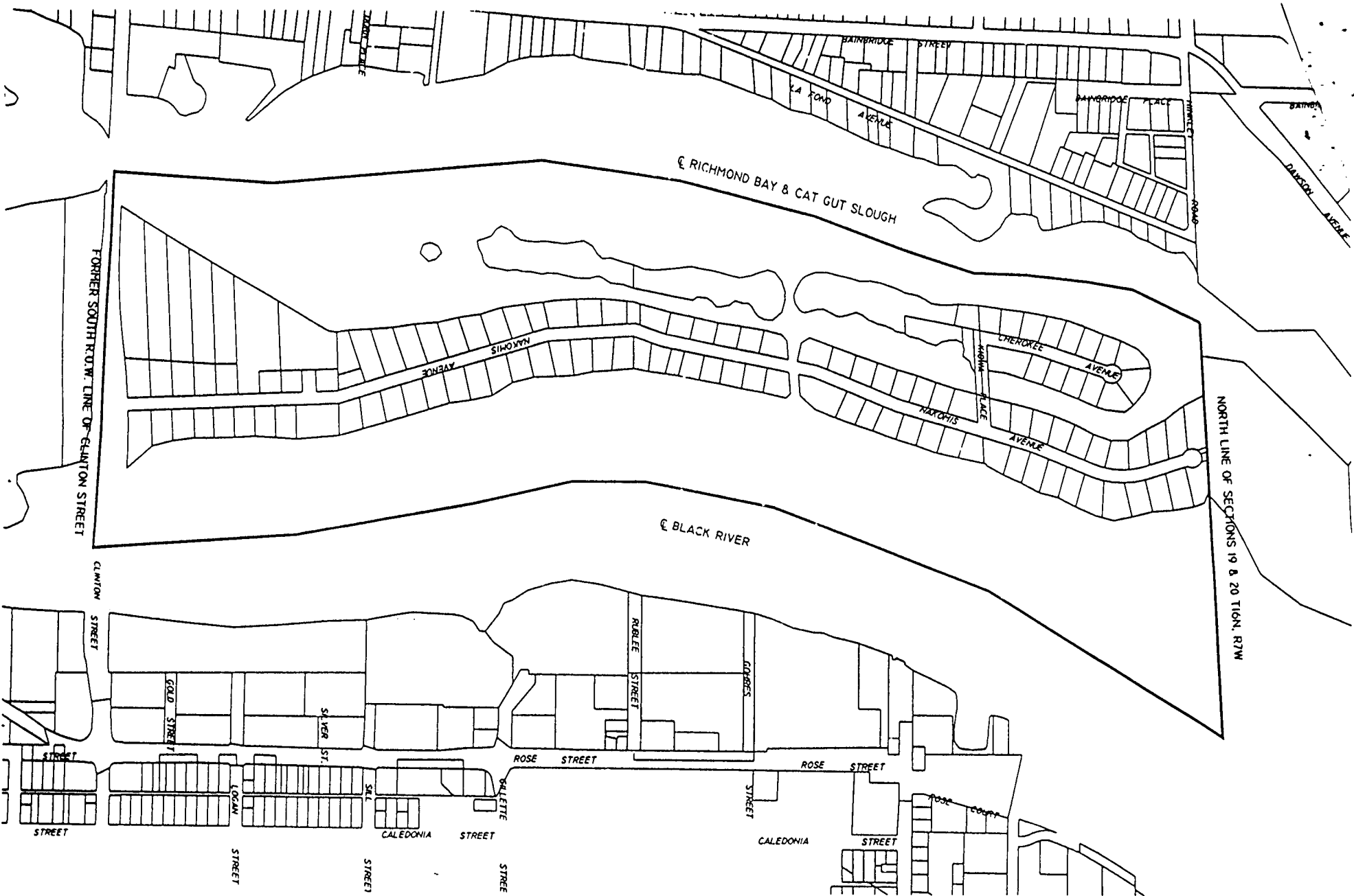
**METHODOLOGY TO DETERMINE THE OFFICIAL LAND AREA OF RIPARIAN PARCELS:**

1. DETERMINE THE ELEVATION OF THE ORDINARY HIGH-WATER MARK. The City Engineer and Town Engineer will confer on the correct location of the OHWM for the parcel in question, conducting a field survey if necessary.
2. DETERMINE THAT PORTION OF THE PARCEL LOCATED ABOVE THE ORDINARY HIGH-WATER MARK.
3. COMPUTE THE OFFICIAL LAND AREA OF THAT PORTION OF THE PARCEL LOCATED ABOVE THE ORDINARY HIGH-WATER MARK.
4. IN ADDITION TO THE TOTAL AREA OF THE PARCEL BEING ANNEXED, THE ANNEXATION DOCUMENT SHOULD ALSO NOTE THE OFFICIAL LAND AREA.

**METHODOLOGY TO DETERMINE THE OFFICIAL LAND AREA OF NON-RIPARIAN PARCELS:**

1. THE OFFICIAL LAND AREA WILL BE BASED ON THE LENGTH AND WIDTH OF THE PARCEL, AS SHOWN ON THE PLAT MAPS OR THE METES AND BOUNDS DESCRIPTION IN THE LATEST DEED FOR THE PARCEL, PLUS ANY ROAD RIGHT-OF-WAY ATTACHED TO THE ANNEXATION.

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2004-02-01