

On Mar 3, 2017, at 1:38 PM, Mark Hazelbaker [REDACTED] wrote:

The DCTA has introduced legislation to address needless complexities which were included in the town withdrawal law at the last minute. One of them is the requirement that the "annual meeting" must approve withdrawal. Why are we pursuing this legislation?

Last year, Dane County began fighting town withdrawal as soon as the law was signed. The day after the Legislature adjourned, the County Executive (without County Board authority) sued the Dane County Towns Association. Starting with that lawsuit, the County has used its vastly larger resources to try to stop towns from withdrawing.

The County lost its lawsuit, and was forced to pay DCTA's attorney's fees. But it was clear from that lawsuit that the County would look for any technicality it could find to obstruct towns.

Unfortunately, Act 178 has several such complexities. The County itself identified some of them. We have worked hard to move ahead despite these requirements. We also have talked to the Legislature and the Governor. They do not want towns to be thwarted by Dane County. They have worked with us to address a number of problems with Act 178.

You may have seen a remarkable email from Todd Violante, Dane County's director of planning and development. The email is remarkable because he, as a County department head, is making an appeal to the towns to oppose legislation. The County's official legislative platform contains nothing about town withdrawal, and the County has not taken a position on AB 109. His memo is not just unauthorized, it mischaracterizes the bill.

He suggests that the legislation somehow hides the provision related to town annual meeting approval. The bill was drafted by the Legislative Reference Bureau, a respected non-partisan agency. The DCTA and indeed the legislative sponsors have no control over the way the bill and its explanation is drafted.

The bill simplifies the process of opting out. Under the bill, if a town wants to opt out, the town board can vote to give notice on or before September 1. Then, the Town Board votes to withdraw on or before November 1, and adopts a zoning ordinance.

Under Act 178, there are numerous notices and drafts which must be adopted. The complex process serves no purpose except to create opportunities for Dane County to sue towns to thwart their desire to escape the County's control.

So -- what about the issue of "annual meeting" approval?

Dane County has never had the slightest interest in what town meetings want, until now, when it can use that sentiment to obstruct towns. Town meetings have adopted resolutions calling for reform of the regional planning commission, seeking reform of county zoning, seeking county road improvements -- none of those were given any serious weight by the County.

What are the facts?

Under the county-town zoning statute, adopted in 1928, towns needed to get permission from the annual town meeting in order to have zoning at all. Interestingly, the decision about which zoning to have has always been committed to the town board. Specifically, the town board has always had the authority -- without town meeting approval -- to decide to be subject to the County zoning ordinance. The decision to adopt exclusive ag zoning was also given to the town board. All zoning changes, ordinance amendments, and conditional use permits also are decided by the town board. There has never been any requirement of annual meeting authority to choose town or county zoning.

The inclusion of town annual meeting approval in Act 178 was the result of a last-minute political compromise which Legislative leadership now realizes was a ploy to overcomplicate what is a very simple concept. Cities and villages do not need a referendum to adopt a zoning ordinance. Many Dane County towns are larger than some of the County's villages. The Wisconsin Towns Association and the DCTA have been fighting for towns to have legal and political parity with cities and villages for years. Needless to say, the county opposes that. We see no reason to impose a requirement on towns which is not imposed on cities and villages.

Let's get real here.

If Dane County really wanted to change its ways and respect town sentiments, they would have acceded to DCTA's requests for a comprehensive revision years ago. When the DCTA agreed, in 2014, to allow Dane County to formulate a response to the problems with County zoning -- Dane County would have produced a proposal for reform. The County did nothing, hoping that the 2014 elections would eliminate the problem.

Last year, the Legislature adopted Act 178 because DCTA and towns showed convincingly that Dane County has abused towns for far too long. We are moving forward to end that dominance. The prospect of towns having zoning terrifies some people who fear they may lose their jobs or power, and others who simply do not want towns to have the right to set their own policies.

The DCTA is seeking to give towns the ability to set town land use policies -- true local control. I cannot comprehend how any town resident could oppose that. In 37 years of working with local government, I have seen many counties with excellent relations with their towns, based on respect. And then, there is Dane County. This County feels its agenda for the towns is more appropriate for the towns than what towns want. They will fight town land use to the end. That's why we are trying to take away their ability to do sue with lawsuits and technicalities.

AB 109 is designed to make the town withdrawal process work. We hope you will support it.

This email reflects previous DCTA policy. I am sending it out now so that you have a timely response to Mr. Violante's email.

Mark Hazelbaker