

ANDRÉ JACQUE

STATE REPRESENTATIVE • 2nd ASSEMBLY DISTRICT

(608) 266-9870
Fax: (608) 282-3602
Toll-Free: (888) 534-0002
Rep.Jacque@legis.wi.gov

P.O. Box 8952
Madison, WI 53708-8952

TO: Members of the Assembly Committee on Urban and Local Affairs
FROM: Representative André Jacque
DATE: February 25, 2014
RE: Assembly Bill 661

Chairman Brooks and Committee Members:

Thank you for the opportunity to testify on Assembly Bill 661.

As you know, a town board that has authority to exercise village powers may enact zoning ordinances using the zoning statutes that are used by cities and villages. Currently the law provides for a town's withdrawal from county zoning only after a county adopts a comprehensive revision.

Assembly Bill 661 allows a town to give a six month notice to the county of its intent to withdraw (in three year windows starting effective in 2014 to withdraw on January 1, 2015 and every three years thereafter).

This bill also allows the county to terminate county zoning upon notice of withdrawal by one or more towns, if county decides to terminate and gives notice to all towns by October 1st. The changes do not allow towns to withdraw from shoreland and floodplain zoning which would remain a county requirement.

Thank you again for hearing AB 661 today and I am happy to answer any questions you may have.



**Wisconsin
County Code
Administrators**

February 24, 2014

Mr. Edward Brooks
Chair, Assembly Committee on Urban and Local Affairs
Room 20 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Brooks,

My name is Kay Miller. I am the president of the Wisconsin County Code Administrators (WCCA). WCCA is a statewide organization established in 1969 whose members administer zoning and land use regulations. Please accept this letter in response to the introduction of Assembly Bill 661.

On behalf of WCCA I wish to voice our opposition about AB 661. We respectfully request consideration of the following points:

- Current law provides an opportunity for a town under county zoning to withdraw at the time of a comprehensive revision of the county zoning ordinance. The definition of a "comprehensive revision" has been a point of litigation for years. Instead of creating a new law that creates potential new litigious interpretation, effort should be focused on defining "comprehensive revision".
- Current law provides authority for a town under county zoning to block the revision of a county zoning ordinance, thus forcing a level of collaboration and cooperation between the town and county. This bill would eliminate this collaboration and cooperation.
- The bill would mandate a county to integrate a town master plan and official map without change, which conflicts with the county's ability to comprehensively plan under 66.1001. Yet, this bill does not mandate a town comprehensive plan to integrate a city or village master plan and official map without change, as is required of the county under current law.
- Current law already mandates a county comprehensive plan to incorporate a city or village master plan without revision (currently a land use planning issue), yet this bill

is silent to the inevitable conflicts that will occur between a town master plan and city or village master plan. Thus, a county is left with the conflict of having to adopt two master plans that conflict with each other.

- This bill would allow a town to withdraw from coverage of a county development plan would completely contradict the intent of comprehensive planning as established in 66.1001. This would create a "patchwork planning" process for the state of Wisconsin.
- As a result of the previous bullet point, any town that exercises town zoning authority under this bill will be exempt from eligibility for farmland preservation tax credits. Ch. 91 only provides for DATCP certification of a county farmland preservation plan and requires said plan to be incorporated into the county's comprehensive plan adopted under 66.1001. By removing a town from the authority of a county development plan, ie. comprehensive plan, this bill would also remove a town from the county's farmland preservation plan thus removing any eligibility for farmland preservation tax credits.
- The repeal of 60.62(3) under this bill would eliminate the current check and balance within statute and would promote autonomous land use decisions without regard to regional impacts.
- This bill would provide the option and authority of a county to repeal its zoning ordinance, except a floodplain or shoreland zoning ordinance, and mandate any town subject to the county ordinances to have to adopt a town zoning ordinance, only after adopting a town comprehensive plan. This provision creates an inherent conflict should one of several towns currently under county zoning decide it wants to withdraw from county zoning and enact town zoning and the county decides to repeal its zoning ordinance, thus mandating the rest of the towns to also adopt town zoning and comprehensive plans whether desired or not. This bill would authorize one town to mandate town zoning and planning on other towns should the county decide to repeal its zoning ordinance. I fail to see where this makes sense, let alone accomplishes sound land use planning and decision making.
- This bill fails to recognize the value a county can play in land use planning and decision making by eliminating any approval authority of a proposed town zoning ordinance enactment or revision. Current law provides that a town under county zoning can block the revision of a county zoning ordinance by the county, as current law recognizes the value of creating a balance of authority in land use decisions because said decisions have impact beyond political boundaries.
- This bill creates fragmentation and conflict instead of promoting collaboration and cooperation, which is neither a positive or productive means of governing.

- Every 3 years counties could be faced with the loss/gain of zoning jurisdiction. This would be difficult for counties to determine staffing levels to enforce zoning provisions.
- This bill would create consistency issues because counties would no longer be approving a town ordinance and would foreseeably have no idea what is or has been happening, from a zoning standpoint, in a town that is not subject to county zoning authority.
- It could foreseeably create many more nonconforming structures. If a town, which has not been within county zoning jurisdiction, decides it doesn't have the staffing or will to enforce zoning anymore and decides to fall within county zoning, then properties that have been developed under the town ordinance may not comply with the county ordinance

Please accept my thanks for your consideration of this matter and feel free to contact me with any questions you may have.

Respectfully submitted,



Kay Miller
President, WCCA
421 Nebraska Street
Sturgeon Bay, WI 54235
(920) 746-2323

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Urban and Local Affairs

FROM: Daniel Bahr, Government Affairs Associate *DB*

DATE: February 25, 2014

SUBJECT: Opposition to Assembly Bill 661

Thank you for the opportunity to address Assembly Bill (AB 661) relating to authorizing town withdrawal from county zoning and requiring certain towns to enact a zoning ordinance and a comprehensive plan. Listed below are some of the Wisconsin Counties Association's (WCA) main concerns with AB 661:

- Current law provides an opportunity for a town under county zoning to withdraw at the time of a comprehensive revision of the county zoning ordinance. The definition of a "comprehensive revision" has been a point of litigation for years. Instead of creating a new law that creates potential new litigious interpretation, effort should be focused on defining "comprehensive revision."
- Current law provides authority for a town under county zoning to block the revision of a county zoning ordinance, thus forcing a level of collaboration and cooperation between the town and county. This bill eliminates this collaboration and cooperation.
- The Working Lands Initiative requires a County Comprehensive Plan and Farmland Preservation Plan to be consistent with one another. This bill would create conflicts with the Working Lands Initiative and ATCP 49 by allowing towns to "opt out" of coverage of the County's Plan.

The current system provides regulatory certainty throughout the state. AB 661 has the potential to create a patchwork of zoning regulations making it difficult for businesses to operate and generating a climate of regulatory uncertainty.

In the vast majority of cases, counties work diligently to accommodate townships regarding zoning ordinances that are in place. As is the case with any system, there are exceptions to the rule and there are bad actors. WCA is committed to working with any

local unit of government to ensure that the best public policy prevails. We have and will continue to have discussions with the leadership of the Wisconsin Towns Association (WTA) to minimize the bad actors and to generate the best public policy outcome possible as it relates to the partnership between towns and counties.

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

Committee on Urban & Local Affairs

Town of Middleton Supervisor # 1 Support of AB 661

The Town of Middleton is a town with rural character and urban appeal. The Town has sewer service in one area a Sanitary District part # 5 of the Madison Metropolitan Sewer District. The town is home to some 6,021 people living in slightly over 2,000 homes. We have an equalized tax value of over 1 billion dollars. From an equalized tax value and population standpoint, we are a larger than most of the villages in the county. The Town has attained a Standard & Poors AA+ bond rating, the highest I am told that a town in Wisconsin can achieve. We contract with Dane County Sheriff for two deputies and are a part of the best fire district in the country, Middleton Fire Department. The Town's staff, along dedicated safety personnel, and town crew is exceptional and are regularly complimented by our residents.

As a town, we have 24 miles of trails, 63 miles of roadway, and 2,900 square feet per resident of open / dedicated park space. The Town's Pope Farm Conservancy has received national attention with sunflower photo spreads in the Wisconsin State Journal, Middleton Times, LA Times, and was picked up by the Associated Press and run in various publications throughout the country.

Our residents enjoy some of the lowest municipal taxes in all of Dane County. Going into this year, the only residents that saw a tax increase went from vacant lot to new home construction homeowner in our town.

The town is located in the Middleton/Cross Plains school district and we are proud that our residents are part of this excellent school system.

The Town is now roughly 2 miles by 6 miles, whereas we began as towns in Wisconsin did 6 by 6 miles. Naturally there has been growth throughout the decades in Dane County and the reason more than ever, for the passage of AB 661. Local control.

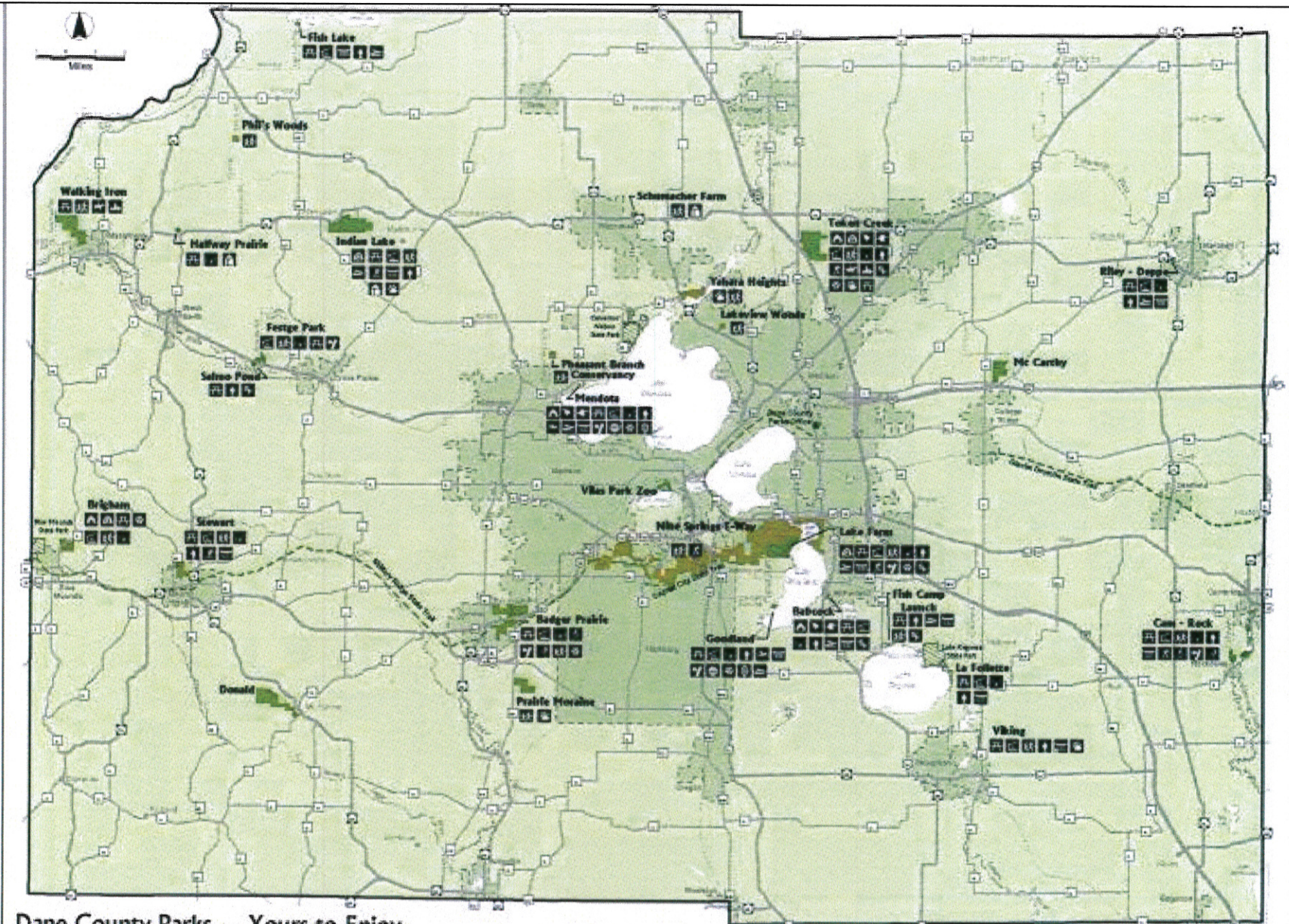
Naturally, home sales when you combine all of these aspects in one location, are brisk. The Town of Middleton is a highly desired place to live.

I would hope that my aforementioned comments would showcase a town that is extremely well run. Under the current law, we still have no authority to zone ourselves. City of Madison, Middleton, Sun Prairie and other elected village Dane County supervisors make the ultimate decision for our property owners. Those decisions are based on a Dane County Zoning Code Chapter 10. These regulations are over sixty years old and the county has refused to re-write them. The re-write is something the Dane County Towns Association has asked for over many years. This effort has been made to no avail with Dane County. Therefore, I ask for your support of the passage of AB 661.

I want to also note that I am a Supervisor in the Town of Middleton and that the Town has not taken up this specific item / bill on an agenda. I have been working on this issue for various Dane County Towns that requested this bill under my role as Dane County Towns Association Vice President.

Areas Subject To Dane County Control Over Zoning – Light Green:

79,674 People Live in Dane County Towns.



Dane County Parks ... Yours to Enjoy

- Campsite
- Sensory Garden
- Climbing Wall
- Electric Picnic Table
- Picnic Area
- Ballfield
- Hiking Trail
- Play Area
- Fishing
- Swimming
- Boat Launch
- Cannon Launch
- H-Country Ski Trail
- Softball Field
- Bicycle Trail
- Horse Trail
- Stroller Trail
- Ballfield Court
- Volleyball Court
- Tennis Court
- Pet Enclosure Area
- Special Facilities for People with Disabilities
- Historic Site

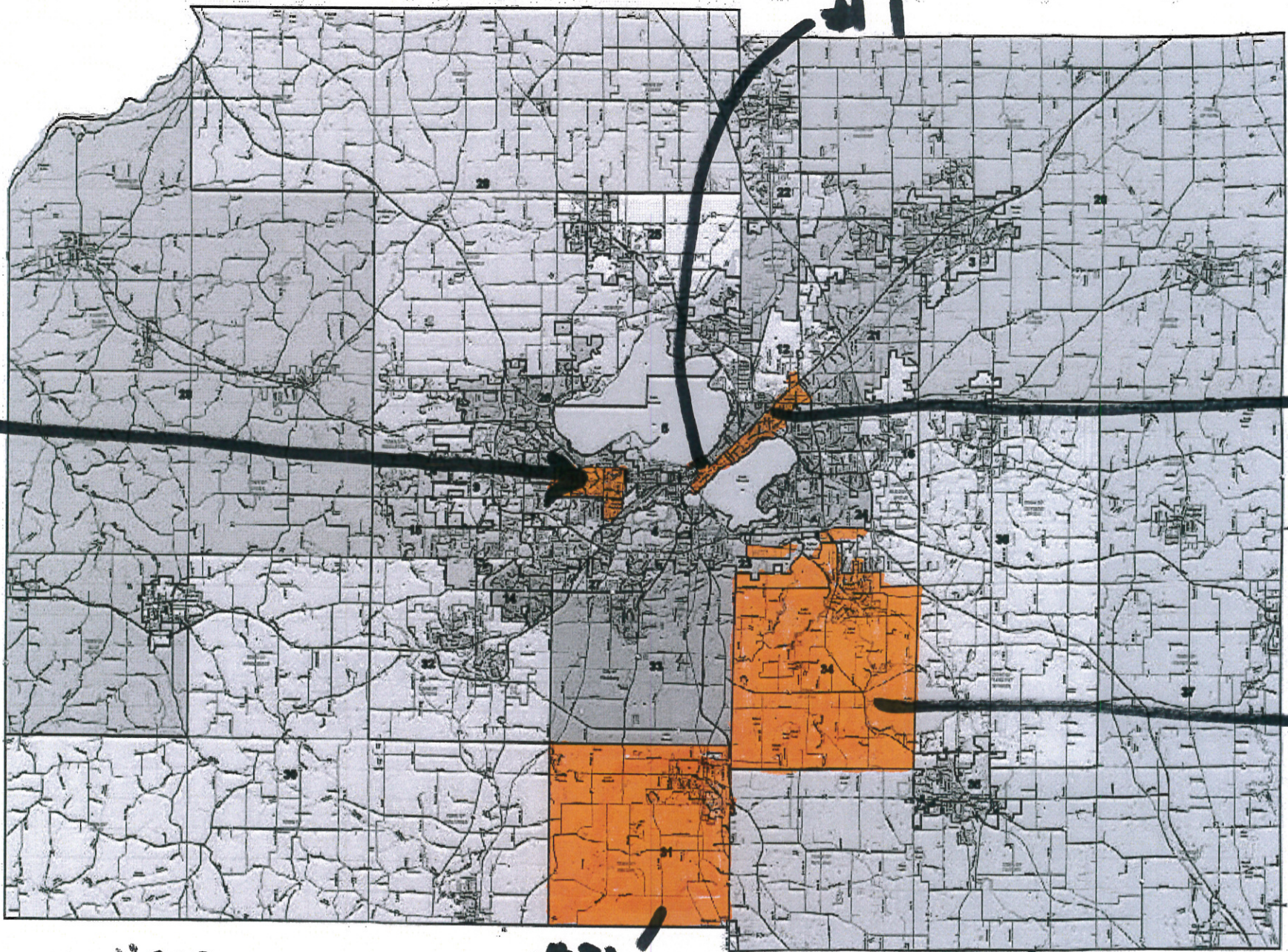
This map was prepared by the Dane County Land Information Office. It is intended to provide a general overview of the land use patterns in Dane County. It is not intended to be used as a legal document. For more information, please contact the Land Information Office at 608-785-4300.



Dane County Supervisory Districts

Adopted: 10/20/2011
Effective: 4/17/2012

□	Supervisory District	○	City
□	County	○	Unincorporated Area
□	Water	○	State
□	Highway	○	County
□	Other	○	Other



Supervisor # Districts



#31 Districts of the DC Zoning Committee Members 3 & F the 5 Committee members are Madison Supervisors.



335 N. Nine Mound Road
Verona, WI 53593-1035

February 26, 2014

Dear Members of the Committee on Urban and Local Affairs,

I regret that I am unable to attend today's hearing on Assembly Bill 661. I register my support for Assembly Bill 661. The option for the Town of Verona to opt out of Dane County zoning is the top priority of the Town of Verona Board of Supervisors. Our Town's future and ability to provide essential services to town residents is directly linked to our ability to manage land use within our borders.

The attached letter details the many reasons why the Town of Verona feels it is imperative that we have the option to opt out of County Zoning. From our perspective, land use control at the county level may be well intentioned, but the county's "one size fits all" approach to land use and zoning it is not an appropriate fit for an urban town like Verona. The Dane County comprehensive land use plan applies the same regulations and codes to our township as to the most rural towns in Dane County. Most of our town, however, is under the extra-territorial jurisdiction of the City of Verona, City of Fitchburg or the City of Madison. The Dane County comprehensive plan policies and zoning simply add an additional level of bureaucratic control that town residents must go through to get approval for development of their property. The process unfairly burdens town residents with additional expense and time, and unfairly shifts accountability for decisions away from their local elected representatives. The current process unfairly places land use decisions in the hands of policy makers who were not elected by town property owners and provides little recourse for decisions made.

Please adopt Assembly Bill 661 without hesitation.

Sincerely,

A handwritten signature in black ink that reads "David K. Combs".

David K. Combs
Chair
Town of Verona Board of Supervisors



335 N. Nine Mound Road
Verona, WI 53593-1035

February 5, 2014

Dane County Towns Association
c/o Renee Lauber
Dane County Towns Association Policy Advisor
Lauber Consulting, LLC
1252 Morrison Court
Madison, WI 53703

Dear Renee,

The Town of Verona is sending this letter to express our support for proposed legislation that would allow Towns to opt out of County zoning. Please share the Town of Verona's comments with the Board of Directors of the Dane County Towns Association.

The Town of Verona would welcome the opportunity to have more influence over local land use decisions. In fact, having greater influence is key the Town's future survival. Three-fourths of the Town of Verona is covered by the Extra Territorial Jurisdictions of the City of Verona, the City of Fitchburg, and the City of Madison. The Town has virtually no control of zoning, and the Town can do little to provide its citizens fair and effective representation when it comes to protecting their property rights.

Dane County's control of town zoning and long range planning decisions is problematic in many ways, but the primary one is the County's lack of understanding of issues facing the Town of Verona. The Town of Verona is directly adjacent to three growing cities. The Town is facing undesirable changes in land use due to urban sprawl and annexation that are beyond our control. The Dane County Comprehensive Plan actually exacerbates our problems. The County's focus has been rural preservation, which is obviously an important concern. Unfortunately, the Dane County Comprehensive Plan is a 'one size fits all' plan for all Towns and most of its policies are tailored to the needs of Towns who are not in close proximity to rapidly growing municipalities such as Madison and Verona. The Dane County comprehensive plan has much different goals for growth and development than cities such as Verona and Madison, and this puts the Town in a position of being under land use policies that don't always serve the interests of its residents and are in many cases incompatible with the land use plans of our neighbors.

The Town of Verona is one of the few municipalities in Dane County that declined in population according to the last census, and yet faces the challenge of increasing costs to maintain roads and provide essential services such as fire protection. The County has been insensitive to the Town's need for modest growth, making us unable to realistically plan for the future.

Secondly, asking citizens to go through a multi-tier process (town and county, and often that of an adjacent city) and to present their cases in downtown Madison where the decision makers have little to no knowledge of the local sites and issues is inefficient and unfair. Many times the Town and County are at odds on land use decisions, and the local property owners have no representation at the County level or any form of recourse.

The Town of Verona also questions the long term effectiveness of County land use policies. While the County can cite the amount of farmland preserved, in the Town of Verona the result of Dane County's policies leads people to either move farther away from Madison to find new housing or leads to annexation of the Town into the adjacent cities for development. The Town of Verona has lost approximately 2,600 acres to annexation since the year 2000. Much of this annexed land has been poorly utilized and contributes to the urban sprawl that the Dane

County Comprehensive Plan has tried to limit. In the present arrangement, the burden of preserving farmland and natural resources falls completely on rural residents who have limited options for the future use of their property. Dane County's policies in effect encourage Town residents to seek annexation and opt out of Dane county zoning in order to reap the benefits of their investment in their land.

Lastly, we've shown our commitment to responsible land use and planning. We've invested large sums of money and time only to be met with resistance at the County level. We have on staff a certified planner, and actively seek to work with the county and our neighboring municipalities on land use issues. Our Board is made up of professionals who understand the Town better than the County. We can develop solid land use policy, manage our zoning, and process land use applications without the involvement of the County.

The Town of Verona is open to providing resources to help with the effort to allow Towns to opt out of County zoning. Please let us know how we can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "David K. Combs". The signature is written in dark ink and is positioned above the typed name.

David K. Combs
Chair
Town of Verona Board of Supervisors

Cc: Town of Verona Supervisors
Wisconsin Towns Association Board of Directors
Jon Erpenbach, Senate District 27
Sondy Pope Roberts, Assembly District 80
Dianne Hesselbein, Assembly District 79

February 25, 2014

TESTIMONY FOR PUBLIC HEARING ON ASSEMBLY BILL 661
BEFORE THE COMMITTEE ON URBAN AND LOCAL AFFAIRS

Appearance by Jamie Rybarczyk, Town Planner for Town of Windsor, Dane County, in support of AB 661: Authorizing towns to withdraw from county zoning and requiring certain towns to enact a zoning ordinance and a comprehensive plan.

The Town of Windsor is northeast of Madison, at the edge of Dane County. The Town of Windsor is an urbanizing town that has a successful history of governance under the direction of its elected officials and the support of its technical staff including administration, legal, engineering, and planning.

The Town is in support of Assembly Bill 661 for the following reasons:

1. The dual county/town zoning review process is redundant, costly, and time consuming for town residents, business owners, and developers;
2. The “one size fits all” model of county zoning has failed to address all the specific needs of the towns in an ever-changing economy and the unique vision of each town;
3. The current process is inefficient when addressing zoning compliance issues in the towns;
4. Local administration and enforcement of zoning will result in cost savings for the county taxpayers;
5. Local zoning authority would allow towns to implement specific goals, objectives, and policies of local comprehensive plans;
6. Towns have a better working knowledge of issues within their own borders than the county; and
7. The Town of Windsor has a long history of employing technical staff needed to administer and enforce local zoning.

The Town of Windsor urges the Committee of Urban and Local Affairs to support Assembly Bill 661, and is available as a resource for any questions the Committee may have.



**TESTIMONY FOR PUBLIC HEARING ON AB 661
BEFORE THE ASSEMBLY COMMITTEE ON
URBAN AND LOCAL AFFAIRS
FEBRUARY 25, 2014**

Submitted correspondence by Robert Wipperfurth, Chairman for the Town of Windsor, Dane County In Support of AB 661: Authorizing towns to withdraw from county zoning and requiring certain towns to enact a zoning ordinance and comprehensive plan.

There are many towns, like Windsor, that are successfully promoting and securing development at the local level. Allowing towns the ability to adopt zoning to control land use is crucial to create successful economic development and growth. In order to be inviting for business, towns need the ability to make development easier. Allowing the opportunity for a simple one-stop shop for planning and development purposes would be a monumental step in the right direction. The Town already has many tools in place that manage development and growth while also providing oversight to the county and state government, like our adopted comprehensive plan, future land use map and official map. With these documents as a foundation, a zoning code could provide the ease businesses are looking for. Streamlining the process is important for towns and puts control on the local government to enforce zoning compliance allowing the town to be much more responsive. In many cases adopting the current county zoning ordinance as the local code would suffice.

Residents will benefit from a streamlined zoning process just as much as business interests. For example, in Windsor, a resident must first start an inquiry at the town offices to do something as simple as obtain a building permit for a deck. Once the resident is able to verify their zoning, they get sent somewhere else to get a zoning permit. Once a zoning permit is obtained, they the need to come back to the town offices to complete their building permit application. Having to go to three places, just to build a porch or a deck is not efficient or productive governmental review. With local control over zoning, a resident can walk in and walk out with a building permit in hand.

There are many towns like Windsor that are capable of managing the vast array of complexities that accompany town specific zoning and would willingly take on that responsibility. By taking over the driver seat, towns will be in a better position to manage resources and promote development. Towns should have the opportunity to work collaboratively with the county to implement zoning at their discretion.

Respectfully submitted by:

Robert Wipperfurth
Town of Windsor - Chair

From: Terri DoppPaukstat
Director of Land Conservation & Zoning for Waushara County

To: The State of Wisconsin Assembly Committee on Urban and Local Affairs

I am writing today as a private citizen with the unique background of serving as the current director of the Land Conservation and Zoning Office for Waushara County. I have worked in this office for over 22 years, and have been through several political changes in the wind.

It is these seemingly quick and sometimes radical changes in local government officials in the small towns in our area that concerns me the most when looking at a bill such as AB 661. This could lead to towns getting in and out of county zoning on a regular basis, depending on the "wind direction" at the time, and could result in making planning efforts ineffective and consistency in zoning regulations non-existent with each change of leadership and ideology.

In addition, the possibility of a county repealing their zoning codes, and forcing all of the towns in the county currently under county zoning to adopt their own ordinances seemingly would lead to even more confusion, inconsistency in regulations, and many problems with enforcement. Add to that the short time line for government agencies to work under, and it appears that any plans and resultant codes rushed through the process to meet these deadlines would not be well thought out, would not address all the issues that should be addressed, and would not result in a comprehensive vision for the areas affected by the ping pong reality of being bounced between county and town zoning.

Finally, the fast track that this legislation is on does not permit anyone to properly ascertain all of the implications it could and certainly would have on planning and zoning efforts around the state, and has not afforded me the opportunity to discuss with our county's Planning and Zoning Committee or other local government officials, including town officials, to get their opinion.

Please take this matter under consideration further to make sure the goals you want to accomplish with legislation of this kind are what is actually accomplished, rather than creating a seemingly chaotic environment for local government officials and others interested in planning and zoning efforts around the state. Thank you.

Terri DoppPaukstat

Terri DoppPaukstat

Neshkoro, WI 54960