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To: Members of the Special Committee on Municipal Annexation
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: October 12, 2004
Re: Making it Easier for Communities to Enter into Border Agreements

Thank you for the opportunity to offer suggestions on how the state can make it easier for communities to enter into boundary agreements and improve the annexation process. I've organized my comments under the following three topics: (1) Changes in State Law that Will Encourage More Boundary Agreements; (2) Annexation Law Changes the League Recommends; and (3) Annexation Law Changes the League Opposes.

1. Changes in State Law that Will Encourage More Boundary Agreements.

- ☐ Make it easier for municipalities and towns to enter into cooperative boundary agreements approved by the state. The procedure municipalities must follow under sec. 66.0307 to enter into a state approved cooperative boundary agreement is cumbersome and time consuming. If the process were easier, more communities could use it. At a minimum, statutory waiting periods between certain steps in the process should be reduced.
- ☐ Consider providing financial incentives to communities that enter into cooperative boundary agreements under sec. 66.0307.
- ☐ The cooperative boundary agreement process was enacted before the Smart Growth law was adopted. It includes extensive planning requirements that duplicate the comprehensive planning process that all cities, villages and towns are required to do by 2010 under Smart Growth. We recommend deleting the planning aspects of the cooperative boundary agreement process (e.g., sec. 66.0307(3)(dm)) and replace with a requirement that the cooperative boundary agreement be consistent with each community's comprehensive plans. This latter requirement could be added to secs. 66.0307(3)(e) and 66.0307(5)(c)2.
- ☐ Section 66.0301, Stats., the general intergovernmental cooperation statute, should be modified to expressly allow communities to enter into long term enforceable boundary agreements of reasonable duration.

2. Annexation Law Changes the League Recommends

If the Committee decides to recommend changes to the annexation process, then we urge it to consider the following two modifications that would be helpful for cities and villages:

- ☐ **Authorize municipalities to unilaterally annex town peninsulas.** For an example of such legislation, see 2001 Assembly Bill 816. Since landowners initiate annexations, over the years the boundaries of some municipalities have become irregular. In some cases, cumulative annexations have resulted in town peninsulas within cities and villages. The existence of these town peninsulas often leads to inefficiencies in the provision of municipal services such as:

stormwater collection; water and sewer service; police, fire and bus services; building inspections; refuse collection; road maintenance; and snow removal. Also, it is common for persons living in such peninsulas to be confused about where to vote, whom to pay property taxes to, and who to call for ambulance, fire and police services.

In the early 1970s, the legislature addressed similar problems relating to town islands within municipalities by enacting legislation allowing cities and villages to unilaterally annex such islands. We urge this Committee to recommend a similar remedy for the problem of town peninsulas -- authorize municipalities to unilaterally annex them.

- ❑ **Authorize municipalities to condition approval of extraterritorial subdivisions on annexation.** In *Hoepker v. City of Madison Plan Commission*, (1997), the City of Madison conditioned approval of a proposed subdivision in the city's extraterritorial jurisdiction on annexation to the City because the City was concerned about having a sixty-two lot development on its immediate fringe which would not be served by public sewer and water. The Supreme Court held that the City could not condition approval of the subdivision on annexation. In its decision, the Court suggested that the City's legitimate concerns about allowing unsewered developments to occur on its fringe would have to be addressed by the legislature. The Court said:

We have not overlooked the City's and the League of Wisconsin Municipalities' assertion that municipalities should have authority to condition plat approval on annexation, because otherwise municipalities will be forced to approve unsewered development on their immediate fringe. While this may very well be good public policy, the question of whether municipalities should have such authority is a matter for the legislature.

We urge the Committee to recommend legislation authorizing municipalities to condition approval of subdivisions contiguous to municipalities and located within their extraterritorial plat review jurisdiction on annexation.

3. Annexation Law Changes the League Opposes

The League will strongly oppose any legislative proposals recommended by the Wisconsin Towns Association that further erode municipal annexation powers. Already this session, legislation was enacted placing unprecedented restrictions on municipal annexation powers. Act 317 prohibits any annexation other than annexations of municipally owned territory from occurring unless the municipality pays annually to the town, for five years, a payment equal to the amount of property taxes that the town levied on the annexed territory in the year of the annexation. Act 317 also prohibits a municipality from annexing territory that is located in a different county than the county the municipality is located in unless the town board and the county board each adopt a resolution approving the proposed annexation.

Despite these significant changes to annexation law, town governments continue to ask the legislature to further reduce municipal powers. It's apparent that their ultimate goal is to freeze current municipal and town borders; cementing in place all of the inefficiencies and problems associated with having 1,850 cities, villages and towns – 6th highest of the fifty states.

We strongly urge this committee to avoid recommending further limitations on municipal annexation powers and instead focus on ways the state can encourage and facilitate boundary agreements.

Conclusion. We urge the Committee to focus on recommending changes in state law that will better enable cities, villages and towns to voluntarily enter into boundary agreements. We look forward to working with the Committee on this important issue. Thank you for considering our comments.