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March 13, 2014

Chairperson John Hendrick

Dane County Board of Supervisors
210 Martin Luther King, Jr., Blvd.
Madison, WI 53703

Re: Efforts to Address Concerns Over Dane County Zoning

Dear Chairperson Hendrick:

We write to commence discussions about remedies to serious problems with Dane County zoning. We do so in response to your letter of last week, expressing hope that initiatives by Dane County could avoid the need for adoption of legislation allowing towns to withdraw from county zoning. The Legislature gave Dane County a chance to craft a local response to the problems which gave rise to AB 661. This letter asks the County to demonstrate that it will actually make real change in response to that opportunity.

Your letter minimized the extent and the nature of the problems between the County and the towns. For example, you suggested that county adoption of standards on the length of private driveways would solve some of the problems. Actually, your proposed solution identifies the heart of the problem – that the County insists on exercising power over Town land use through a system which is unresponsive to the Towns. The solution is not county driveway standards; we flatly reject the notion that the County has any authority to regulate driveways on town roads.

If there is a solution short of state legislation at all, it will require much more significant action. The problem is the unfair imbalance of power in favor of Dane County, not the details of the rules. The basic power imbalance must be altered. If we look at history, we see why this is necessary.

County zoning was adopted in the 1930's as an administratively efficient way to make rural zoning possible. It was not adopted to give the County or urban residents the power to control their rural neighbors. At the time county zoning was adopted, county boards were not apportioned by population. The towns completely dominated the county board under the former

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“unit rule” system of apportionment. That continued until the “one person one vote” rule was applied to county boards in Wisconsin in 1965. We certainly support apportionment of the county board by population – through a fair, non-political process. The change in apportionment changed the balance of power of land use in a manner which has been and is totally unfair to towns. If Dane County wishes to retain zoning responsibility, that power imbalance will need to change.

There are three things which Dane County could do that would partially address the imbalance of power. First, the County should adopt a resolution committing, unequivocally, to adopt a comprehensive revision of the zoning ordinance by December 1, 2014. Second, the County should adopt an amendment to the County Board rules and an ordinance to restructure the zoning committee into a commission with citizen members and supervisors. Third, the County Board should adopt those measures at its March 20, 2014 meeting.

Comprehensive Revision

The Dane County zoning ordinance is not responsive to the needs of 79,000 people who live under it. It does not address the needs of today's economy or resource challenges. Of course, the County does not want to adopt a comprehensive revision for the same reason the DCTA requests it – the towns would then have a choice between staying under a workable County ordinance or adopting their own zoning. If the County has a good ordinance and a fair process, it does not need to force towns to stay under the ordinance.

Residents of the towns are every bit as competent to decide their land use policies as the residents of cities and villages. Arguments that the towns should be subordinate to the County are at best patronizing, suggesting that the towns cannot be trusted to handle their own zoning. The issue at the heart of the matter, though, is basic democracy. People in towns should not be subject to control by others.

Restructuring The Zoning Committee Into A Commission

The County Board soon will be reorganizing for its 2014-16 term. One partial but essential solution to the problems with Dane County zoning can be addressed only in that process. We call on the County to abolish the current Zoning and Land Regulation Committee and create a Zoning and Land Regulation Commission. The Commission would be designated as the County zoning agency under sec. 59.69 and 59.692 of the Wisconsin Statutes. It would be composed of seven appointees, with no more than four of them county supervisors. All county supervisors would have to represent districts with more than 60 percent of their population consisting of town residents. The citizen representatives would be recommended by the DCTA.

We are aware you asked the Corporation Counsel for an opinion about a similar proposal we made last year. The Corporation Counsel's opinion stated that county board committees could not include non-supervisors. We are not proposing to add citizen members to a county board committee. We are proposing that the County designate a commission as its zoning agency. Manitowoc County, which also has a county executive, has used that model for decades.

If the County Board reorganizes with the same committee structure that has led to the problems we have experienced, those problems will continue. You asked for an opportunity to work with the towns to address our problems. The problems are fundamental: the current system puts urban supervisors in charge of rural land use, and denies effective control over land use to the people who live under county zoning. That is not a technical issue or a question of standards. It is a question of power. The power imbalance is what must be addressed. We have drafted a preliminary outline of the changes which would be needed to address that power imbalance for your review. It is attached.

Action Needed Now

The Legislature's decision to defer action on the town withdrawal bill was done as a courtesy to the Wisconsin Counties Association. The WCA stepped in to ask that Dane County be given an opportunity to solve a local problem on the local level, before state legislation moved forward. The opportunity to solve that problem will be presented within the next week, in the form of county board reorganization and a commitment to begin comprehensive revision. It is up to the Dane County to take it. Symbolism will not work.

The WCA intervened to give Dane County a stay of execution. If Dane County intends to actually respond to this opportunity, the County should do so by adopting the resolution committing to a comprehensive revision and an ordinance amendment creating a zoning commission at the March 20, 2014 County Board meeting.

These issues are not new. With the extensive staff resources the County has available, the resolution and ordinance certainly can be drafted for next week. If Dane County does not act at that meeting, we intend to ask the Legislature to take the County's failure to act as a sign of bad faith, and ask that AB 661 be advanced as soon as possible.

We await your response.

Sincerely,

Jerry Derr, President
Dane County Towns Association

Cc: County Executive Parisi and County Supervisors;
Dane County Towns;
Interested State Legislators.