

KEITH RIPP

STATE REPRESENTATIVE
42ND ASSEMBLY DISTRICT



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Assembly Bill 109

March 8, 2017

Good morning Local Government chairman and members, and thank you for allowing me to testify on Assembly Bill 109 today, allowing Dane County towns to withdraw from county zoning.

I, along with Senator Olsen, and Representatives Jagler and Kleefisch, are proposing this bill to streamline the process for Dane County townships to opt out of Dane County zoning. Last session, Governor Walker signed into law 2015 Wisconsin Act 178 that protected the property rights of rural landowners in Dane County by allowing local townships the opportunity to withdraw from Dane County zoning. This legislation was necessary because Dane County has never conducted a comprehensive revision of their zoning ordinances since they were first adopted in 1938, which makes Dane County an outlier compared to almost every other Wisconsin County that has conducted at least one comprehensive revision of their zoning ordinances.

For nearly 80 years, Dane County refused to conduct a comprehensive revision process because procedurally, it would require the county to allow town boards the option of opting out of county zoning. In order to keep the towns from opting out, Dane County has almost continuously passed incremental revisions to county zoning ordinances. Thus, trapping towns into an ordinance that now bears no resemblance to the original ordinance which was adopted before World War II, a time when, for example, many farmers were still using horses to pull their implements.

Assembly Bill 109 maintains most of the same provisions in Act 178, such as the many public involvement opportunities to participate in the opting out process as well as requiring all Dane County towns withdrawing from county zoning to draft a shared zoning ordinance, which each town must approve and enforce at the local level. This bill makes necessary changes to the opting out procedure for Dane County towns that ensures efficiency and accountability at the local level by simplifying the current withdrawal process to three steps: 1. A town board votes to give notice of its intention to opt out of Dane County zoning no later than September 1 of this current year and future subsequent three year intervals (e.g., 2017, 2020, 2023, 2026, etc.), 2. Town boards opting out of countywide zoning must adopt their own zoning ordinance and re-affirm their comprehensive plan no later than November 1 of the same subsequent year, and 3. The new ordinances and comprehensive plans will take effect on January 1 of the ensuing year (e.g., 2018, 2021, 2024, 2027, etc.)

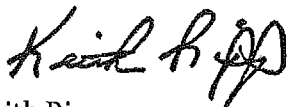
Instead of complex notice schedules, difficult deadline requirements, numerous resolution adoptions, and countless meetings, AB-109 removes these unnecessary complications and uncertainties, and ensures that local townships make these important decisions. Furthermore, this bill balances current law with the decision-making authority of the opting out process to the town board because based on statute, local town officials ultimately make the initial choice to authorize the township's ability to withdraw from county zoning. This

modification creates local control consistency and assurance for township residents and elected officials that their zoning decisions will be made locally and not affected by outside influences.

Additionally, I would like to address some questions I have received relating to AB-109 that I would like opportunity to clear up. First, this bill only applies to Dane County because their population has more than 485,000 residents. Therefore, this legislation does not apply to other counties, townships, cities, and villages throughout the state. Second, this bill does not restrict Dane County town residents from participating in the opting out process of Dane County zoning. This piece of legislation directs the full authority of the county zoning withdrawal process to the town board because under current law, local elected officials decide whether or not to start the opting out procedure without an annual town meeting or referendum vote of approval. These local officials are elected by their constituency and represent their interests in government similar to every state representative's role at the State Capitol. If local residents are not happy with their elected officials decisions regarding any issue, including voting to support or reject a motion to withdraw from county zoning, citizens have the right to vote them out of office and elect new officials that will represent their viewpoints. There is nothing more democratic than a free and fair election of representatives to serve in government.

Thank you again for your time and consideration on Assembly Bill 109. For your convenience, I have included a Wisconsin Legislative Council memo outlining a summary of the changes in AB-109. I hope you support this legislation, and I would be more than happy to answer any questions you have about this bill.

Warmest regards,

A handwritten signature in black ink, appearing to read "Keith Ripp". The signature is fluid and cursive, with the first name "Keith" written in a larger, more prominent script than the last name "Ripp".

Keith Ripp
Wisconsin State Representative
42nd Assembly District



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

Jessica Karls-Ruplinger, Deputy Director

TO: REPRESENTATIVE KEITH RIPP

FROM: Andrea Brauer, Staff Attorney

RE: 2017 Assembly Bill 109, Relating to Modifying the Requirements for Certain Towns to Withdraw From County Zoning

DATE: March 6, 2017

This memorandum responds to your request for a summary of the changes that 2017 Assembly Bill 109 ("the bill") makes to a town's ability to withdraw from county zoning. You have also asked whether the bill changes the applicable county population threshold. The statute authorizing town withdrawal from county zoning was enacted as 2015 Act 178, effective March 2, 2016. [s. 60.23 (34), Stats.]

COUNTY POPULATION THRESHOLD

Under current law, a town located in a county with a population of 485,000 or more may withdraw from county zoning, if certain requirements are met, and may also adopt a town zoning ordinance under certain conditions. Withdrawal may occur only during a one-year period every three years. Dane County is currently the only county in Wisconsin that meets the population threshold and also contains towns. The bill does not modify the limitation that only a town located in a county with a population of 485,000 may withdraw from county zoning.

WITHDRAWAL REQUIREMENTS MODIFIED BY THE BILL

The bill modifies the following steps that a qualifying town must take before it may withdraw from county zoning. Note that this memorandum does not describe additional withdrawal requirements, which are not modified by the bill.

Notification

Before withdrawing from county zoning, a town must notify the county clerk and one or more officials of every other town in the county, in writing, of the town's intent to enact the ordinance. Currently, a town must provide this notification not later than 180 days before

enacting the withdrawal ordinance. The bill removes the 180-day requirement. Instead, under the bill, the town must enact the ordinance before September 1, during the one-year period in which withdrawal may occur.

Zoning Ordinance, Comprehensive Plan, and Official Map

Under current law, a town's withdrawal is not effective unless the town enacts a zoning ordinance, a comprehensive plan, and an official map, and sends certified copies of such documents to the county clerk. The bill removes the requirement that a town create an official map, and send it to the county clerk. It also adds a requirement that the town send certified copies of its zoning ordinance and a comprehensive plan to the county clerk before November 1.

Ordinance Approval

The bill removes the current requirement that a town's ordinance withdrawing the town from county zoning must be approved either at the annual town meeting or in a referendum called by the town board for that purpose at the next spring or general election, to be held not sooner than 70 days after the referendum is called by the town board.

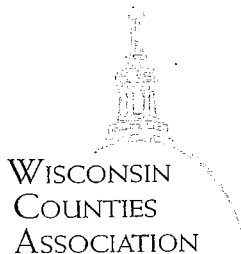
In addition, under current law, where a town board has been granted zoning authority and the town is located in a county which has enacted a county zoning ordinance, the board may only enact zoning ordinances subject to approval by the town meeting or by a referendum vote of the electors of the town. Under the bill, this requirement only applies if the county has a population of less than 485,000. [s. 60.62 (2), Stats.]

EFFECTIVE DATE OF THE WITHDRAWAL

The bill also modifies the effective date of a town's withdrawal from county zoning as follows. Under current law, the zoning ordinance, comprehensive plan, and official map take effect on the first day of the third month after certified copies of the documents are sent to the county clerk. Under the bill, the zoning ordinance and comprehensive plan take effect on the date specified in the ordinance, but not later than January 1 of the following year.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AB:jal



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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Local Government

FROM: Daniel Bahr, WCA Government Affairs Associate

DATE: March 8, 2017

SUBJECT: Opposition to Assembly Bill 109

The Wisconsin Counties Association (WCA) strongly opposes Assembly Bill (AB) 109. AB 109 creates an unequal standard for a town to withdraw from county zoning in Dane County then for the other 70 counties in the state.

Under current law, when a comprehensive revision of the county zoning ordinance occurs, a town may withdraw from county zoning under one of two conditions:

1. Approval at a town meeting by citizen electors;
2. Approval by referendum vote of the electors of the town, which may take place during any regular or special election.

Certain Dane County town officials are seeking a special process in the form of Section 6 of AB 109 by which only towns in Dane County can withdraw from county zoning by a vote of the town board, rather than the aforementioned procedures listed above. It is clear that AB 109 creates an unfair and unequal standard applied to only towns in Dane County. The unequal standard produced by AB 109 is bad public policy.

It has been alleged that Dane County is using public resources to persuade town electors to remain in county zoning, however that is not the case. Further, citizens of any political persuasion should be able to participate in the process of town government and zoning decisions. Dane County town officials do not need nor should they have a special bill to protect them from the will of a majority of their constituents.

WCA strongly opposes Section 6 of AB 109 but does not oppose the technical changes in AB 109.

Thank you for considering our comments. Please feel free to contact WCA for further information.



MADISON AREA BUILDERS ASSOCIATION

March 8, 2017

To: Representative Ed Brooks, Chair
Representative Keith Ripp, Vice-Chair
Assembly Committee on Local Government

From: Chad Lawler, Director of Government Affairs & Advocacy
Madison Area Builders Association

Subject: Madison Area Builders Association written testimony in **Support of AB-109**

Chair Ed Brooks and Representatives on the Assembly Committee on Local Government,

On behalf of the 500 members of the Madison Area Builders Association (MABA), who are dedicated to delivering high-quality, safe, and affordable housing options to the communities in and around Dane County, we urge the Members of the Assembly Committee on Local Government to join us in **Supporting AB-109** in giving the Towns a true option to withdraw from Dane County zoning.

During the 2015-16 Legislative Session, the Madison Area Builders Association actively supported the passage of 2015 Wisconsin Act 178, which provided each of the 34 Towns in Dane County the avenue to withdraw from Dane County zoning. Unfortunately, due to last minute revisions to Act 178, the Town Opt Out bill became far too complex and burdensome for Towns and Town Officials to exercise their right to opt out of Dane County zoning. Couple this complexity with outside influences stirring up a vocal minority and it became apparent that a trailer bill to Act 178 was necessary to clean-up the process for Towns to opt out of Dane County zoning.

Representative Keith Ripp and Senator Luther Olsen, in authoring AB-109, provide Towns and Town Officials a more navigable procedure to opt out of Dane County zoning. This bill provides Town Board members, who have been elected by their constituents to make difficult decisions for the betterment of their community, to make the informed decision of whether to opt out or remain in Dane County zoning. Some will assert that by relying upon

Town Boards to make the decision on opting out is silencing the voice of constituents. This is a misnomer, and a red herring meant to distract from the intent of AB-109, which is to reduce the complexity and burden on Towns choosing to opt out of Dane County zoning. Constituents continue to have their voice as they elected their Town Board officials and have the right to remove officials during this Spring election. Similar to the constituents that vote state legislators into their seats, when we elect local officials, we expect those Town Board Members/Trustees to make hard decisions on our behalf. Madison Area Builders Association and our members continue to stand with and support the Dane County Towns Association (DCTA) and those Towns and Town Officials that have chosen to exercise their right to opt out of Dane County zoning.

In summation, the Madison Area Builders Association urges you to **Support AB-109**, authored by your Committee Vice-Chair and colleague, Keith Ripp, as AB-109 truly provides the Towns of Dane County the access to withdraw from Dane County zoning. AB-109 simplifies the opt-out process and puts the onus on the Town Board members, as they were elected to do, to represent and act on the behalf their constituents, not simply the vocal minority who may oppose opting out of Dane County zoning. Please join us in **Supporting AB-109** and allow those elected officials to represent their Towns!

The Madison Area Builders Association and our members welcome any additional questions and discussion, should Committee Members wish to speak in greater depth regarding our **Support for AB-109**.

Best wishes,



Chad Lawler
Madison Area Builders Association
Director of Government Affairs & Advocacy
5936 Seminole Centre Court
Madison, WI 53711
(608) 288-1135
clawler@maba.org



LEAGUE OF WOMEN VOTERS® OF DANE COUNTY, INC.

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OPPOSITION to AB 109 Before the Assembly Committee on Local Government League of Women Voters of Wisconsin and of Dane County March 8, 2017

The League of Women Voters opposes AB 109 "The No Resident Vote on Town Withdrawal from Dane County Zoning" bill. We ask the Assembly Committee on Local Government to reject this bill.

The League of Women Voters promotes public understanding and participation in decision making as essential elements of efficient, accountable and economical government. A few examples of Wisconsin resident opportunities for participation in town governance are public discussion and voting at the annual town meeting and voting on a referendum on the spring or general election ballot.

AB 109 affects towns only in Dane County that wish to withdraw from county zoning. AB 109 removes the right of town residents in Dane County to vote on the issue of opting out of Dane County zoning.

Last session Wisconsin Act 178 was adopted. Act 178 explicitly allowed Dane County towns the opportunity to withdraw from county zoning, **subject to approval by town residents through a vote** at either the April annual town meeting, or in a referendum on the spring or general election ballot.

AB 109 explicitly but discreetly removes the requirement for a citizen vote by repealing 60.23 (34) (b) 3., a portion of Act 178 (see Section 4 of the bill). The summary of the bill prepared by the Legislative Reference Bureau makes no mention of this impact on the rights of town residents.

The requirement of a town resident vote to establish town zoning applies, and will continue to apply, in every other county in the state of Wisconsin where county zoning exists.

Why do the sponsors and supporters of AB 109 believe that residents of Dane County towns should not be afforded the same opportunity as other town residents in the state? AB 109 removes the right to vote on town participation in county zoning only for Dane County town residents and should be opposed.

Zoning and land use planning are among the important responsibilities of local and other units of government. The League believes that all levels of government should provide responsible and responsive management and long range planning of community growth and development, stewardship of natural resources and protection of public health.

The League supports current Wisconsin law, commonly known as the "Smart Growth" statute, that encourages local units of government (a city, village, town, county, or regional planning commission) to create a development plan or master plan. Such a comprehensive plan must contain the following planning elements: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; land use; and intergovernmental cooperation. Clear provision for public participation is part of the Smart Growth.

We urge you to reject AB 109. Thank you for considering our testimony.

Good Morning Mr. Chair and Members of the Committee.

Thank you for giving me the opportunity to testify this morning.

My purpose for being here today is to urge you to **oppose** Assembly Bill 109 (“AB 109”).

My name is Margaret Quale.

I live in the Town of Middleton (“Town”), in Dane County, and have lived here for 26 years.

Currently, town residents in Dane County have the statutory right to vote on Opt-Out (withdrawing from Dane County Zoning), under Act 178 as it exists today, either at the Annual Town Meeting or by Referendum.

The upcoming Town of Middleton Annual Meeting is April 18, 2017.

I highly value my right to vote on zoning.

Please oppose AB 109 and don’t take away my legal right to vote on April 18th.

Opt-Out is an Agenda Item on the April 18th Annual Town Meeting.

Opt-Out will impact my Town taxes and fees.

All other town residents who do not live in Dane County will have the statutory right to vote, but mine is going to be taken away simply because I live in a Town in Dane County?

Taking away my right to vote under AB 109 would be unfair, undemocratic, and extremely discriminatory.

Opt-Out is an important zoning issue that deserves a transparent and robust discussion process followed by binding, legal vote by all town residents in Dane County.

Please don’t take away my statutory right to vote.

I urge you to vote **against** AB 109.

March 8, 2017

Written testimony regarding Assembly Bill 109

Patty Peltekos

227 Jeanette Road

Belleville, WI 53508

608-527-2183

My name is Patty Peltekos. I live in Primrose Township, Dane County, Wisconsin.

I oppose Assembly Bill 109. This bill is worded in such a way that it will apply only to towns in Dane County. But not one of the bill's sponsors lives in or represents a district in Dane County. The sponsors don't represent me or my district. Yet the bill's authors are proposing legislation that will prevent me and the other citizens of Dane County towns from voting on the issue of zoning as it applies to the towns where we live. The bill will not deny this right to the residents of towns in any other Wisconsin county.

If approved, this bill will deprive me, my neighbors in Primrose, and the other citizens of Dane County's towns one of our fundamental rights. The citizens of Dane County towns deserve the same right to vote on zoning issues as every other citizen of a town in Wisconsin.

That is why I oppose Assembly Bill 109.

March 7, 2017

Re: Opposition to AB 109. Relating to: modifying the requirements for certain towns to withdraw from county zoning.

To the 2017 Assembly Committee on Local Government,
Representative Edward Brooks, Chair and members.

Dear Representatives:

As a citizen of rural Dane County, I urge you to oppose AB 109, thereby to uphold with diligence and respect the State of Wisconsin Constitution, specifically the Section on Town and county government, SECTION 23. [*As amended Nov. 1962, April 1969 and April 1972*]:

The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable; but the legislature may provide for the election at large once in every 4 years of a chief executive officer in any county with such powers of an administrative character as they may from time to time prescribe in accordance with this section and shall establish one or more systems of county government. [*1959 J.R. 68, 1961 J.R. 64, vote Nov. 6, 1962; 1967 J.R. 49, 1969 J.R. 2, vote April 1969; 1969 J.R. 32, 1971 J.R. 13, vote April 1972*]

I write of course on the constitutionally-binding requirement that "The Legislature shall establish but one system of town government, which shall be as nearly uniform as practicable." This is joined with the declaration in Article I. Section I on Equality; inherent rights [*As amended Nov. 1982 and April 1986*]:

All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed. [*1979 J.R. 36, 1981 J.R. 29, vote Nov. 1982; 1983 J.R. 40, 1985 J.R. 21, vote April 1986*]

And here of course I wish to bring attention to the clause, "deriving their powers from the consent of the governed."

A simple analysis shows that the intent of AB 109 is that it be applied non-uniformly to only one county in Wisconsin, the County of Dane, leaving that as the only county where the "consent of the governed" is indirect on matters addressed in this bill.

Town Government is one of the last remaining truly democratic institutions we have in America. It is even so widely respected that "Town Meetings" is a term applied widely across America to gatherings not held for gaining the "consent of the governed."

We have across our State of Wisconsin the provision and practice Town Government of what we rightly call Towns. Chapter 60 of the Wisconsin Statutes provides the democratic framework

within which the citizens of each of our towns give the “consent of the governed.” Decisions on how the citizens of a Town respect, foster, sustain, and develop their community belong strongly to the citizens in community. The townspeople of Dane County must have the same rights—including constitutionally granted rights—as other townspeople of Wisconsin. These rights, inter alia, include participation in “but one system of town government” and by all means participation in cherishing the past and envisioning the future of their community.

Calvin B. DeWitt

Sincerely yours,

Calvin B. DeWitt

CC: Committee members, 2017 Assembly Committee on Local Government
Room 20 North, State Capitol, P.O. Box 8952, Madison, WI 53708

TO: Representative Edward Brooks, Chair, 2017 Assembly Committee on Local Government
Room 20 North, State Capitol, P.O. Box 8952, Madison, WI 53708

CC: Committee members, 2017 Assembly Committee on Local Government

FROM: Edmond Minihan, Dunn Town Chair; Steven Greb, Dunn Town Supervisor; Jeff Hodgson, Dunn Town Supervisor; Jim Lowery, Christiana Town Supervisor; Lisa Lutz, Town of Black Earth; Mary Boettcher, Town of Black Earth; Lance Boettcher, Town of Black Earth; J. David Stanfield, Town of Vermont; Mick Klein Kennedy, Town of Perry, Supervisor II; Vicki Anderson, Springdale Town Clerk; Martha Gibson, Primrose Town Supervisor; Montrose Town Board; Mark Porter Rutland Town Chairman; Jim Lunde Rutland Town Supervisor; Milt Sperle Rutland Town Supervisor; Nancy Nedveck Rutland Town Supervisor

RE: Opposing AB109 Relating to: modifying the requirements for certain towns to withdraw from county zoning.

Representatives,

I write on behalf of the Town of Dunn Town Board and the other above named parties to urge you to oppose AB 109 to uphold the strong tradition of direct public input on crucial matters at town meetings.

Citizen input at town meetings is foundational to town government. The ability for citizens to vote directly on matters concerning their community is what makes towns unique among municipalities and is a reason many people choose to live in towns. We gather in November to set the levies, April to hear reports on the financial health of the community, and at special town meetings to consider the purchase or sale of land. These meetings provide a forum for electors to have a voice in key town decisions.

Administration of a zoning ordinance is vital in shaping a community over the short and long term. Adopting a new zoning ordinance and changing who administers it has a significant impact on a community – functionally and financially. This action has an impact comparable to or greater than buying and selling land, which requires a citizen vote at a town meeting. A decision of this magnitude warrants the input of citizens at a town meeting, just like other key decisions.

Proponents of AB 109 characterize a town meeting as a difficult, unnecessary hurdle. The town board can call such a meeting, providing as little as 15 days' notice. We believe that this is not a challenging hurdle at all, but rather a straightforward manner of gaining public input on important matters. A desire for expedience should never outweigh the voters' right to input in their community.

This amendment would make Dane County the only county in Wisconsin where voters would not be able to vote on withdrawing from county zoning in favor of town-administrated zoning. We respect the right of our fellow Dane County towns to withdraw from county zoning, but firmly believe the town residents of Dane County should have the same rights as voters in other counties in our state – to vote directly on whether to withdraw and establish town zoning.

We urge you uphold the proud tradition of the direct input of town voters at a town meeting by opposing AB 109.

Sincerely,

Edmond Minihan, Dunn Town Chair;
Steven Greb, Dunn Town Supervisor;
Jeff Hodgson, Dunn Town Supervisor;
Jim Lowery, Christiana Town
Supervisor;
Lisa Lutz, Town of Black Earth;
Mary Boettcher, Town of Black Earth;
Lance Boettcher, Town of Black Earth;
J. David Stanfield, Town of Vermont;
Mick Klein Kennedy, Town of Perry,
Supervisor II;

Vicki Anderson, Springdale Town Clerk;
Martha Gibson, Primrose Town
Supervisor;
Montrose Town Board;
Mark Porter Rutland Town Chairman;
Jim Lunde Rutland Town Supervisor;
Milt Sperle Rutland Town Supervisor;
Nancy Nedveck Rutland Town
Supervisor

March 8, 2018

Dear Mr. Chair and Members of the Committee,

My name is Dana Ripp and I have been a tax paying resident in the town of Middleton for over 13 years.

Please oppose AB 109, which would eliminate my statutory right to vote on Opting-Out of Dane County Zoning.

I am asking you to please protect my statutory right to cast a binding vote on whether or not my town should withdraw from Dane County Zoning (a/k/a "Opt-Out) pursuant to the current provisions in 2015 Act 178, effective March 2, 2016. The proposed legislation, 2017 Assembly Bill 109, if enacted, would eliminate my right to vote under Act 178.

AB 109 would Amend Act 178 to eliminate Town of Middleton town residents' legal right to vote. I value my legal right to vote as a Town resident. Opt-Out is an important issue that has the potential to significantly affect my Town taxes (and fees) for years and into the future.

The requirement of a town resident vote to establish town zoning applies, and will continue to apply, *in every other county in the state of Wisconsin where county zoning exists*. If enacted, Assembly Bill 109 would amend Act 178 to eliminate my legal right to vote on town zoning.

I question why the sponsors and supporters of AB 109 believe that residents of Dane County towns should not be afforded the same opportunity as other town residents in the state.

Why should a Town with a population of 6,399 be allowed to take away Town residents' legal right to vote on Opt-Out, and instead, put this important issue in the hands of just a simple majority vote of 3 Town Board Supervisors? If I am understanding this correctly, Assembly Bill 109 only applies to town residents in Dane County. Town residents in every other town in the State of Wisconsin will still keep their legal right to vote on town zoning.

Please oppose AB 109, which would eliminate my statutory right to vote on this important town issue and Preserve my legal right to vote under the current version of Act 178.

Sincerely,

Dana Ripp
7315 Meadow Valley Rd
Middleton, WI 53562

Mr. Chair and Members of the Committee.

Thank you for this opportunity to testify.

My purpose for being here today is to urge you to **oppose Assembly Bill 109**.

My name is Richard J Oberle.

I live in the Town of Middleton here in Dane County.

For many years I served the people in my Town as a Town of Middleton Board Supervisor, as the Board Liaison to the Town Plan Commission, and prior to the Town Board as a Plan Commission Member.

Today, as a result of Act 178 towns in Dane County have an option to Opt-Out (withdraw) from County Zoning with approval by town residents at an Annual Town Meeting or by Referendum.

The upcoming Town of Middleton Annual Meeting is April 18.

As a past Town Supervisor I recognize the important of the Annual Town Meeting, while the topics are limited, it gives all residents a chance participate, speak and vote equally on issues that impact them.

I value my right to vote and speak about important issues, as do others.

Please oppose AB 109, do not take away the statutory right for town residents in Dane County to vote and speak on the issue of Opting-Out from Dane County Zoning, as it will affect Town residents for many years to come.

AB 109 is unfair, undemocratic, and discriminatory as it targets only the voting rights of residents living in Towns in Dane County.

Opt-Out is an important zoning issue that deserves transparent and open discussion, followed by a vote by the people as it currently is for all Wisconsin Towns.

Please take the high road and vote against AB 109. Do not alienate Dane County.

Please protect my statutory right to vote under 2015 Act 178 and oppose 2017 AB 109

Good morning Chair and Committee, my name is Betsy True, I live in Dane County, in the Town of Middleton.

For the past several months our Town Board of Supervisors has been preparing the town for a decisive Annual Meeting vote on April 18th on whether or not the Town should Opt Out.

At every step where the Town Board completed the measures required to be eligible for this move, we were told that we would have an opportunity to have a binding vote. The Town Board assured us that this would happen and that it was important to give the town residents this deciding vote. The board members did not state their personal preference.

The proposed legislation, 2017 Assembly Bill 109 would change the game and eliminate my right to vote under Act 178. Not only would I lose my right to have a binding vote on this choice, but AB109 selectively targets residents of Dane County. This is underhanded and discriminatory.

I have attended several Town Board and Town Plan Commission meetings where this was on the agenda. Opting Out has many unanswered questions and many potential risks to property owners. It is unclear what benefits there would be that would justify such a big change. Nor is it clear what specific problems there are with Dane County Zoning.

AB109 is an attempt to sidestep the scrutiny of the town electors. Real local control would mean a binding town vote. The proposed change would put important town zoning decisions in the hands of representatives we did not elect and who are from very dissimilar towns in Dane County (under the new Dane County Towns Association Model Zoning Ordinance recently adopted by the Town).

I am zoned residential and would like to keep bees in my backyard. Dane County has drafted and approved an ordinance concerning backyard beekeeping with the input of the Dane County Beekeeping Association that would satisfy everyone's concerns. I would like to be able to enjoy this ordinance.

I am asking you to protect my statutory right to vote under 2015 Act 178 and to **oppose 2017 AB 109.**

Thank you.

Good morning.
My name is Danny Aerts.
I live in the town of Middleton.

I am opposed to the passage of Assembly Bill 109.

Specifically, I am against the repeal of 60.23 (34) (b) 3, and the changes to section 60.62 (2) relating to approval of the opt out by vote of the citizens at the annual town meeting or by referendum.

The decision to change zoning from the Dane County system to a new Towns Association system is one which affects all town residents. It not only affects those seeking building permits or new land development, it will also impact town finances and therefore our property taxes.

I have attended several meetings of the town of Middleton Board and the planning commission last year and this year. At every meeting I was at the board members said the decision to opt out would be up to the town residents. This is too late in the game to make a change in the rules.

Having local control is one reason I have heard cited by proponents of the opt out bill (AB178). This new bill (AB109) takes away any semblance of local control and gives power to special interests. The elections for town board will take place in less than 4 weeks. Our board members have not stated their positions on opt out. The date to submit nominations to run for a seat on the board has expired. With this new bill the citizens of our town cannot vote on the opt out choice directly and we cannot vote for board members that have the same position on the issue as we do.

Also, this bill does not provide any notification to the town residents of a change in zoning authority. In the future, say three years from now, a change could be made with almost no one in the town aware of it.

The citizens' right to vote should not be taken away.
Thank you.

Nancy A. McGill
7821 Westman Way Rd.
Middleton, WI 53562

**Testimony to Wisconsin Assembly Committee on Local Government
2017 Assembly Bill 109
Opposition to Repealing Section 4. 60.23 (34) (b) 3 of State Statutes**

March 8, 2017

Thank you for this opportunity to be heard. My name is Nancy McGill, and I live in the Town of Middleton. Since Act 178 was passed last year, I have been studying the issues related to my Town opting out of County zoning. This is a very significant issue for me and my neighbors.

Town of Middleton officials have been taking steps to meet requirements for opting out. Residents like me have been repeatedly told that we will have an opportunity for a binding vote on this issue at our Town's annual meeting on April 18.

I oppose the proposed elimination of my opportunity to vote directly on opting out. I see no reason to change that provision of Act 178 midway through the process of making this important decision. I support the views of others who have spoken against the proposed change.

Thank you for your consideration.

March 8, 2017

Good Morning, Mr. Chairman and Members of the Committee.

Thank you for the opportunity to oppose Assembly Bill AB109. My name is Carrol Schiller. I reside in the Town of Middleton in Dane County.

Our Town opting out of Dane County Zoning is a major decision that should be decided by Town of Middleton voters. For several months, I have asked the Town Board to supply Town residents with information and facts sufficient for residents to make an educated **vote at our April 18 Town Annual Meeting regarding opt-out from Dane County Zoning. Opting out of Dane County Zoning is allowed under Act 178.**

What is the purpose of our April 18 vote on opt-out if AB109 is passed?

AB109 repeals **Section 4. 60.23 (34) (b) 3.** of Wisconsin Act 178 and appears to **take away my right to vote on opt-out from Dane County Zoning.** The most reasonable and transparent way to have a democratic outcome is to educate Town of Middleton residents so they can make an informed binding vote.

In conclusion, let our Town residents vote! Please do not repeal my right to vote. **Oppose Assembly Bill AB109.**

Thank you so much for your consideration.

Carrol A. Schiller,

7689 Schiller ct., Verona, WI (Town of Middleton)

My name is Rod Huebner.

I am a 66-year-old retired Army Reserve officer and former U.S. District Court employee. I live with my wife, Michele Rose, at 4650 Pine Manor Circle, in the Town of Middleton. We both grew up in rural northeastern Wisconsin and 30 years ago moved to the Town of Middleton from Milwaukee.

I have never spoken out at a public legislative hearing before, but **our great dismay at learning the intent of Assembly Bill 109 prompts me to be here.**

Michele and I are strongly opposed to our township board "opting out" of county zoning ordinances. We believe we should have the right as citizens to vote on this issue.

- We believe the coordination of zoning by Dane County has had a significant role in the positive growth of our township.
- Assembly Bill 109 appears politically motivated to empower the few at the expense of the many in the county.
- The fact that Dane County is singled out has the appearance of targeting the successful progressive leadership in this county that has so obviously benefitted the residents.
- We do not wish to see shortsighted petty power politics remove the right of the people of Dane County to determine their own future.

We chose to live in Dane County because of the unique combination of rural living in proximity to the jobs and resources of Madison and Middleton. When we moved into a new house four miles west of Middleton in 1987, there was no significant development immediately west of the beltline highway. We believe, because of the efforts of commercial and real estate developers, local municipal government and Dane Counties zoning regulations, the growth has not detracted from the great quality of life that attracted us to the neighborhood. I am sure the process was not always easy or pretty. We thank all those who have worked hard to make this happen. Through good leadership, some wonderful recreational space has been preserved and incorporated into new subdivisions. The traffic, with some exceptions, still flows. Although the expansion of large corporate dairy farms has created stresses to lakes and environmental quality, the counties leadership has facilitated the use of a manure digester and brought restrictions on phosphate use to our vicinity that has addressed many environmental concerns. This is an area that will continue to need strong leadership and attention, as preservation of our wonderful lakes remains a focal point for the county.

We do not view the community as simply rural or urban, as most of our township residents have held jobs in the city and travel for shopping, recreation and services in the cities. We do not believe in pitting urban populations against the rural, or vice versa, as we truly are largely a blended community. The planning for the significant anticipated growth needs to be coordinated through zoning that takes into consideration the complete needs of this blended community so that the future planning can be as successful as the past 30 years of development. Dane County truly is a great place to live, work and do business. We trust the Dane County Board to keep it that way as they have a proven track record. **We believe restricting the rights of our township members to vote on the "opting out" zoning issue is voter suppression and unbecoming to the heritage of open government in our great state.**

March 6, 2017 Town of Primrose

To: Keith Ripp, John Jagler, and Senator Luther Olson, Dane County Towns Association

Recently, representatives of the Town of Perry, Town of Primrose and the Town of Oregon met to discuss the status of their membership in The Dane County Towns Association.

During the course of that meeting, several areas of concern regarding the operation of the Association came to light. Those include:

- We do not support the current pending legislation LRB 1041/2 whereby the citizens of a Town lose their voice to weigh-in as to the opt-out option by referendum or the Annual Meeting, where instead only approval by a simple Town Board vote could implement opt-out. The decision to advance such legislation did not take place at any executive committee meeting of the Towns association, and input was not sought from individual towns, neither was it on any agenda of DCTA meetings. We ask that you withdraw the bill because the legislation takes away local control of residents of towns, and that no action be taken until a vote of the executive committee takes place after consulting the individual towns.

TO: Representative Edward Brooks, Chair, 2017 Assembly Committee on Local Government
Room 20 North, State Capitol, P.O. Box 8952, Madison, WI 53708

CC: Committee members, 2017 Assembly Committee on Local Government

FROM: Town of Dunn

RE: Opposing AB109 Relating to: modifying the requirements for certain towns to withdraw from county zoning.

Representatives,

I write on behalf of the Town of Dunn to urge you to oppose AB 109 to uphold the strong tradition of direct public input on crucial matters at town meetings.

Citizen input at town meetings is foundational to town government. The ability for citizens to vote directly on matters concerning their community is what makes towns unique among municipalities and is a reason many people choose to live in towns. We gather in November to set the levies, April to hear reports on the financial health of the community, and at special town meetings to consider the purchase or sale of land. These meetings provide a forum for electors to have a voice in key town decisions.

Administration of a zoning ordinance is vital in shaping a community over the short and long term. Adopting a new zoning ordinance and changing who administers it has a significant impact on a community – functionally and financially. This action has an impact comparable to or greater than buying and selling land, which requires a citizen vote at a town meeting. A decision of this magnitude warrants the input of citizens at a town meeting, just like other key decisions.

Proponents of AB 109 characterize a town meeting as a difficult, unnecessary hurdle. The town board can call such a meeting, providing as little as 15 days' notice. We believe that this is not a challenging hurdle at all, but rather a straightforward manner of gaining public input on important matters. A desire for expedience should never outweigh the voters' right to input in their community.

This amendment would make Dane County the only county in Wisconsin where voters would not be able to vote on withdrawing from county zoning in favor of town-administrated zoning. We respect the right of our fellow Dane County towns to withdraw from county zoning, but firmly believe the town residents of Dane County should have the same rights as voters in other counties in our state – to vote directly on whether to withdraw and establish town zoning.

We urge you uphold the proud tradition of the direct input of town voters at a town meeting by opposing AB 109.

Sincerely,

Town of Dunn

Good Morning Mr. Chair and Members of the Committee.

Thank you for providing me the opportunity to testify today.

My name is Larry Seuferer.

I live in the Town of Middleton in Dane County.

2017 Assembly Bill 109 ("AB 109") is driven by a small group of special interest individuals who expect to realize significant profits out of development and real estate projects in the various towns in Dane County (a/k/a "County"). Realizing these profits will be easier if they can avoid any County zoning oversight or restrictions on their projects. If, in fact, getting rid of all zoning oversight and expertise is a wise thing from the standpoint of the towns, then these special interest individuals ought to be able to convince the town taxpayers to Opt-Out of County zoning. This is apparently the way the process would work in every town in every other county in the State of Wisconsin except Dane County.

If AB 109 is enacted, the taxpayers in the towns in Dane County would no longer be treated the same as all other taxpayers in the state and would no longer have a right to vote on this tax related matter. Such a result would be undemocratic, unfair, and unnecessarily discriminatory.

Not only is AB 109 itself unfair and discriminatory, the legislative process that has brought it to this point is flawed and clearly special interest driven. I find it somewhat amazing that the AB 109 analysis section provided by the Legislative Reference Bureau ("LRB") is short, very summary in nature, and states that it just makes a few technical changes to the law that allows towns to Opt-Out from County Zoning. It makes no mention whatsoever of repealing a taxpayers right to vote on a matter directly affecting their taxes. Apparently, in the LRB's opinion that right to vote is just a small technical matter not worthy of mention. It seems to me that the LRB personnel who prepared this analysis section are either not paying attention to their nonpartisan obligations or they are subject to significant manipulation by the same special interest individuals promoting AB 109. I would hope that a majority of this Committee would recognize this total lack of transparency is wrong and inappropriate.

A final point I want to bring to your attention is that this is not just taking away a right to vote. It is effectively taking away, on this issue, all of the town taxpayer-rights to have any direct or indirect representation on this issue. Due to the timing of AB 109, it is too late to support a candidate for our Town Board that could make this question an issue in the Spring Election. The time for filing is long past except for some type of possible write-in. Thus, if AB 109 is enacted, the Town taxpayers in my Town will not have a binding vote on Opt-Out and neither will they have a representative vote on that question.

I am sure we all remember some portion of our junior high history and civics studies. In all cases, I am sure those lessons at least mentioned one of the rallying calls of the original colonists that gave rise in part to the Boston Tea Party.

"No Taxation without Representation."

Perhaps this analogy is a bit dated for modern times and some may think not appropriate. However, there is absolutely no question, but that AB 109 on this one issue, at this particular time, does exactly that. It unequivocally provides for taxation without any representation.

How any democratically elected legislative body, that derives its' power and authority from a vote of the people, could possibly vote for a result that removes the right to vote for a select group of those people is beyond my understanding or comprehension.

I ask that you reject AB 109.

Thank you.

Good morning Mr. Chair and Members of the Committee. Thank you for giving me the opportunity to testify this morning.

Town Resident in the Town of Middleton in Dane County, Wisconsin

My name is Cynthia Richson. I live in the Town of Middleton (“Town”) in Dane County. I am here today in my individual capacity, as a Town resident.

As aptly described in the Town’s Comprehensive Plan as follows: The Town has a semi-rural, residential identity, and is known for having areas of single-family homes intermingled with agricultural areas. The Town’s landscape is hilly with forested terrain, providing residents with a private, and natural environment.

Town citizens take great pride in preserving and protecting the natural beauty of our unique Town.

Current Version of 2015 Act 178 gives town residents in Dane County a Statutory Right to Vote – Don’t Eliminate that Right with AB 109

2015 Act 178 (“Act 178”), effective March 2, 2016, currently gives me, and other Town electors, the legal right to vote on zoning, an important local issue that will impact my town taxes and fees.

If enacted, 2017 Assembly Bill 109 (“AB 109”) would eliminate my current, legal right as it exists today in Act 178, to vote as a town elector, on zoning issues. As a Town resident, I place a high value on my right to vote on important issues like zoning.

AB 109 is unfair, undemocratic, and discriminatory on its face because it eliminates my right to vote. AB 109 eliminates my right to vote based on the simple fact that I live in a town in Dane County.

At present, I enjoy the same statutory right to vote on zoning as do all other Town residents across the great State of Wisconsin. However, if AB 109 is enacted, my right to vote as a town resident on this important issue will be wrongfully eliminated.

Town of Middleton, Plan Commission Meeting, March 1st Majority Vote Against Town Opt-Out

I would also like to tell the Committee about the March 1st, Town of Middleton, Plan Commission (“Plan Commission”) meeting, of which I am a member. During this meeting, the Plan Commission began its’ discussion of the Town Opt-Out Agenda Item by reviewing a zoning document titled *Submittals to the Town of Middleton needing Dane County approval*, which was prepared by the Town Administrator/Clerk-Treasurer.

The list contained sixty-five zoning submittals for the years 2011 to the present. Of the sixty-five zoning matters on the list, four items were withdrawn by the applicant, one item was denied by the Town, and the remaining sixty items were approved by *both* the Town of Middleton and Dane County Zoning. *In other words, there is no problem with Dane County Zoning.*

The discussion continued about the possible impact of Opt-Out on the Town of Middleton, including discussion of the Bill, which that day had been introduced as AB 109. The Plan Commission discussed how AB 109 would eliminate town electors' statutory right to vote at the upcoming Annual Town Meeting on April 18th. The Plan Commission also took public input on Opt-Out from Town residents in attendance.

Following the Opt-Out discussion, *the Plan Commission voted on a Motion, Approved in a 5-2 vote, as follows: "The Town should not opt-out of Dane County Zoning at this time, and should the town electors vote against withdrawal, the Town Board should not overrule them and vote to withdraw."*

The Dane County Towns Association says the Opt-Out process involves only three phases with three steps, which the Town of Middleton Town Board has already almost completed

Proponents of AB109 have asserted that such amendments are needed to remove "unnecessary complications and uncertainties" regarding how towns can withdraw from Dane County Zoning, and to purportedly streamline the withdrawal process. However, it is interesting to note that the Town of Middleton Board of Supervisors ("Town Board"), for example, has already successfully navigated these alleged complexities, with expert guidance from the Dane County Towns Association ("DCTA") and consultants.

In fact, the DCTA describes the current Act 178 town Opt-Out process as simply having only "three phases" with "three steps." The Town Board has already, almost completed all steps of the entire Opt-Out process, which began in August 2016 when the Town Board approved and issued its' Notice of Intent to Withdraw the Town from Dane County Zoning.

Preserve Town Electors Statutory Right to Vote in the Current Act 178, effective March 2, 2016

Subsequently, at the recommendation of the DCTA, the Town Board approved amendments to the Town's Comprehensive Plan to align with a potential Opt-Out. The Plan Commission recommended these two actions for approval with the understanding that analysis of the Opt-Out option would be ongoing, in order to provide the town electors with sufficient information to make an informed decision at the 2017 Annual Town Meeting.

Therefore, at this time, the only outstanding item on the Town Board's Opt-Out, To-Do list is to obtain a majority vote of the Town Electors to approve withdrawal from Dane County Zoning at the April 18th Annual Town Meeting. However, if AB 109 continues on its' fast-track pace and becomes effective before the April 18th, in a Town with a population of 6,399 people, the five-member Town Board, by a simple majority vote of just three Town Board Supervisors, would have sole statutory authority to withdraw from Dane County Zoning without approval of the Town electors.

Please don't let this happen. Such unprecedented legislative action would be undemocratic, unfair, and un-American.

Please Oppose 2017 AB 109

I urge you to preserve our current statutory right to vote under Act 178, by opposing AB 109.

Opposition to Assembly Bill 109

My name is Michael Rhoads and I am a resident of the town of Middleton in Dane County, Wisconsin. I am opposed to the passing of Assembly Bill 109. I take my right to vote very seriously. Maintaining the current bill Act 178 allows me to continue voting on issues at my Town Hall Meetings. AB109 discriminates against the town residents of Dane County by taking away their right to vote. The system as it is currently set up works and does need to be changed. Besides being discriminatory, AB109 is also unfair and undemocratic to the town residents of Dane County only with all other counties in the state maintaining their right to vote. Please do not vote for Assembly Bill 109.

OPPOSITION TO 2017 AB 109

Good Morning Mr. Chair and members of the Committee. I appreciate the opportunity to testify this morning. I am definitely opposed to the passage of Assembly Bill 109. My name is Joe Getty and I am a citizen of the Town of Middleton ("Town"), in Dane County. ¹

Assembly Bill 109 ("AB 109") is an amendment to Act 178, designed to take away our "Right To Vote" as a Town resident on whether or not the Town should withdraw from Dane County Zoning at the Annual Town Meeting on April 18th. We currently have a system of shared zoning authority between the Town and Dane County and it is working well. For the last six years, of the sixty-five zoning matters in the Town, none have been denied by Dane County. In other words, there is no problem with Dane County Zoning in the Town.

Reasons for opposition to AB 109:

- 1.) It is not politically a decision that is really based on the will of the Town residents or in their best interest. In Town, the Town Board of Supervisors ("Town Board") appears to have already made up their minds to withdraw the Town from Dane County as they have already accomplished almost all of the tasks associated with Opt-out. The remaining task is to obtain a majority affirmative vote of the Town electors at the upcoming Annual Town Meeting on April 18th. However, if AB 109 is enacted before then, the Town Board will have sole authority to withdraw the Town from Dane County Zoning because Town residents have had their legal right to vote eliminated shortly before the Annual Town Meeting. Opt-Out will affect our Town taxes and fees. Taking away my right to vote on Opt-Out is unfair and undemocratic.
- 2.) For some reason, this appears to be a politically motivated act. This bill would only affect the citizens of Dane County. It does not affect any other county, or town in the State of Wisconsin. Why is Dane County being wrongly singled out?
- 3.) The Dane County Towns Association has seen fit to go out and hire a major conservative lobbyist, Robert Welch, to motivate and accelerate the passage of AB 109, to take away our legal right to vote at the Annual Town Meeting on zoning, which we have under the current provisions of Act 178. This is a hiring that our own Town Board no doubt approved of due to overlapping membership with the Dane County Towns Association Executive Committee, and provided their share of the revenue for his appointment via annual Town membership dues paid to the Dane County Towns Association. This only helps to substantiate the view of our Town Plan Commission, which voted against Opt-Out at its' March 1st meeting. It also helps to substantiate the political motivations that may be involved that are not in the best interests of the Town residents.
- 4.) This bill was introduced March 1, 2017. For some reason, this bill is being "FAST TRACKED" through and around the hands of the INDIVIDUAL Town voters. Without your opposition to AB 109, it could be enacted by April 18, 2017 to take away our legal right to vote on Opt-Out at the Annual Town Meeting. Please don't let this happen.

- 5.) Contact with other Town voters and Town voters in other Dane County Towns indicate that they know virtually nothing about this important zoning issue.²
- 6.) Why is there such an artificial sense of urgency to withdraw from Dane County Zoning? The success of the zoning review joint Town/Dane County zoning approval rate since 2011 is a record of cooperation and no opposition.
- 7.) There is a great deal of zoning knowledge, skill, and historical knowledge that is readily available from Dane County Zoning staff.. The expert Dane County Zoning staff is also readily available for questions and assistance to the public with no hourly billing fees. This would no longer be available under Town Opt-Out.
- 8.) It would be difficult and more costly to duplicate this zoning knowledge and good customer service in all Town levels through private zoning administration vendors. In fact, one Town Board member is quoted in the Middleton Times-Tribune as acknowledging that only one engineering firm is interested in bidding on the zoning administration work for the Town under Opt-Out. Most potential bidders would rather only be in a consulting role and not a zoning administrator role, which leaves the Town vulnerable if they are unhappy with the consultant's services, cost, or if the company goes out of business.
- 9.) The Dane County Board also provides some amount of consistency with the county's priorities, such as the water quality of our lakes and the safety of all residents with regards to drinking water.
- 10.) What if any could be the benefits of such a decision?

Please oppose AB 109, and don't take away our right to vote on zoning under the current version of Act 178.

Thank you again for this opportunity.

Testimony Regarding AB 109 – Committee On Local Government

Good morning.

Mr. Chair and Members of the Committee, thank you for the opportunity to testify this morning. My name is John Haverberg. My wife, Diana, and I have been residents of the Town of Middleton in Dane County for 42 years. My purpose for being here is to **oppose Assembly Bill 109**.

Current Act 178 passed in March 2016 gives town residents the legal right to vote on whether or not to withdraw from Dane County Zoning by casting a binding vote either by referendum or at an Annual Town Meeting. The Town of Middleton has scheduled such a vote for our April 18, 2017 Annual Meeting. Multiple means are being employed to inform town residents of the advantages and drawbacks of either decision. However AB 109, Section 4 would repeal a portion of Act 178 eliminating the Town of Middleton residents' legal right to vote, and put the stay-in or opt-out decision solely in the hands of the Town Board.

The impact of zoning regulations is an important issue for all Town residents as zoning decisions can significantly impact our quality of life and our Town taxes and fees. Our town of 6,400 residents must be allowed to collectively decide whether we would be better served by staying with Dane County Zoning or by opting-out.

Preserve our legal right to vote at our Annual Town Meeting under the current version of Act 178. Oppose AB 109.

John Haverberg

From: **Violante, Todd** <Violante@countyofdane.com>

Date: Fri, Mar 3, 2017 at 11:44 AM

Subject: Assembly Bill (AB) 109 Removing Town Citizen Vote Requirement for Towns Opting Out of County Zoning

To: Albion Town Board <IMCEAMAPIPDL-Unknown@co.dane.wi.us>, "Albion (Julie Hanewall)" <jhanewall@townofalbion.net>, "Berry (Brenda Kahl)" <twnberry@chorus.net>, "Black Earth (Dayna Dreis)" <ddreisclerk@gmail.com>, "Blooming Grove (Michael Wolf)" <bgadmin@blmgrove.com>, "Blue Mounds (Helen Kahl)" <townofbluemounds@gmail.com>, "Bristol (Sandra Klister)" <bristolclerk@bristoltownhall.com>, "Burke (Brenda Ayers)" <townofburke@frontier.com>, "Christiana (Kathy Wilson)" <kathy.wilson@townofchristiana.com>, "Cottage Grove (Kim Banigan)" <clerk@towncg.net>, "Cross Plains (Nancy Meinholz)" <tcpclerk@tds.net>, "Dane (Angie Volkman)" <townofdaneclerk@gmail.com>, "Deerfield (Kim Grob)" <townofdeerfield@yahoo.com>, "Dunkirk (Melanie Huchthausen)" <townofdunkirk@att.net>, "Dunn (Cathy Hasslinger)" <chasslinger@town.dunn.wi.us>, "Madison (Renee Schwass)" <schwassr@town.madison.wi.us>, "Mazomanie (Melissa Lohre)" <twnmazo@gmail.com>, "Medina (Ron Jacobson)" <rjmedinaboard@outlook.com>, "Middleton (David Shaw)" <info@town.middleton.wi.us>, "Montrose (Julie Bigler)" <montrose@chorus.net>, "Oregon (Denise Arnold)" <darnold@town.oregon.wi.us>, "Perry (Mary Price)" <mlprice@mhtc.net>, "Pleasant Springs (Pili Hougan)" <clerktreasurer@pleasantsprings.org>, "Primrose (Ruth Hansen)" <clerk@townofprimrose.com>, "Roxbury (Robert Pings)" <pings@merr.com>, "Rutland (Dawn George)" <dgeo4177@aol.com>, "Springdale (Vicki Anderson)" <townofspringdale@mhtc.net>, "Springfield (Carolyn Hacker)" <townhall@town.springfield.wi.us>, "Sun Prairie (Jo Ann Ramsfield)" <tspclerk@gmail.com>, "Vermont (Karen Carlock)" <clerk@townofvermont.com>, "Verona (John Wright)" <jwright@town.verona.wi.us>, "Vienna (Kathy Clark)" <tovclerk@centurytel.net>, "Westport (Thomas Wilson)" <twilson@townofwestport.org>, "York (Nicole Bronkhortst)" <NBronkhorstyorkclerk@yahoo.com>

Cc: "Renee Lauber (lauberconsulting@gmail.com)"

<lauberconsulting@gmail.com>

Dear Dane County Town Board Supervisors, Plan Commission Members, and Clerks,

I'm writing to bring your attention to Wisconsin Assembly Bill 109, a copy of which is attached for your review. It was formally introduced on Wednesday, March 1.

It affects towns in Dane County that wish to withdraw from county zoning: AB 109 removes the right of town residents to vote on the issue of opting out of Dane County zoning.

You may recall that the state passed over a year ago a law (Wisconsin Act 178) allowing Dane County towns the opportunity to withdraw from county zoning, subject to approval by town residents through a vote at either the April annual town meeting, or in a referendum on the spring or general election ballot.

Although the summary of the bill prepared by the state Legislative Reference Bureau (LRB) makes no mention of it, AB 109 explicitly, yet very discreetly, removes the requirement for a citizen vote (see Section 4 of the attached bill).

A recent article on this bill that appeared in the Middleton Times Tribune is also attached to this email. The article indicates that the Dane County Towns Association (DCTA) is advocating in support of the bill.

If we are correct in our understanding, the requirement of a town resident vote to establish town zoning applies, and will continue to apply, in every other county in the state of Wisconsin where county zoning exists. I question why the sponsors and supporters of AB 109 believe that residents of Dane County towns should not be afforded the same opportunity as other town residents in the state.

A State Assembly hearing is scheduled for next week on Wednesday, March 8 at 9:30 a.m. in Room 400 Northeast of the Wisconsin State Capitol. Other pertinent information may be found via the following link to the bill's website: <http://docs.legis.wisconsin.gov/2017/proposals/ab109>.

As the director of the Dane County Planning and Development Department who has served town officials and citizens for almost 20 years, for the sake of open government, to broadly engage citizens in land use management, and with the best interests of towns in mind, **I encourage you to oppose this bill.**

Additional, previously distributed information on the department's perspective on opting out of county zoning is also attached to this email.

While we feel our town clerk distribution list is fairly complete, we know that our distribution lists for town board and plan commission members are not complete: Town clerks, if you are amenable, please share this information broadly with your board and commission members and any others you feel may be interested.

Thank you very much for your consideration.

As always, please don't hesitate to contact me if you have any comments or questions in this regard.

Sincerely,

Todd

Todd A. Violante, AICP, Director
Dane County Planning & Development Department

Room 116, City-County Building
210 MLK, Jr. Blvd.

Madison, WI 53703-3342

Phone: (608) 266-4021

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Email: violante@co.dane.wi.us

<http://www.countyofdane.com/plandev/>

DCTA Response to Head of Dane County Zoning Todd Violante email.

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 DCTA Legal Council



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

Jessica Karls-Ruplinger, Deputy Director

TO: REPRESENTATIVE KEITH RIPP

FROM: Andrea Brauer, Staff Attorney

RE: 2017 Assembly Bill 109, Relating to Modifying the Requirements for Certain Towns to Withdraw From County Zoning

DATE: March 6, 2017

This memorandum responds to your request for a summary of the changes that 2017 Assembly Bill 109 ("the bill") makes to a town's ability to withdraw from county zoning. You have also asked whether the bill changes the applicable county population threshold. The statute authorizing town withdrawal from county zoning was enacted as 2015 Act 178, effective March 2, 2016. [s. 60.23 (34), Stats.]

COUNTY POPULATION THRESHOLD

Under current law, a town located in a county with a population of 485,000 or more may withdraw from county zoning, if certain requirements are met, and may also adopt a town zoning ordinance under certain conditions. Withdrawal may occur only during a one-year period every three years. Dane County is currently the only county in Wisconsin that meets the population threshold and also contains towns. The bill does not modify the limitation that only a town located in a county with a population of 485,000 may withdraw from county zoning.

WITHDRAWAL REQUIREMENTS MODIFIED BY THE BILL

The bill modifies the following steps that a qualifying town must take before it may withdraw from county zoning. Note that this memorandum does not describe additional withdrawal requirements, which are not modified by the bill.

Notification

Before withdrawing from county zoning, a town must notify the county clerk and one or more officials of every other town in the county, in writing, of the town's intent to enact the ordinance. Currently, a town must provide this notification not later than 180 days before

enacting the withdrawal ordinance. The bill removes the 180-day requirement. Instead, under the bill, the town must enact the ordinance before September 1, during the one-year period in which withdrawal may occur.

Zoning Ordinance, Comprehensive Plan, and Official Map

Under current law, a town's withdrawal is not effective unless the town enacts a zoning ordinance, a comprehensive plan, and an official map, and sends certified copies of such documents to the county clerk. The bill removes the requirement that a town create an official map, and send it to the county clerk. It also adds a requirement that the town send certified copies of its zoning ordinance and a comprehensive plan to the county clerk before November 1.

Ordinance Approval

The bill removes the current requirement that a town's ordinance withdrawing the town from county zoning must be approved either at the annual town meeting or in a referendum called by the town board for that purpose at the next spring or general election, to be held not sooner than 70 days after the referendum is called by the town board.

In addition, under current law, where a town board has been granted zoning authority and the town is located in a county which has enacted a county zoning ordinance, the board may only enact zoning ordinances subject to approval by the town meeting or by a referendum vote of the electors of the town. Under the bill, this requirement only applies if the county has a population of less than 485,000. [s. 60.62 (2), Stats.]

EFFECTIVE DATE OF THE WITHDRAWAL

The bill also modifies the effective date of a town's withdrawal from county zoning as follows. Under current law, the zoning ordinance, comprehensive plan, and official map take effect on the first day of the third month after certified copies of the documents are sent to the county clerk. Under the bill, the zoning ordinance and comprehensive plan take effect on the date specified in the ordinance, but not later than January 1 of the following year.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AB:jal

Town of Middleton's Right to a Legal Vote on Opt-Out* is About to be Repealed

**the question of withdrawing from Dane County Zoning*

This is a decision with far-reaching consequences for our community.

The proposed Amendment to Act 178 to eliminate town citizens' right to vote on opt-out is on a fast-track. Most certainly they will work to enact it before the Town of Middleton's Annual Meeting on April 18th. This Amendment would make a simple majority Town Board vote the deciding factor.

We need to consider these questions:

- **What is the PROBLEM?**
- **Why adopt SOMETHING NEW?**
- **What is the RUSH?**
- **What is the COST?**
- **How will it WORK?**
- **Who BENEFITS?**
- **Is there a CONFLICT OF INTEREST?**
- **What are the FINANCIAL RISKS?**
- **What are the LEGAL RISKS?**

FOR MORE INFORMATION:

- Check the Town of Middleton Concerns Facebook page for updates, sample language for emails, and details on testifying: <https://www.facebook.com/MiddletonResidents/>
- Look for updates in the Middleton Times-Tribune

THINGS YOU CAN DO:

1. **E-MAIL** your two state legislators and cc the legislators pushing this fast-track legislation.
2. **ATTEND THE WEDNESDAY, MARCH 1ST TOWN OF MIDDLETON PLAN COMMISSION MEETING** where the Town Board has directed that an advisory vote be taken by the Plan Commission on Opt-Out. Let the Plan Commission know what you think before they vote.
3. **VOLUNTEER TO GIVE PUBLIC TESTIMONY on LRB-1041/2.** Help the state legislature understand how much you value your legal right to a binding VOTE, especially on issues that have an effect on your Town taxes.
4. **HOLD THE TOWN BOARD ACCOUNTABLE** for lobbying to take away your legal right to a binding vote on Opt-Out.
5. **TELL THE TOWN BOARD YOU WANT A BINDING VOTE** at the Annual Town Meeting on Tuesday, April 18, 2017, 7pm, Town Hall.
6. **WRITE LETTERS TO THE MEDIA**

Representative Dianne Hesselbein
Rep.Hesselbein@legis.wisconsin.gov

Senator Jon Erpenbach
Sen.Erpenbach@legis.wisconsin.gov

Representative Keith Ripp
Rep.Ripp@legis.wisconsin.gov

Representative Scott Allen
Rep.Allen@legis.wisconsin.gov

Representative John Jagler
Rep.Jagler@legis.wisconsin.gov

Representative Joel Kleefisch
Rep.Kleefisch@legis.wisconsin.gov

Senator Luther Olsen
Sen.Olsen@legis.wisconsin.gov

SAMPLE LANGUAGE:

Re: Do NOT repeal 60.23 (34) (b) 3 in 2015 Wisconsin Act 178

Dear Representative Hesselbein and Senator Erpenbach:

I live in the Town of Middleton. The Town Board of Supervisors has given notice under Act 178 that it intends to withdraw from Dane County Zoning ("Opt-Out") after being authorized by a VOTE of Town of Middleton Citizens at the 2017 Town of Middleton Annual Meeting on Tuesday, April 18th. It has come to my attention that a bill has just been introduced that would ELIMINATE my right to vote either for or against Opt-Out under Act 178, 60.23 (34) (b) 3. Please support my legal right to vote under the current provisions in Act 178.

Do NOT support LRB-1041/2.

Sincerely,

(your full name, address and phone)

TESTIFY:

<http://legis.wisconsin.gov/Pages/cg/testify.aspx>

A) You can "register" your opposition to the provisions in LRB-1041/2 that would eliminate your legal right to vote at the Annual Town Meeting on Opt-Out. Tell them you oppose LRB-1041/2 "Section 4. 60.23 (34) (b) 3. of the statutes is repealed." You want to keep your legal right to vote on Opt-Out contained in the current law under Act 178.

B) You can Testify at the Public Hearing. Testimony is generally limited to three minutes.

http://legis.wisconsin.gov/Documents/CG/Citizen_testify.pdf

THE MIDDLETON TOWN BOARD:

Bill Kolar, Chair—term expires April 4, 2017

Tim Roehl, Seat #1—term expires April 4, 2017, Registered Lobbyist for the Dane County Towns Association, Coldwell Banker Realtor

Brent Renteria, Seat #2—term expires April 4, 2017

Paul Connell, Seat #3—term expires April 2018

Gary Whitney, Seat #4—expires April 2018

TOWN MEETINGS, Town Hall, 7 pm:

Plan Commission, Wednesday, March 1

Town Board, Monday, March 6

Town Board, Monday, March 20

Plan Commission, Wednesday, April 5

Town Board, Monday, April 10

Town of Middleton Annual Town Meeting
7 pm, Town Hall, April 18, 2017

SAMPLE LETTER TO THE EDITOR:

In 2016, a state law was enacted called Act 178 that gave towns in Dane County the option to withdraw from county zoning authority and establish their own zoning. That legislation requires approval by a majority vote of town electors. The reason for the vote is that this is an important issue that affects all town residents.

However, new legislation has been introduced to take away the citizens right to vote. The proposal is being fast-tracked to avoid publicity. Why is this being done? Perhaps the Dane County Towns Association and town board supervisors are worried that a citizens vote at the annual town meeting will not turn out the way they want.

The citizens right to vote should not be taken away.

Town of Middleton Taxpayers

Please Plan to Attend and VOTE at the Annual Town Meeting, Tuesday, April 18, 2017, 7 pm, Town Hall

There is an important issue that will be on Agenda at the Annual Town Meeting. You will be asked to Vote to authorize the 5-member, Town Board to "opt-out" (withdraw) from Dane County Zoning. Currently, the Town has shared zoning authority with Dane County. Dane County has expert zoning staff that has been very helpful to the Town in providing assistance to resolve complicated zoning matters, including effective enforcement of the Dane County Zoning Ordinance and legal services. Withdrawing from Dane County Zoning would result in "opt-out" towns adopting an unfamiliar opt-out zoning ordinance that has just been created, which will require outside consultants to implement and administer in the Town with no legal precedent to guide the resolution of future zoning disputes.

Before you cast your Vote on April 18th, you should seek verifiable, fact-based answers to questions so you can exercise objective judgment regarding the impact on Town Taxpayers if the Town withdraws from Dane County Zoning.

- Is there a problem with Dane County Zoning? If yes, what are the specific problems, when have they occurred, and how were they not properly resolved by Dane County?
- If there are no problems with Dane County Zoning, why withdraw?
- Aren't outside zoning consultants expensive? Will this increase Town zoning costs? How much extra money needs to be budgeted each year to cover any higher, variable zoning costs?
- Will real estate developers and builders be the true beneficiaries of "opt-out"? If they sue the Town under "opt-out" zoning disputes, what will the Town have to pay in Legal Fees?
- How much will Town taxes increase under "opt-out"?
- Will Town Taxpayers lose access to Dane County Zoning experts and meaningful zoning information that is currently available to the public at no charge?