



Agenda Item No.
Copy Mailed to Alderpersons

City of Madison, Wisconsin

A SUBSTITUTE RESOLUTION _____

authorizing the Mayor and City Clerk to execute an intergovernmental agreement between the City of Madison and the Town of Middleton regarding boundary changes and other urban growth and delivery of municipal service issues, pursuant to an approved cooperative plan under Sec. 66.0307, Wis. Stats., and authorizing participation of the City of Madison in the preparation of the cooperative plan for public hearing and submittal to the Wisconsin Department of Administration for approval.

Presented February 5, 2002 "TITLE"
Referred Plan Commission, Board of Estimates, Board of Public Works
Rereferred _____
Reported Back March 5, 2002
Adopted POF
Rules Susp. _____ Tabled _____
Public Hrg. _____

APPROVAL OF FISCAL NOTE BY THE
COMPTROLLER'S OFFICE IS NEEDED

Approved by:

Comptroller's Office

RESOLUTION NO. 59205-
ID NO. 3153

Drafted by: James M. Voss
Assistant City Attorney
Katherine C. Noonan
Assistant City Attorney

Date: March 5, 2002

Fiscal Note: The proposed agreement contains several provisions which would provide a more orderly process for the extension of urban services and annexation of town property during the next 40 years. Few are likely, however, to have significant budgetary impacts in the near future. The agreement would allow the City to levy special assessments against properties in the township payable when the properties are annexed to the City at a later date. The agreement would also provide a 5 year schedule of declining revenues to the township for any commercial property annexed to the City.

SPONSOR(S): Susan J. M. Bauman, Mayor

WHEREAS, in 1994, the City of Madison entered into an intergovernmental agreement with the Town of Middleton which established a north/south line generally along Pioneer Road between Blackhawk Road and the south town line. The two primary provisions in the agreement were that the Town agreed not to oppose annexations east of the line, and the City agreed not to exercise its extraterritorial jurisdiction over land divisions west of the line; and

WHEREAS, on September 20, 2001, a citizen group in the Town started a procedure to

incorporate the entire town into a village by publishing a notice of intent to circulate a petition seeking incorporation. The incorporators have up to six (6) months (until March 20, 2002) to circulate a petition and file it in Circuit Court. If the Circuit Court finds that basic requirements are met, the petition is forwarded to the Department of Administration for further review, public hearing and a final decision. The City opposes the proposed incorporation and has adopted a Substitute Resolution No. 58853, ID No. 30382, on November 6, 2001, indicating the willingness of the City to annex the Town territory designated in the petition; and

WHEREAS, City staff has met with attorneys representing the Town (not the incorporators) to discuss the incorporation effort, the 1994 agreement and the possibility of entering into a more permanent agreement which would address concerns which led to the incorporation effort. Although City staff believes that the current incorporation effort has little chance of succeeding, staff concluded that if the City is able to enter into a permanent boundary agreement with the Town which resulted in significant benefits for both the City and the Town, and avoided several years of incorporation and annexation battles, it would be in our mutual long-term best interests; and

WHEREAS, negotiations have resulted in the preparation of a draft intergovernmental agreement which has benefits for both the City and the Town—one which will establish clear long-term boundaries and expectations which would allow both units of government and all affected property owners and residents to move forward with long-range planning for the greater west side. The proposed agreement with the Town is intended to establish planning and development ground rules which would avoid some of the problems which have resulted in other areas where application of current State annexation laws has resulted in irregular and, in some cases, confusing boundaries between the City and adjoining townships; and

WHEREAS, the proposed intergovernmental agreement with the Town of Middleton contains the following major provisions:

1. The Town will not object to the annexation/attachment of land to the City by unanimous consent east of a boundary line running roughly along Pioneer Road and Meadow Road between Blackhawk Road and the south town line. With some exceptions, the City agrees to not annex/attach land against an owner's wishes. One of these exceptions may be lands that are included in an annexation petition signed, among others, by the Roman Catholic Diocese of Madison.
2. The Town agrees to allow the City to create "town islands" to bypass lands whose owners do not want to annex at this time. Creation of these town islands avoids the long peninsulas of town land along town roads which otherwise need to be created as adjoining lands are annexed/attached. The City agrees to annex/attach abutting roadways whenever possible. After 40 years, any remaining town islands or parcels of land east of the boundary line will be unilaterally attached to the City.
3. The Town agrees to allow the City to regulate all major development east of the line to ensure that land uses and development are consistent with the City's plans. The City agrees to exercise its best efforts to provide Town residents and property owners with notice of City land use hearings that affect nearby properties.

4. The City will allow owners of 5 acres of land or more to create one additional lot for the development of a single-family home without requiring that the property be annexed/attached immediately.
5. The Town will allow the City to levy special assessments against properties in the township for public improvements and utility extensions that benefit town properties. These assessments will be indexed for inflation of construction costs and payments of the assessments will begin when the properties are annexed/attached to the City.
6. The City and the Town agree to establish a transition area $\frac{1}{4}$ mile either side of Pioneer Road. The type and density of development within this area will ensure that the development of local roads are coordinated east and west of Pioneer Road, the density of development is compatible from one side to the other, and that a well landscaped buffer occurs both east and west of Pioneer Road so that there is a clear and regular boundary. Development is limited to residential uses at densities of 4-units per net acre and to governmental uses within the transition area.
7. As an incentive for existing Town property owners with failing septic systems and wells to invest in City services rather than in replacement septic systems and wells, the City will allow connection to available sewer and water service, conditioned upon agreement that the property owners' land will be annexed/attached within 5 years.
8. The City agrees not to annex land west of the boundary line except by 2/3 permission of the Town Board.
9. When the City annexes/attaches commercial property, the City will pay the Town a share of the tax revenues from the property (based on the Town's tax rate in the year of attachment) for 5 years on a 50-10% declining scale.
10. If the incorporation petition is filed with Circuit Court, the City retains the right to void this proposed agreement.
11. The Town and the City agree to fully cooperate and participate in the preparation of a cooperative plan that incorporates the foregoing provisions and shall seek approval thereof under § 66.0307, Wis. Stats.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to § 66.0301, Wis. Stats., the Mayor and City Clerk are hereby authorized to enter into a new intergovernmental agreement with the Town of Middleton which contains the above major provisions, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the Common Council of the City of Madison hereby authorizes the City and all necessary staff to participate in the preparation of a cooperative plan which contains all of the applicable provisions set forth in the said intergovernmental agreement, and any further provisions deemed necessary by Town and City attorneys, under § 66.0307, Wis. Stats.

BE IT FURTHER RESOLVED that the City Clerk shall provide notice of this resolution as required under § 66.0307(4)(a), Wis. Stats., and shall work with the Town Clerk/Administrator to schedule and notice a joint public hearing on the proposed plan under sub. (4)(b), thereof.

This is to certify that the foregoing resolution
was adopted by the Common Council of the
City of Madison, Wisconsin at a meeting held
on the 5th day of March, 20 02

Ray Fisher
City Clerk

RESOLUTION 2002-1

TOWN OF MIDDLETON
DANE COUNTY, WISCONSIN

A RESOLUTION APPROVING
AN INTERGOVERNMENTAL AGREEMENT
WITH THE CITY OF MADISON AND AUTHORIZING
PREPARATION OF A COOPERATIVE PLAN
WITH THE CITY OF MADISON

Recitals:

- A. In 1994, the Town of Middleton and the City of Madison entered into an agreement which established a line generally along Pioneer Road between Blackhawk Road and the South Town Line and provided that the Town would not oppose annexations east of the line and the City would not exercise extraterritorial jurisdiction west of the line.
- B. On September 20, 2001, a citizen group published notice of intent to circulate a petition to incorporate the Town as a village.
- C. Thereafter, representatives of the Town and the City met on numerous occasions to negotiate a new intergovernmental agreement. A copy of the new agreement ("Agreement") they negotiated is attached.
- D. The Town Board find the Agreement to be in the public interest.

Resolution:

THEREFORE, the Town Board of the Town of Middleton, Dane County, Wisconsin do RESOLVE as follows:

1. The attached Intergovernmental Agreement is approved.
2. Attorneys for the Town are authorized to make such minor changes as they deem necessary to edit or clarify the Agreement without changing its substance.

3. The Town Chairperson and Town Clerk are authorized to sign the Agreement on behalf of the Town.
4. Participation in the preparation of a cooperative plan with the City of Madison is authorized as provided in the attached Agreement and in accordance with sec. 66.0307, Wis. Stats.
5. The Town Clerk is directed to give notice of this Resolution as provided in sec. 66.0307(4)(a), Wis. Stats.
6. The Town Clerk is further directed to work with City representatives to schedule a public hearing as provided in sec. 66.0307(4)(b), Wis. Stats., at the earliest convenient time.

This Resolution was duly adopted at a meeting held on March 5, 2002.

APPROVED

BY: 
Milo Breunig, Town Chairperson

ATTEST:

BY: 
Jim Mueller, Town Administrator/Clerk