



WISCONSIN LEGISLATIVE COUNCIL

MUNICIPAL ANNEXATION

Room 412 East (Joint Finance Room), State Capitol
Madison, Wisconsin

October 12, 2004
10:00 a.m. - 1:30 p.m.

[The following is a summary of the October 12, 2004 meeting of the Special Committee on Municipal Annexation. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

Call to Order and Roll Call

Chair Lasee called the meeting to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Alan Lasee, Chair; Sen. Ronald Brown; Reps. Mark Gottlieb, Dean Kaufert, Samantha Kerkman, and Josh Zepnick; and Public Members Roger Clark, Gerald Derr, Christine Jones, Pat Kaster, Warren Kraft, J. Michael Mooney, and Michael Parmentier.

COMMITTEE MEMBER ABSENT: Sen. G. Spencer Coggs.

COUNCIL STAFF PRESENT: Don Dyke, Chief of Legal Services; Mary Offerdahl, Staff Attorney; and Rachel Veum, Support Staff.

APPEARANCES: Terry C. Anderson, Director, Legislative Council staff; Richard J. Stadelman, Wisconsin Towns Association, Shawano; Edward Huck, Wisconsin Alliance of Cities, Inc., Madison; Curt Witynski, League of Wisconsin Municipalities, Madison; Richard J. Lukas, Mukwonago; Marilyn Neumann, Mukwonago; Beverly Lancaster, Burlington; Brian Riemer, Attorney, Delavan; and Dennis Acker, Burlington.

Opening Remarks

Senator Alan Lasee, Senate Co-Chair of the Joint Legislative Council and Chair of the Special Committee, opened the meeting by describing the makeup and history of the Joint Legislative Council. He discussed the charge of the Special Committee and outlined ground rules for operation of Council

study committees, including the prohibition on voting by proxy. At the conclusion of his remarks, Chair Lasee thanked committee members for their willingness to serve.

Terry C. Anderson, Director, Legislative Council staff, welcomed committee members and introduced the committee's staff. Mr. Anderson requested that committee members update their individual contact information, described the procedures for completing travel vouchers, and noted that the committee's meetings are recorded and available on the Internet.

Introduction of Committee Members

Following introductory remarks in his capacity as committee chair, Senator Lasee asked committee members to briefly introduce themselves.

Public Hearing

Richard J. Stadelman, Executive Director, Wisconsin Towns Association, Shawano. Mr. Stadelman began by providing the committee statistics on the number of boundary changes in the state due to annexations, incorporations, and detachments in the last four and one-half years. He noted that many of the changes involved litigation or, at least, confrontation between participating towns and cities and villages. Costs of these disputes include litigation costs, uncertain status of the property involved (which is often harmful for economic development), and animosity between local governments that frequently spills over into other areas. He contended that a primary reason for conflict in boundary situations is the imbalance in current annexation law in favor of cities and villages.

Mr. Stadelman urged the committee to consider changes in state law that: create "charter towns"; require town agreement before a city or village can exercise extraterritorial plat reviews; require town official maps to be incorporated into county development plans; limit annexation of land owned by a city or village to land necessary for public service or recreational use; and expand and strengthen the DOA review of annexations. He also urged the committee to consider the following suggestions to reduce conflict on boundary issues: require annexation lines to follow more defined boundaries; modify current cooperative boundary procedures to shorten time lines; revise the 2003 Wisconsin Act 317 provision prohibiting towns from contesting direct annexations by unanimous approval; and consider incentives for encouraging cooperative boundary agreements, including financial incentives.

Edward Huck, Executive Director, Wisconsin Alliance of Cities, Inc. Mr. Huck referred to statistics showing the 30-year (1960-1990) average net annual growth of selected Wisconsin cities compared to towns contiguous with those cities. The towns outside the cities generally experienced higher net annual growth. Mr. Huck said that the higher growth outside cities leads to changes in marginal costs and results in higher property taxes. Mr. Huck next discussed his position that there are serious problems with local governmental organization and service delivery in Wisconsin. Finally, he referred the committee to draft legislation, developed by the Wisconsin Alliance of Cities in the past, to allow cities and villages with a population of at least 10,000 to annex territory, subject to state approvals, if certain procedures are followed and if the annexed land complies with specified characteristics.

In response to questions and committee discussion of his remarks, Mr. Huck also urged the committee to consider bolstering the border agreement process, including providing incentives for

boundary agreements. More generally, he suggested that treating annexation in isolation may be problematic if the larger picture is not also considered.

Curt Witynski, Assistant Director, League of Wisconsin Municipalities. Mr. Witynski first urged the committee to consider the following changes in boundary agreement law: reducing time periods under the cooperative boundary agreement procedure; providing financial incentives for boundary agreements; replacing current planning requirements in the cooperative boundary agreement procedure with a general requirement that the agreement be consistent with the participating municipalities' comprehensive plans; and expressly allowing boundary agreements under the general intergovernmental cooperation statute, s. 66.0301, Stats.

Mr. Witynski said that if the committee decides to consider substantive annexation law changes, he urges the committee to consider authorizing municipalities to unilaterally annex town peninsulas and condition approval of extraterritorial subdivisions on annexation. Mr. Witynski concluded by noting that the League of Wisconsin Municipalities opposes proposals that further erode municipal annexation powers.

In connection with Mr. Witynski's suggestion that s. 66.0301, Stats., be modified to expressly allow border agreements, Representative Gottlieb asked the committee to instead consider modifying s. 66.0225, Stats., relating to stipulated boundary agreements in connection with litigation, to accomplish Mr. Witynski's goal. He suggested eliminating the requirement of a court action under this section and the requirement of court approval. Representative Gottlieb also asked Mr. Witynski his position on requiring some sort of dispute resolution process in annexation proceedings. Mr. Witynski responded that the League of Wisconsin Municipalities does not have a position on this issue at this time.

Regarding Mr. Witynski's suggestion to modify s. 66.0301, Mr. Clark asked whether various protections, such as a referendum, should be included in the revision. Mr. Witynski responded that such provisions could be included and he is willing to discuss the specifics of such a revision.

Richard J. Lukas, Mukwonago. Mr. Lukas described a situation involving his property where it would be advantageous to him if the Village of Mukwonago were able to annex property across county lines. He noted that 2003 Wisconsin Act 317 limits the ability to annex across county lines, requiring town and county approval. He said that an annexation proceeding was commenced before the effective date of the new law but because of a mistake on someone else's part, he may have to commence a new proceeding.

Marilyn Neumann, Mukwonago, and Beverly Lancaster, Burlington. Ms. Neumann and Ms. Lancaster explained that they inherited a family farm in the Town of Waterford zoned agricultural and subject to a 35-acre minimum lot requirement. They said that the 35-acre restriction substantially hinders their ability to sell the property; they wish to be able to annex to an adjoining jurisdiction in order to avoid the 35-acre limitation. They contended that in such situations the interests of the property owner should be paramount.

Brian Riemer, Attorney, Delavan. Mr. Riemer, in his capacity as attorney for the Greenwalds, stressed the importance of the landowner perspective in annexation proceedings. He indicated that the new, additional limitations under the direct annexation by unanimous approval procedure are frustrating. He said that property owners are looking for certainty and expediency. He said that the law should encourage economic development and that property rights are fundamental.

Dennis Acker, Burlington. Mr. Acker stressed the prominence of property rights in annexation proceedings, contending that if a property owner can get the best value through annexation, a town, city, or village should not be allowed to block the annexation. He urged the committee to take into account property rights in its deliberations.

Discussion of Committee Assignment

Among the comments made during committee discussion were the following:

- Keep in mind the interests of property owners and be aware that any recommendations may have a substantial effect on the economic development process.
- Keep the scope of the study relatively narrow: strive to eliminate disputes to the extent practical but enable disputes that do occur to be resolved in a timely, efficient manner.
- Consider introducing more fairness into the annexation process by giving towns a greater say in the proceedings.
- Consider introducing dispute resolution procedures into the annexation and boundary agreement processes, on a voluntary or mandatory basis.
- Consider procedures that allow extension of city services for a period of time, with annexation occurring at the end of that period.
- Since many annexation disputes involve money, provide financial incentives for boundary agreements or as part of the annexation process.
- Focus on tools for cooperation and make distinctions between voluntary and “forced” annexations.
- Consider different tools for towns to force parties to the table in disputed annexation proceedings.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be held on *Thursday, November 18, 2004, at 10:00 a.m., in Room 201 Southeast, State Capitol, Madison.*

Adjournment

The meeting was adjourned at 1:30 p.m.

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