

SEWRPC Community Assistance Planning Report No. 295  
A COMPREHENSIVE PLAN FOR THE TOWN OF POLK: 2035

## Chapter XI

# INTERGOVERNMENTAL COOPERATION ELEMENT

## INTRODUCTION

The intergovernmental cooperation element is one of the nine elements of a comprehensive plan required by Section 66.1001 of the *Wisconsin Statutes*. Section 66.1001(2)(g) of the *Statutes* requires this element to compile goals, objectives, policies, programs, and maps for joint planning and decision making between the Town and other jurisdictions, including school districts and local governments, for the siting and building of public facilities and for sharing public services. The *Statutes* also requires this element to:

- Analyze the relationship of the Town to school districts, drainage districts, adjacent local governments, Washington County, the Region, the State, and to other governmental units (such as sanitary districts and library boards)
- Incorporate any plans or agreements to which the Town is a party under Sections 66.0301, 66.0307, or 66.0309 of the *Statutes*
- Identify existing or potential conflicts between the Town, other local governments, the County, or the regional planning commission, and to describe the processes to resolve such conflicts.

Some of the benefits of Intergovernmental Cooperation include:

- **Cost Savings**  
Cooperation can save money by increasing efficiency and avoiding unnecessary duplication. Cooperation can enable some communities to provide their residents with services that would otherwise be too costly. Examples include shared library services, police and fire protection, and recycling of household hazardous waste.
- **Address Regional Issues**  
By communicating and coordinating their actions, and working with County, regional, and State agencies, local communities are able to address and resolve issues which are regional in nature. Examples include the construction and maintenance of highways and planning and construction of facilities for stormwater management.
- **Early Identification of Issues**  
Cooperation enables County and local governments and other agencies to identify and resolve potential conflicts at an early stage, before affected interests have established rigid positions, before the political stakes have been raised, and before issues have become conflicts or crises.
- **Reduced Litigation**  
Communities that cooperate may be able to resolve issues before they become mired in litigation. Reducing the possibility of costly litigation can save a community money, as well as the disappointment and frustration of unwanted outcomes.

- **Understanding**  
As communities communicate and collaborate on issues of mutual interest, they become more aware of one another's needs and priorities. They can better anticipate problems and work to avoid them.
- **Trust**  
Cooperation can lead to positive experiences and results that build trust and good working relationships between communities.
- **History of Success**  
When communities cooperate successfully in one area, the success creates positive feelings and an expectation that other intergovernmental issues can be resolved as well.

## **PART 1: ANALYSIS OF INTERGOVERNMENTAL RELATIONSHIPS**

### **Washington County**

Washington County provides a number of services to the Town and Town residents. This section briefly highlights a few of the County departments that provide services to local governments:

#### ***Planning and Parks Department***

The Planning and Parks Department provides a number of services, including coordination of the multi-jurisdictional comprehensive planning process, administration of the dispute resolution process described in Part 4 of this chapter, GIS mapping services, maintenance of GIS mapping data on the County website, and administration of a bridge inspection program for the County and all local governments. The County also administers and enforces nonmetallic mining reclamation and stormwater management and erosion control ordinances for towns on request, regulations for private onsite waste treatment systems (POWTS) throughout the County; and shoreland and floodplain and land division regulations within all towns in the County. The department is also responsible for the acquisition, development, and management of County parks and trails.

#### ***Highway Department***

The Washington County Highway Department constructs and maintains the County Trunk Highway system and helps maintain and plow highways under State jurisdiction, which includes State Trunk Highways and U. S. Numbered Highways (such as U. S. Highway 41). The department also provides assistance to the Town with construction and maintenance, such as ditch cleaning and centerline striping, of Town roads on a contract (fee for service) basis. The department also works with the Southeastern Wisconsin Regional Planning Commission (SEWRPC) to plan and program construction and improvement projects on the County highway system, and oversees engineering and construction of improvement projects. The department also cooperates with SEWRPC, the Wisconsin Department of Transportation (WisDOT), the Federal Highway Administration, and local governments in the County to prepare, implement, and periodically update the County jurisdictional highway plan.

#### ***Sheriff's Department***

The Washington County Sheriff's Department provides police protection for all towns in the County and to the Villages of Newburg and Richfield, and also provides emergency dispatch services. Service to the Town of Trenton and Village of Newburg is limited to specified periods when municipal police departments are not operating. The department maintains a DIVE team that serves all communities in the County, including the Town of Polk.

#### ***Emergency Management Department***

The Washington County Emergency Management Department prepares and updates county emergency operation plans; coordinates emergency training exercises; communicates to the public about emergency preparedness; and responds to incidents throughout Washington County, including those involving hazardous materials.

### **Inland Lake Protection and Rehabilitation Districts**

Inland lake protection and rehabilitation districts are another special-purpose unit of government, which may be created pursuant to Chapter 33 of the *Statutes*. Lake Protection and Rehabilitation Districts have been formed for Big Cedar Lake and Little Cedar Lake. Both districts seek to undertake a lake-oriented program of community involvement, education, monitoring, and management. Boundaries of the lake districts within the Town are shown on Map XI-1.

A lake district has statutory powers to enter into contracts; to own property; to disburse money; and to bond, borrow, and levy special assessments to raise money. The more specific lake management powers include the right to:

- Study existing water quality conditions and determine the causes of existing or expected future water quality problems
- Control aquatic macrophytes, algae, and swimmer's itch
- Implement lake rehabilitation techniques, including aeration, diversion, nutrient removal or inactivation, selective discharge, dredging, sediment covering, and drawdown
- Construct and operate structures to control water levels
- Control nonpoint source pollution
- Undertake activities to control erosion

The Big Cedar Lake Protection and Rehabilitation District also provides services such as solid waste collection for all residents in the district, harvesting of lake weeds, and water safety patrol activities for Big Cedar Lake, Little Cedar Lake, and Silver Lake. Pursuant to Section 30.77 of the *Statutes* and authorizing resolutions of the Towns of Polk and West Bend, both districts have enacted and enforce ordinances regulating boating and other lake activities.

In cooperation with the Big Cedar Lake Protection and Rehabilitation District and the Little Cedar Lake Protection and Rehabilitation District, respectively, SEWRPC prepared a water quality protection and stormwater management plan for Big Cedar Lake,<sup>1</sup> and an aquatic plant management plan for Little Cedar Lake.<sup>2</sup> Both plans share the following primary goals and objectives:

- To protect and maintain public health, and to promote public comfort, convenience, necessity, and welfare, through the environmentally sound management of the vegetation, fishery, and wildlife populations in and around the lakes.
- To provide for high-quality, water-based recreational experiences by residents and visitors to the lakes, and manage the lakes in an environmentally sound manner.
- To effectively maintain, and, if practicable, enhance, the water quality of the lakes so as to better facilitate the conduct of water-related recreation, improve the aesthetic value of the resource to the community, and enhance the resource value of the waterbody.

To help achieve the goals and objectives of the plans it is recommend that the Town do the following:

- Support implementation of the regional land use plan.
- Support preservation of primary environmental corridors and critical species habitat sites.
- Implement good urban housekeeping practices, including maintenance of grass swales.
- Review, adopt, and enforce erosion control and water quality protection ordinances.
- Implement and maintain rural land best management practices.

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<sup>1</sup> Documented in SEWRPC Memorandum Report No. 137, *A Water Quality Protection and Stormwater Management Plan for Big Cedar Lake Washington County, Wisconsin*, August 2001.

<sup>2</sup> Documented in SEWRPC Memorandum Report No. 156, *An Aquatic Plant Management Plan for Little Cedar Lake Washington County, Wisconsin*, May 2004.

### **School Districts**

The Town of Polk is located primarily within the Slinger School District, although the northeastern corner of the Town lies within the West Bend School District and the southeastern corner lies within the Germantown School District. Public and private schools and public school districts in the Town are shown on Map IX-3 in Chapter IX. Chapter IX also describes facilities planning by school districts to determine and provide for future needs. There are no schools located in the Town. A former school, the Highway View School on Pioneer Road, is currently used for storage, and the lot is being used as a temporary park-ride lot.

School districts should work with the Town when proposing to construct new facilities or additions to existing facilities, or when proposing to abandon a school district facility. Schools and other district facilities are subject to local zoning regulations. Washington County or SEWRPC can assist school districts and UW-Washington County, if requested, by providing information on projected population levels to assist in facilities planning, and by offering comments on proposed school locations.

### **Libraries**

Washington County is served by five public libraries, which are part of the Mid-Wisconsin Federated Library System.<sup>3</sup> The Town of Polk does not have a public library. The nearest libraries are the Slinger Public Library in the Village of Slinger and the West Bend Community Library in the City of West Bend. Washington County contracts with each library to provide library services to County residents living in communities without a municipal library, such as the Town of Polk.

### **Adjacent Local Governments**

The Town has an agreement with the Village of Jackson fire protection services in the eastern portion of the Town. The Town also has an agreement with the Town of West Bend for maintenance of roads on the Town line that are not under County or State jurisdiction.

### **Regional Organizations**

#### **SEWRPC**

Washington County and local governments in the County are served by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). Washington County contracted with SEWRPC to assist the County and 11 participating local governments to help prepare the County and local comprehensive plans. SEWRPC helped the Town prepare this comprehensive plan as part of that multi-jurisdictional planning process.

SEWRPC also prepares a regional land use plan, which includes population, employment, and household projections to assist in local and county planning efforts, and is the federally-designated transportation planning and programming agency for the seven-county region.<sup>4</sup> SEWRPC is also the regional water quality management agency for the region, and is involved in many other aspects of land use planning and development, including the County jurisdictional highway system plan, the regional water supply plan, and the regional telecommunications plan.

#### **Milwaukee 7**

The Milwaukee 7 is a council of representatives from the seven Southeastern Wisconsin counties (same seven counties within the SEWRPC area). The council, made up of about 35 civic and business leaders, was formed with the idea that a regional approach is key to fostering economic growth. Additional information about the Milwaukee 7 is provided in Appendix E.

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<sup>3</sup>The Mid-Wisconsin Federated Library System includes 27 public libraries located in Washington, Dodge, and Jefferson Counties.

<sup>4</sup>The seven Counties in the SEWRPC region are Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha.

## **State of Wisconsin**

### ***Wisconsin Department of Transportation (WisDOT)***

In partnership with local governments, the County, and SEWRPC, WisDOT administers a variety of State and Federal programs to complete projects that enhance the transportation network within Washington County and the Town. Grant programs include the Surface Transportation Program, Congestion Mitigation and Air Quality, Local Transportation Enhancements, and a number of other programs that collectively provide funding for streets and highways, transit, bicycle and pedestrian improvements, and funding for railroad improvements.

WisDOT also administers the General Transportation Aids program, which returns a portion of the money collected through fuel taxes and vehicle registration fees to County and local governments to help offset County and local road construction and maintenance costs. WisDOT maintains the Wisconsin Information System for Local Roads (WISLR), which is an extensive map-based database, accessible to local and County officials and staff, of road conditions such as right-of-way and pavement width, shoulder width, number of driving and parking lanes, pavement condition, and other information.

### ***Wisconsin Department of Natural Resources (DNR)***

The Wisconsin Department of Natural Resources (DNR) is dedicated to the preservation, protection, effective management, and maintenance of Wisconsin's natural resources. It is responsible for implementing the laws of the State and, in some cases, the laws of the Federal government that protect and enhance the natural resources of the State, including wetlands, shorelands, floodplains, woodlands, and water quality. The DNR is charged with coordinating the many disciplines and programs necessary to provide a clean environment and a full range of outdoor recreational opportunities.

The DNR makes grants available to County and local units of government for park acquisition and development. A County or local government must prepare and adopt a park plan to be eligible to receive recreational grant funds from the DNR. The Town has not yet adopted such a plan.

The DNR is also working with the Federal Emergency Management Agency (FEMA) and Washington County to update floodplain mapping within the County. The floodplain update is expected to be completed in 2009. Floodplains within the Town are regulated by the Washington County Shoreland, Wetland, and Floodplain Zoning Ordinance (Chapter 23 of the *Washington County Code of Ordinances*).

### ***Department of Commerce***

The Wisconsin Department of Commerce administers regulations for POWTS in the State of Wisconsin. The Washington County Planning and Parks Department works closely with the Department of Commerce to implement the regulations. The Planning and Parks Department enforces POWTS regulations in all local governments in the County, including the Town.

## **Private Organizations**

### ***Washington County Humane Society***

The Washington County Humane Society contracts with Washington County for stray dog pickup and contracts with eleven local governments, including the Town of Polk, for stray cat and injured/ill wildlife pickup. The Town of Polk also plows the parking lots for the Washington County Humane Society, which is located next to the Town Hall.

### ***Fire Protection and Ambulance Services***

Fire protection in the Town is provided by three fire departments. The Slinger Fire Department, operated privately and located in the Village of Slinger, serves the western portion of the Town and consists of 50 volunteer firefighters. The Richfield Volunteer Fire Department, operated privately and located in the Village of Richfield, serves the southern portion of the Town and consists of 60 paid on-call employees and two full-time employees. The Jackson Fire Department, operated by the Village of Jackson and located in the Village of Jackson, serves the eastern portion of the Town and consists of 35 paid on-call employees and three full-time

employees. Fire departments and fire protection service areas in Washington County, including the Town of Polk, are listed in Table IX-4 in Chapter IX. Emergency medical service units associated with the three fire departments provide emergency rescue services in the Town.

## **PART 2: EXAMPLES OF EXISTING SERVICE AND OTHER AGREEMENTS IN THE TOWN OF POLK**

The *Statutes* require that this element incorporate any plans or agreements to which the Town is a party under the following:

- **Section 66.0301 – Intergovernmental Cooperation:** This section of the *Statutes* authorizes cooperation between local, County, and State government agencies and/or special purpose units of government for the receipt or furnishing of services or for the joint exercise of powers or duties required or authorized by law. The agreement is a contract between the cooperating entities and specifies the responsibilities of each, and the time period for which the contract is in effect. This *Statute* may also be used for boundary agreements between communities. The parties either commit to maintain existing boundaries or to allow the city or village to grow to the boundary specified in the agreement.

The Town of Polk is a party to the following intergovernmental agreements:

- An intergovernmental agreement among Washington County, SEWRPC, and the Town for development of the County and Town comprehensive plans.
  - An intergovernmental agreement between the Town and Washington County for administration of the Town's erosion control and stormwater management ordinance.
  - Service agreement with the Village of Jackson for fire protection services.
  - Agreement with the Town of West Bend for maintenance of roads on the Town line that are not under County or State jurisdiction.
- **Section 66.0307 – Boundary Change Pursuant to Approved Cooperative Plan:** A cooperative plan may change boundaries between local governments. The cooperative plan must be approved by the Wisconsin Department of Administration (DOA). The plan may establish ultimate city or village boundaries, zoning for the areas included in the agreement, and provide for revenue sharing. The major difference between a boundary agreement established under Section 66.0301 and one established under Section 66.0307 is that the latter supercedes the annexation *Statute* for attachment and/or detachment of property from one local government to another, provided the attachment or detachment is called for by the agreement. The Town of Polk is not a party to any agreements established under Section 66.0307.
  - **Section 66.0225 – Stipulated Boundary Agreement in Contested Boundary Actions:** Boundary agreements may also be established by a judicial order as part of a settlement of annexation litigation between a town and adjacent city or village. Boundaries are determined by mutual agreement of the parties. The Town of Polk is not a party to any agreements established under Section 66.0225.
  - **Section 66.0309 – Creation, Organization, Powers, and Duties of Regional Planning Commissions:** This section of the *Statutes* authorizes the Governor to establish regional planning commissions in response to petitions from County and local governments. A regional planning commission is charged by the *Statutes* to prepare and adopt a master plan for development of the region. Washington County and the Town of Polk are part of the SEWRPC region, which serves the seven counties and 147 cities, towns, and villages in the southeastern corner of Wisconsin. SEWRPC was established by then-Governor Gaylord Nelson in 1960 and is governed by a 21-member Commission. Chapter II includes a summary of recent plans conducted by SEWRPC that affect the Town. SEWRPC also assisted the Town in the preparation of this comprehensive plan.

### **PART 3: MULTI-JURISDICTIONAL COMPREHENSIVE PLANNING PROCESS**

This Town comprehensive plan was prepared as part of the Washington County multi-jurisdictional comprehensive planning process. As part of that process, comprehensive plans to meet the requirements of the Wisconsin comprehensive planning law (Section 66.1001 of the *Statutes*) were prepared for the County, the Town of Polk, and nine other towns and one village in Washington County.

#### **Inclusion of City, Town, and Village Plans in the County Plan**

Section 59.69(3)(b) of the *Wisconsin Statutes* explicitly requires that a county development (comprehensive) plan include, without change, the master (comprehensive) plan of a city or village adopted under Section 62.23(2) or (3), and the official map adopted by a city or village under Section 62.23(6) of the *Statutes*. Section 59.69(3)(e) of the *Statutes* further provides that a master plan or official map adopted by a city or village under Section 62.23 “shall control” in unincorporated areas of a county; however, Section 59.69(3)(e) does not specifically require that city and village plans for their extraterritorial areas be included in the County comprehensive plan. There is no *Statute* requiring a county to incorporate town plans into the county comprehensive plan. In addition, the comprehensive planning law did not alter any existing town, village, city, or county authorities or responsibilities with regard to planning, zoning, plat approval, extraterritorial authorities, annexations, or any other *Statutes* or regulations that affect land use in Wisconsin. There has been no apparent attempt by the proponents of the comprehensive planning law or any State officials or agencies to address the many ambiguities between the comprehensive planning law and pre-existing *Statutes*.

The *Statutes* provide clear guidance that a county plan need not include city and village plans for extraterritorial areas where a county has established a regional planning department. In that case, Section 62.23(2) provides “that in any county where a regional planning department has been established, areas outside the boundaries of a city may not be included in the (city) master plan without the consent of the county board of supervisors.” The County Attorney has determined that the Washington County Planning and Parks Department is a “regional planning department.” Based on that determination, the County land use plan map does not include city and village land use plan designations for areas outside city or village boundaries. The only exception is areas identified in the boundary agreement between the Town of West Bend and City of West Bend as areas that will be annexed over time into the City. Land use designations from the City of West Bend land use plan map are included on the County plan map for those areas.

On August 10, 2004, the Washington County Board of Supervisors adopted 2004 Resolution 35, which established criteria regarding the incorporation of town land use plans into the County land use element, including the land use plan map, of the Washington County comprehensive plan. The resolution states that the County will accept a Town land use plan if the plan is in “substantial agreement” with the objectives, principles, and standards of the regional land use plan prepared and adopted by SEWRPC. The Planning, Conservation, and Parks Committee (PCPC) of the County Board was assigned the responsibility for determining if each town plan was in substantial agreement with the regional land use plan, based on a recommendation from SEWRPC. In order to be in substantial agreement with the regional land use plan, each Town land use plan map was reviewed to determine if it met the following key recommendations of the regional plan:

- Primary environmental corridors should be preserved in accordance with the guidelines set forth in the regional plan (see Table V-14 in Chapter V). The regional plan recommends the preservation of primary environmental corridors throughout the seven-county region. The regional plan recommends that county and local governments consider protecting secondary environmental corridors and isolated natural resource areas as well, exercising the discretion of the county or local governing body in so doing. The Town of Polk has identified primary environmental corridors on the Town land use plan map (Map VI-4 in Chapter VI). The Agricultural, Natural, and Cultural Resources Element and the Land Use Element (Chapters V and VI, respectively) set forth measures to protect natural resources within environmental corridors.

- Urban-density development should occur within and adjacent to the urban service areas identified in the regional plan. Urban development proposed within one-half mile of a planned sewer service area was considered to be in substantial agreement with the regional plan. This flexibility is consistent with a recognition in the regional plan that sewer service areas may be adjusted from time-to-time to meet urban land market and other conditions.
- Development outside planned urban service areas should be limited to agricultural uses, rural residential uses at a density of no more than one home per five acres, and limited areas of highway-related services and commercial and industrial development to serve farmers, rural residents, and the traveling public. A town plan was considered to be in substantial agreement with the regional land use plan if the average proposed residential density of the town outside the expanded urban service area was no more than one home per five acres, or if no more than about 20 percent of the town outside the expanded urban service area is proposed to be developed for urban uses. The “expanded urban service area” refers to the planned sewer service area plus a one-half mile buffer.

The regional land use plan also recommends the preservation of prime agricultural lands outside planned urban service areas. The regional plan recommends that each county, in cooperation with local units of government, carry out planning programs to identify prime agricultural land. The regional plan holds out the preservation of the most productive soils—soils in U.S. Natural Resources Conservation Service Agricultural Capability Class I and Class II—as a key consideration in efforts to identify prime farmland, recognizing, however, that other factors, such as farm size and the overall size of the farming area, should also be considered. Most county planning in this regard was carried out more than 20 years ago and needs to be reviewed and updated. Washington County staff has recommended that the County Farmland Preservation Plan, which was adopted in 1981, be updated following adoption of the County comprehensive plan. Until that update is completed, town plans were considered to be in substantial agreement with the regional plan if they met the three criteria listed above.

The Town of Polk plan was found to be in substantial agreement with the regional land use plan, and was therefore incorporated into the County land use plan map. The Washington County Board of Supervisors adopted the Washington County Comprehensive Plan on April 15, 2008.<sup>5</sup>

## **PART 4: INTERGOVERNMENTAL CONFLICTS AND DISPUTE RESOLUTION**

### **Dispute Resolution Process<sup>6</sup>**

Section 66.1001(2)(g) of the *Wisconsin Statutes* requires that the Intergovernmental Cooperation Element identify existing or potential conflicts between the Town and other governmental units, including school districts, and describe processes to resolve such conflicts.

A dispute resolution process was developed as part of the Washington County multi-jurisdictional comprehensive planning process. This process is intended to provide an alternative way of resolving disputes between adjacent local governments, or local governments and the County, that arise from implementation of adopted comprehensive plans. The dispute resolution process is a *voluntary* process administered by the Washington County Planning and Parks Department.

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<sup>5</sup> Documented in *SEWRPC Community Assistance Planning Report No. 287, A Multi-Jurisdictional Comprehensive Plan for Washington County: 2035, April 2008*.

<sup>6</sup> Sources for this section include the publications *Intergovernmental Cooperation, A Guide to Preparing the Intergovernmental Cooperation Element of a Local Comprehensive Plan, prepared by the Wisconsin Department of Administration, and Practices and Procedures for Dispute Review Boards, Dispute Resolution Boards, and Dispute Adjudication Boards, prepared by the Dispute Resolution Board Foundation*.

Washington County encourages towns, villages, and cities to coordinate with each other and the County on planning efforts. The intergovernmental cooperation element is intended to avoid and minimize potential conflicts, but nevertheless, conflicts will continue to occur at the local and County levels. There are several techniques available for dispute resolution. Dispute resolution techniques can be broken into the following two categories:

- Alternative dispute resolution techniques such as negotiation and mediation.
- Judicial and quasi-judicial dispute resolution techniques such as litigation and arbitration.

In the event that a conflict does occur, utilization of an alternative dispute resolution process will be encouraged in an effort to avoid costly and lengthy litigation.

The alternative dispute resolution process is intended to provide a low-cost, flexible approach to resolving disputes between governmental entities arising from the adoption of the comprehensive plan. This process works to resolve actual and potential conflicts between governmental entities through open dialog and cooperative initiatives and is not intended to be used by parties dissatisfied with the appropriate application of local rules and regulations within a County or local government.

The principal benefits of government entities utilizing an alternative dispute resolution process to resolve conflicts include:

- Saving time and legal expenses
- Having greater control over the dispute resolution process
- Resolving conflicts in a more creative way than might be possible if it were left to a decision by a judge or jury
- Greater privacy in resolving disputes than is afforded in a courtroom
- Responding to conflict in a rational and courteous manner can increase communication, foster positive intergovernmental relationships, provide an opportunity for learning, and broaden perspectives and solutions

The dispute resolution process involves multiple stages if a conflict is not immediately resolved. The process begins with alternative dispute resolution techniques, including informal negotiations among and between the disputing parties. If these efforts are unsuccessful, facilitated negotiation utilizing the Washington County Multi-jurisdictional Dispute Resolution Panel may be used, followed by mediation. Arbitration and litigation, more traditional dispute resolution techniques, are the remaining stages and tend to be slower and more costly than the foregoing stages. See Figure XI-1 for an illustration of dispute resolution stages.

Additional information regarding the dispute resolution process is available from the Washington County Planning and Parks Department.

### ***Negotiation***

The first stage of the dispute resolution process is negotiation. Negotiation is a process involving an exchange of offers and counteroffers by the parties or a discussion of the strengths and weaknesses or the merits of the parties' positions without the assistance of an impartial third party. Negotiation can be conducted directly between the parties.

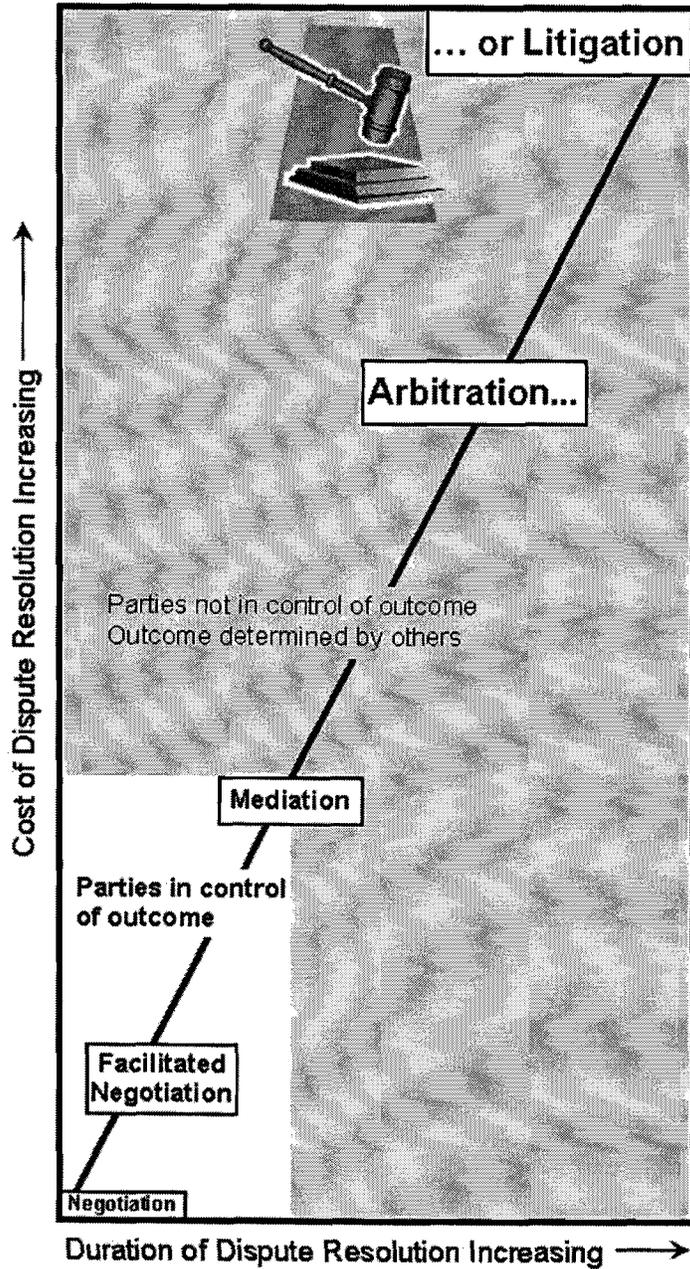
There are two basic elements involved with negotiation: the process and the substance. The process refers to how the parties negotiate: the context of the negotiations, the parties to the negotiations, the relationships among these parties, the communication between these parties, the tactics used by the parties, and the sequence and stages in which all of these play out. The substance refers to the subject matter of the issue in dispute or the agenda, the issues, the options, and the agreement(s) reached at the end.

### ***Facilitated Negotiation – Washington County Multi-jurisdictional Dispute Resolution Panel***

At the request of local governments, the Washington County Board of Supervisors adopted 2004 Resolution 35 on August 10, 2004, which provided for the establishment of a fair and just quasi-judicial, multi-jurisdictional dispute resolution forum to resolve multi-jurisdictional conflicts regarding adopted comprehensive plans.

Figure XI-1

DISPUTE RESOLUTION LADDER



DISPUTE RESOLUTION LADDER

Source: The Dispute Resolution Board Foundation and Washington County.

IX-9a

Interested County and local governments would enter into an appropriate intergovernmental agreement to voluntarily participate in this dispute resolution process in an effort to reduce or avoid expenditures of valuable taxpayer dollars.

In 2007, a Dispute Resolution Forum Subcommittee (DRFS) was formed by the Multi-Jurisdictional Advisory Committee to develop the procedures and bylaws for the Multi-jurisdictional Dispute Resolution Panel. At this stage of dispute resolution, the DRFS concluded that if negotiation was unsuccessful, the disputing parties would have an opportunity to voluntarily present the disputed issue to a six-member panel of appointed or elected officials from other County or local governments. The Panel would engage the parties in a discussion and negotiation of the dispute openly in an effort to reach a mutually agreeable solution. The DRFS named this stage “facilitated negotiation” to clearly differentiate it from the negotiation and mediation stages. The bylaws governing the Washington County Multi-jurisdictional Dispute Resolution Panel are included in Appendix F.

### ***Mediation***

If facilitated negotiation is unsuccessful, the disputing parties can enter the mediation stage. During mediation, the disputing parties meet in a “mediation session” to discuss ways to resolve their dispute, assisted by an impartial third party called a mediator. The mediator listens to each party’s side of the dispute and then helps them to communicate with each other to identify the issues that need to be decided and to reach a settlement that is satisfactory to each of them. Mediation is a confidential process. Statements made during a mediation session generally are not allowed to be revealed in any later court proceeding between the parties.

Although participating in mediation is voluntary, if a settlement results, it may be binding on all parties. Mediators are expected to be impartial and should neither advise the parties, who often are represented by their own lawyers, nor make any decision for them. Individuals who serve as mediators may or may not be lawyers, but may be specially trained to provide assistance in resolving disputes. Mediation can be structured to meet the needs of a specific dispute.

### ***Arbitration***

If the dispute is not resolved after the mediation stage, the arbitration process is available for the disputing parties. Arbitration is the stage most closely related to a lawsuit. In arbitration, a neutral decision maker, known as an “arbitrator,” is selected by the parties or by a neutral dispute resolution service provider. Sometimes arbitration takes place with a panel of three arbitrators, rather than a single arbitrator. Evidence is presented to the arbitrator(s) at a formal hearing similar to the presentation of evidence in a lawsuit, although the rules that apply in court are somewhat relaxed. Parties in arbitration may be represented by lawyers, who present evidence and legal arguments to the arbitrator(s) on behalf of their clients. The arbitrator(s) then make a decision, most often called an “award”. An arbitration award generally is a final decision, subject only to limited review by a court as allowed by law.

### ***Litigation***

In the event that a dispute is not resolved to the satisfaction of the parties involved, legal action can be pursued. Litigation is the final stage in which a dispute can be resolved. This is typically the slowest and most costly form of resolving disputes. This stage includes the dispute being heard and decided by a judge or jury in a court. Results of this stage are fully binding, although there are appeal rights that may be pursued. Any party wishing to pursue legal action against the other party should bring such action to the Circuit Court of Washington County, State of Wisconsin.

### **Intergovernmental Conflicts**

The potential for land use conflicts is greatest in city and village planning areas that overlap with the towns. In accordance with Section 62.23 of the *Statutes*, a city or village planning area can include areas outside its corporate limits, including any unincorporated land outside of the city or village boundaries that, in the plan commission’s judgment, relates to the development of the city or village. Potential land use conflicts can arise in these areas because they may be planned for in both the town comprehensive plan and the city or village comprehensive plan, with different or conflicting land uses recommended by each plan.

In cases where a conflict exists between a city or village plan and a town plan, there is also a conflict between the city or village plan and the county land use plan, since the county land use plan included town land use plan recommendations for areas outside city and village limits. The Village of Slinger has included portions of the Town of Polk in the planning area used to prepare the Village comprehensive plan. The village plan map designates residential uses for most Town areas included in its plan; however, the Village plan recommends a residential development density of one home per acre, while the Town has historically and continues to require five acres per dwelling. In addition, the Village land use plan map does not include the extractive sites in Section 34 on its map. The Village has been accommodating residential development at a one-acre density in newly annexed areas on the periphery of the Village without extending Village sewer and water services to such development. The Town of Polk is not against annexation, provided it is orderly and sequential and the Village provides water and sewer services to annexed areas.

The City of West Bend, Village of Germantown, and Village of Richfield have not included any part of the Town of Polk within the planning areas used to prepare the City or Village comprehensive plans. The Village of Jackson has not yet adopted a comprehensive plan, so no analysis could be conducted of potential conflicts with the Town of Polk plan recommendations. Chapter II describes the extraterritorial plat review process exercised within the Town by the Village of Slinger.

Maps VIII-2 and VIII-3 in Chapter VIII summarize the recommendations of the Washington County Jurisdictional Highway System Plan. The Town of Polk has concerns regarding the recommended Pioneer Road extension from Slinger Road west and the transfer of CTH CC from County to local jurisdiction. The Town's concerns are described in the Transportation Element (Chapter VIII).

The dispute resolution process established as part of this comprehensive planning process can be used to resolve conflicts between the comprehensive plans adopted by adjacent local governments, and conflicts between local governments and Washington County, if conflicts cannot be resolved using more informal means. Boundary agreements between towns and the adjacent city and village offer another means of resolving conflicts between local governments, particularly when disputes are based on conflicting recommendations for future land uses or residential densities within a city or village's extraterritorial area and/or sewer service area.

There are no known or anticipated conflicts between the Town and the Germantown, Slinger, and West Bend School Districts serving the Town.

## **PART 5: INTERGOVERNMENTAL COOPERATION GOALS, OBJECTIVES, POLICIES, AND PROGRAMS**

### **Goals:**

- Support intergovernmental cooperation to provide for adequate transportation, water supply, stormwater management, parks, playgrounds, and other public facilities and services.
- Establish cooperative planning with surrounding communities.
- Coordinate with special-purpose districts (school and lake districts) as they plan and locate facilities.
- Consider the recommendations of County, watershed, and regional plans.

### **Objectives:**

- Encourage dialog about land use regulation issues and boundary issues between local governments.
- Strive for orderly and sequential annexations.
- Encourage shared services with neighboring communities.
- Encourage intergovernmental cooperation when selecting sites for locating public facilities such as schools, fire stations, and libraries.
- Provide land use-related information to help school and other special-purpose districts plan for the future.

**Policies:**

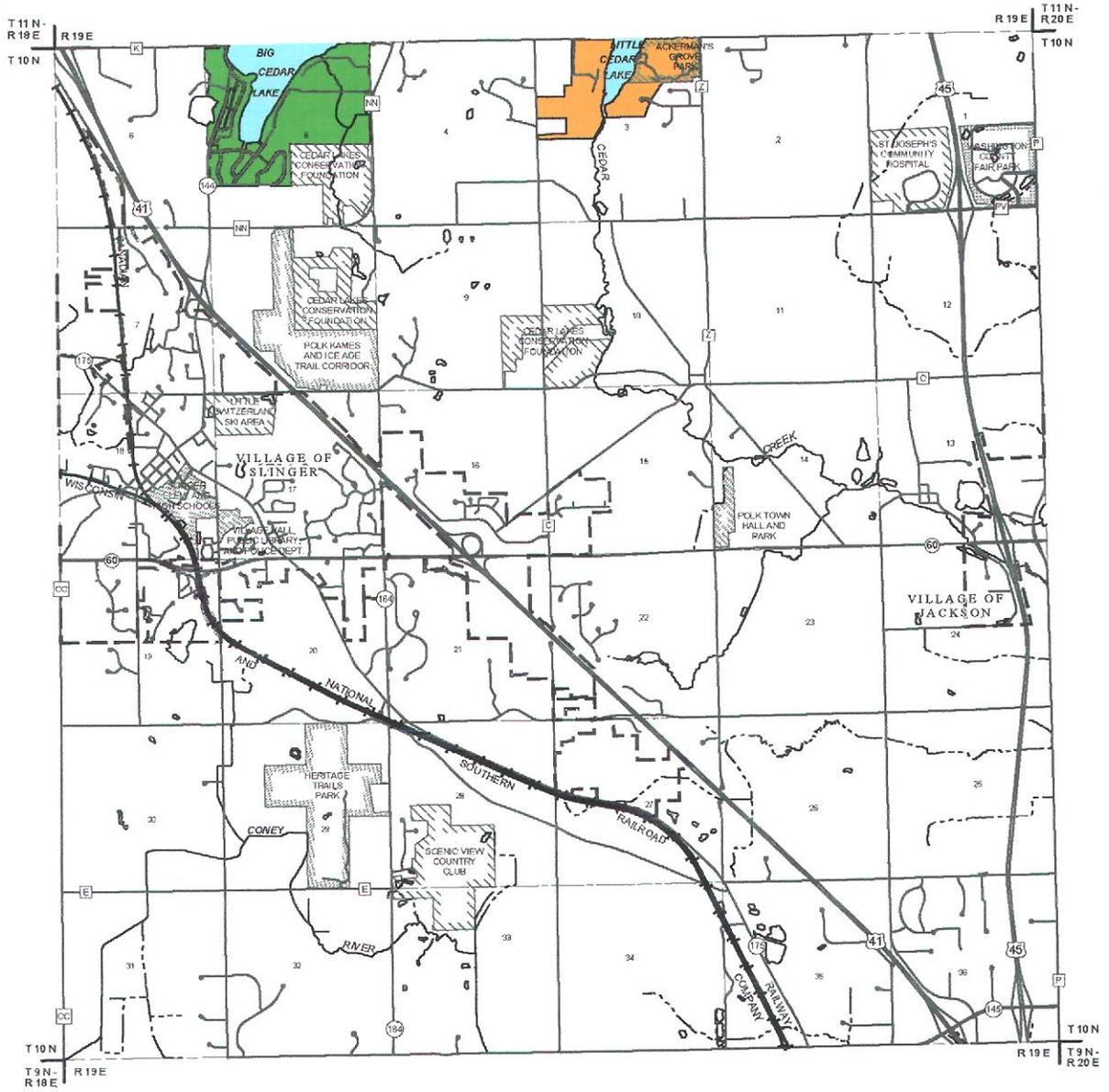
- Support cooperative planning with the Village of Jackson and Village of Slinger to assure that growth is orderly.
- Work with other units and agencies of government and private entities, where appropriate, to construct and/or operate community facilities in a cost-effective and efficient way through joint service agreements.
- Participate in the Washington County Multi-Jurisdictional Dispute Resolution Panel.
- Work with the Germantown, Slinger, and West Bend school districts, if requested, to provide information regarding proposed residential developments to help the districts prepare accurate facilities plans. Public and private schools and school districts are shown on Map IX-3 in Chapter IX.

**Programs:**

- Initiate contacts with Washington County and adjacent communities prior to constructing new public facilities or initiating or expanding Town services to determine if there are opportunities for joint facilities or services.
- Cooperate with Washington County and adjacent communities when approached to consider joint service agreements or facilities.
- Work with Washington County to complete the procedure necessary for Town participation in the Washington County Multi-Jurisdictional Dispute Resolution Panel.
- Work with school district officials, on request, to explain the type of permits required from the Town before selecting and buying a site; the recommendations of the Town land use plan map; and other information that would assist the districts in planning for future school facilities.

Map XI-1

LAKE REHABILITATION AND PROTECTION DISTRICTS IN THE TOWN OF POLK: 2008



- BIG CEDAR LAKE PROTECTION AND REHABILITATION DISTRICT
- LITTLE CEDAR LAKE PROTECTION AND REHABILITATION DISTRICT

SOURCE: WASHINGTON COUNTY AND SEWRPC.



XI-13