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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections, and Urban
Affairs (SC-LEUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Senate Bill 172

Relating to: limiting a city's and village's use of direct annexation and authorizing limited town challenges to an annexation.

By Senators Holperin, A. Lasee and Schultz; cosponsored by Representatives Jorgensen, Clark, Danou, Hilgenberg, Bies, Brooks, Gunderson, Kerkman, LeMahieu, A. Ott, Petersen, Ripp, Roth, Townsend and Vos.

April 23, 2009 Referred to Committee on Labor, Elections and Urban Affairs.

February 17, 2010 **PUBLIC HEARING HELD**

Present: (4) Senators Coggs, Wirch, Lehman and Grothman.

Absent: (1) Senator A. Lasee.

Appearances For

- Rick Stadelman — Wisconsin Towns Association
- Jerry Derr — Wisconsin Towns Association
- Tim McCumber — Town of Merrimac
- Bryan Jochimsen — Town of Little Black
- Matthew Fleming — Town of Windsor
- Jeffrey Bayliss — Town of Cross Plains
- Lyle Updike — Town of Sun Prairie
- Arnold Harris — Western Dane Coalition for Smart Growth & Environment
- Stefi Harris — Western Dane Coalition for Smart Growth & Environment

Appearances Against

- Ed Huck — Wisconsin Alliance of Cities
- Curt Witynski — League of Wisconsin Municipalities

Appearances for Information Only

- None.

Registrations For

- Dennis Morgan
- Jolene Plautz — Wisconsin Towns Association
- Tom Larson — Wisconsin Realtors Association
- Terry McMahon — Town of Yorkville

- Vicky Van Vonderen
- Denise Baylis
- Bill Goehring — Town of Sherman
- Richard Gimlor — Town of Watertown
- Clayton Montez — Town of East Troy
- Richard Nawrock
- Jim Holperin — Senator
- Ann Jablonski — Wisconsin Towns Association
- Lena Taylor — Senator
- Darrell Schulz — Town of Dell Prairie
- Frank Frassetto — Town of Black Wolf

Registrations Against

- Eileen Nickels — Platteville City Council
- Jerry Wehle — City of Lancaster
- David Breunig — City of Darlington
- Frank Fiorenza
- Bev Anderson — City of Darlington
- Jerry Vandersteen — City of Suamico
- Betty Klein — City of Hillsboro
- Adam Hammett — City of Elroy
- Delton Thoreson — Mayor, City of Augusta
- James Van De Bogart — City of Beloit
- Larry Arft — City of Beloit
- Ron Marsh — Mayor, City of Monroe
- Ron Krueger — Mayor, City of Watertown
- Larry McDonald — Mayor, City of Bayfield
- John Small — Village of Marathon City
- Patrick Stevens — Wisconsin Builders Association
- Doug Williams — City of Merrill
- Tony Chladek — City of Merrill
- Paul Fisk — City of Lodi
- Tom Leonhardt
- Mark Dahlberg — Village of Grantsburg
- Jack Chiovatero — City of New Berlin

Registrations for Information Only

- None.

April 8, 2010

EXECUTIVE SESSION HELD

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and Grothman.
 Absent: (0) None.

Moved by Senator Lehman, seconded by Senator Wirch that
Senate Amendment 1 be recommended for adoption.

Ayes: (5) Senators Coggs, Wirch, Lehman, A. Lasee
and Grothman.

Noes: (0) None.

ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED,
Ayes 5, Noes 0

Moved by Senator Wirch, seconded by Senator Lehman that
Senate Amendment 2 be recommended for adoption.

Ayes: (5) Senators Coggs, Wirch, Lehman, A. Lasee
and Grothman.

Noes: (0) None.

ADOPTION OF SENATE AMENDMENT 2 RECOMMENDED,
Ayes 5, Noes 0

Moved by Senator Wirch, seconded by Senator Lehman that
Senate Bill 172 be recommended for passage as amended.

Ayes: (5) Senators Coggs, Wirch, Lehman, A. Lasee
and Grothman.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0



Adam Plotkin
Committee Clerk

Vote Record

Committee on Labor, Elections and Urban Affairs

Date: Thursday, April 8, 2010

Moved by: LEHMAN Seconded by: WIRCH

AB _____ SB 172 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

S Amdt 1 _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record

Committee on Labor, Elections and Urban Affairs

Date: Thursday, April 8, 2010

Moved by: WIRCH Seconded by: LEHMAN

AB _____ SB 172 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

S Amdt 2 _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Spencer Coggs, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alan Lasee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Glenn Grothman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Plotkin, Adam

From: Ed Huck [ed@wiscities.org]
Sent: Monday, April 05, 2010 9:23 AM
To: Plotkin, Adam
Subject: SB 172 Support bill as amended

Adam

This confirms that the Alliance will support SB 172 with an amendment to allow cities and villages to recover actual attorney fees if they prevail on the merits.

ed



Plotkin, Adam

From: Jeffrey Vercauteren [jvercauteren@cwpb.com]
Sent: Tuesday, April 06, 2010 11:17 AM
To: Plotkin, Adam
Subject: SB-624 Hearing Testimony

Adam,

Thanks for scheduling the SB-624 hearing. Following Sen. Lehman, we will have Bruce Lindsay from Johnson Controls and Erick Shambarger from the City of Milwaukee testify.

Jeff Vercauteren
Cullen Weston Pines & Bach LLP
122 West Washington Avenue, Suite 900
Madison, WI 53703-2718
vercauteren@cwpb.com
Office: (608) 251-0101
Fax: (608) 251-2883
www.cwpb.com

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Plotkin, Adam

From: Richard Stadelman [wtowns1@frontiernet.net]
Sent: Wednesday, April 07, 2010 2:18 PM
To: Curt Witynski; Sen.Coggs; Sen.Lehman; Sen.Wirch; Sen.Lasee; Sen.Grothman
Cc: Ed Huck; Teske, Darryl; Browne, Michael; McGuire, Paula; Plotkin, Adam; Shannon-Bradley, Ian; Jolene Plautz; Ann Jablonski
Subject: Re: Support for SB 172 if amended as Proposed

To Senate Committee on Labor Elections, and Urban Affairs:

On behalf of the Wisconsin Towns Association I want to confirm that our association has reached this compromise with the League of Wisconsin Municipalities on SB 172. We ask also ask you to delete Sec. 2 of the original bill. Section 1 of the original bill which will remain will require unanimous annexations to be contiguous to cities and villages, which is the main focus of the bill.

Thank you to Curt Witynski for sending out his email and for the League for agreeing to support this bill with the amendment to delete Sec. 2 of the original bill.

Thank you to committee members for your consideration.

Rick Stadelman Executive Director Wisconsin Towns Association

----- Original Message -----

From: Curt Witynski

To: Sen.Coggs@legis.state.wi.us ; Sen.Lehman@legis.wisconsin.gov ; Sen.Wirch@legis.state.wi.us ; Sen.Lasee@legis.state.wi.us ; Sen.Grothman@legis.wisconsin.gov

Cc: Richard.Stadelman ; [Ed Huck](mailto:Ed.Huck) ; Darryl.Teske@legis.wisconsin.gov ; Michael.Browne@legis.wisconsin.gov ; Paula.McGuire@legis.wisconsin.gov ; [Plotkin, Adam](mailto:Plotkin,Adam) ; Ian.Shannon-Bradley@legis.wisconsin.gov

Sent: Wednesday, April 07, 2010 2:00 PM

Subject: Support for SB 172 if amended as Proposed

To: Senate Committee on Labor, Elections and Urban Affairs
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

The League of Wisconsin Municipalities has reached an agreement with the Towns Association regarding SB 172, the annexation bill that is scheduled for an executive session on Thursday, April 8. We support an amendment to the bill that has been drafted by Sen. Holperin. The amendment, which has not yet been formally introduced, deletes sec. 2 of the bill, relating to restoring the ability of towns to file lawsuits against municipalities to challenge the validity of certain annexations. This amendment fully addresses our concerns. As a result, the League will change its position from oppose to *support* once the amendment is adopted.

Curt Witynski
Assistant Director
League of Wisconsin Municipalities
122 West Washington Ave.
Madison, WI 53703

(608) 267-2380



Plotkin, Adam

From: Curt Witynski [witynski@lwm-info.org]
Sent: Wednesday, April 07, 2010 2:00 PM
To: Sen.Coggs; Sen.Lehman; Sen.Wirch; Sen.Lasee; Sen.Grothman
Cc: Richard Stadelman; Ed Huck; Teske, Darryl; Browne, Michael; McGuire, Paula; Plotkin, Adam; Shannon-Bradley, Ian
Subject: Support for SB 172 if amended as Proposed

To: Senate Committee on Labor, Elections and Urban Affairs
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

The League of Wisconsin Municipalities has reached an agreement with the Towns Association regarding SB 172, the annexation bill that is scheduled for an executive session on Thursday, April 8. We support an amendment to the bill that has been drafted by Sen. Holperin. The amendment, which has not yet been formally introduced, deletes sec. 2 of the bill, relating to restoring the ability of towns to file lawsuits against municipalities to challenge the validity of certain annexations. This amendment fully addresses our concerns. As a result, the League will change its position from oppose to *support* once the amendment is adopted.

Curt Witynski
Assistant Director
League of Wisconsin Municipalities
122 West Washington Ave.
Madison, WI 53703

(608) 267-2380



To: Assembly Committee on Renewable Energy and Rural Affairs
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: May 21, 2009
Re: **AB 239, Annexation Law Changes**

Companion to SB 172

The League of Wisconsin Municipalities opposes AB 239, making changes to the annexation law sought by the Wisconsin Towns Association. The bill makes the following two changes:

- (1) Clarifies that territory annexed by the unanimous approval process must be contiguous to the annexing city or village; and
- (2) Restores the ability of towns to file actions contesting the validity of unanimous approval annexations when there is a question regarding whether the territory is contiguous.

The League supports the first item, because it reflects our understanding of current law. We absolutely oppose the second item. We see no reason to restore the ability of towns to use taxpayer dollars to sue neighboring cities and villages over the validity of unanimous approval annexations.

We believe the Town Association's goal of prohibiting annexation of noncontiguous territory can be reached without restoring the ability of towns to file actions challenging unanimous approval annexations. The League would support this bill if it were amended to only clarify that unanimous approval annexations must be contiguous.

Under current law, a town may not challenge in court, on any grounds, any annexation by unanimous approval. This language was inserted into the annexation law by 2003 Wisconsin Act 317, which was compromise legislation that the Towns Association negotiated with the Builders Association and the Realtors Association. The League opposed that legislation because it prohibited municipalities from annexing across county lines without obtaining town and county board approval. It also required municipalities to make annual property tax setoff payments to towns for 5 years following an annexation.

Towns are now seeking to partially renege on this deal without offering cities and villages relief from any of the limitations on annexation that were part of the original deal.

We urge the Committee to recommend passage of slature to pass an amended version of AB 239. This amended version would retain the bill's language clarifying that unanimous approval annexations must be contiguous, but would delete the language allowing towns to file actions challenging annexations.

Thanks for considering our comments and concerns.



Wisconsin Towns Association

Testimony before the Assembly Committee on Renewable Energy and Rural Affairs on Assembly Bill 239

May 21, 2009

companion to SB 172

Good Morning Mr. Chairman and Members of the Committee. My name is Ann Jablonski and I represent the Wisconsin Towns Association. With me today is Jerry Derr, Chairman of the WTA's Urban Towns Committee and member of the WTA Board of Directors.

We are here today to support Assembly Bill 239, occasioned by the Town of Merrimac v. the Village of Merrimac decision rendered by the Wisconsin Court of Appeals in May, 2008. The decision held that the Town of Merrimac had no standing to sue in cases involving unanimous direct annexation.

AB 239 simply states that in cases where unanimous direct annexations are non-contiguous, the town has standing to bring court action to challenge the annexation.

Unanimous direct annexation is an annexation procedure used when all the resident electors of the territory proposed for annexation and all the owners of property within the proposed area unanimously petition a city or village for annexation, with appropriate maps and legal descriptions of the proposed annexation filed with the town, village or city clerks. The proposed annexation must be submitted to the Department of Administration for review of whether the annexation is in the public interest before the governing body of the city or village may enact the annexation ordinance by a 2/3rds vote of the governing body. DOA recommendations are advisory.

We do not dispute the prohibition contesting unanimous direct annexations is set forth under s. 66.0217 (11) (c): ["No action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation under sub. 2 may be brought by any town."] This provision appeared in the statutes pursuant to 2003 Wisconsin Act 317, and the Wisconsin Towns Association agreed to the change.

WTA did not anticipate under the aforementioned prohibition non-contiguous annexations. The statutes do not define contiguity, but they do imply that the requirement exists in DOA's public interest review and in

other statutory references such as town island cases. Case law establishes contiguity as two points of territory touching. Also some would argue that a presumption of contiguity derives from the judicial "rule of reason" doctrine that applies certain criteria for judging annexations valid. Essentially the court reserves judgment on whether the annexations are arbitrary and capricious or an abuse of discretion.

Private non-contiguous annexations in our view are bad public policy, and the only way to guard against them is to be able to bring an action in circuit court. Cities and villages may already annex non-contiguous land that they own in towns as long as the land's use is not contrary to town and county zoning, and this bill does nothing to change that.

The practical effect of not being able to challenge these annexations is that villages and cities can cherry-pick areas of towns as long as the property-owners and resident electors agree. The annexed area could be 100 feet away from the annexing municipality or it could be 3 miles away.

A local government with a checkerboard jurisdiction will find it difficult to maintain a stable tax base, to plan development effectively, and to provide services economically. Cities made this very argument about town islands, and a village or city now may annex town islands unilaterally. Section 66.0221 also provides the limitation that new town islands may not be created with annexation except under a cooperative boundary agreement with the town to do so.

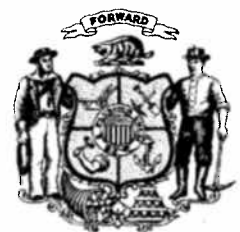
The post-Merrimac situation provides cities and villages with little incentive to come to the table to formulate agreements that ideally are mutually advantageous. The Merrimac decision--and what we fear will be its aftermath--is only one more example of how lop-sided the balance of power has become among local governments and how that undermines their ability to work together for the public good.

WTA asks for your support of this simple change. AB 239 seeks ONLY a right to challenge in court a unanimous annexation on the one aspect that it is non-contiguous. If passage of AB 239 is not achieved the door is open for cities and villages to create new islands for any reason whatsoever under the unanimous annexation procedure. That is not a method of either sound planning or cooperative spirit.

Thank you for your attention.



WISCONSIN STATE LEGISLATURE



Wisconsin Towns Association

Richard J. Stadelman, Executive Director

W7686 County Road MMM

Shawano, Wis. 54166

Tel. (715) 526-3157

Fax (715) 524-3917

Email: wtowns1@frontiernet.net

To: Members of the Assembly Renewable Energy and Rural Affairs Committee

From: Rick Stadelman, Executive Director

Re: AB 239 changes to unanimous annexation

Date: September 23, 2009

Companion to SB172

A public hearing has already been held (on May 21, 2009) on AB 239 before your committee. This bill provides towns have legal standing to challenge a unanimous annexation when the land annexed is not contiguous (touching the city or village). Attached to this memo is a map of an annexation of land, primarily a golf course, over one half mile from the City of Medford. Also attached a newspaper article from the Star News of Medford, which indicates that the city attorney gave an opinion that because of a change in law land annexed to a city or village does not have to be contiguous to a city or village for a unanimous annexation.

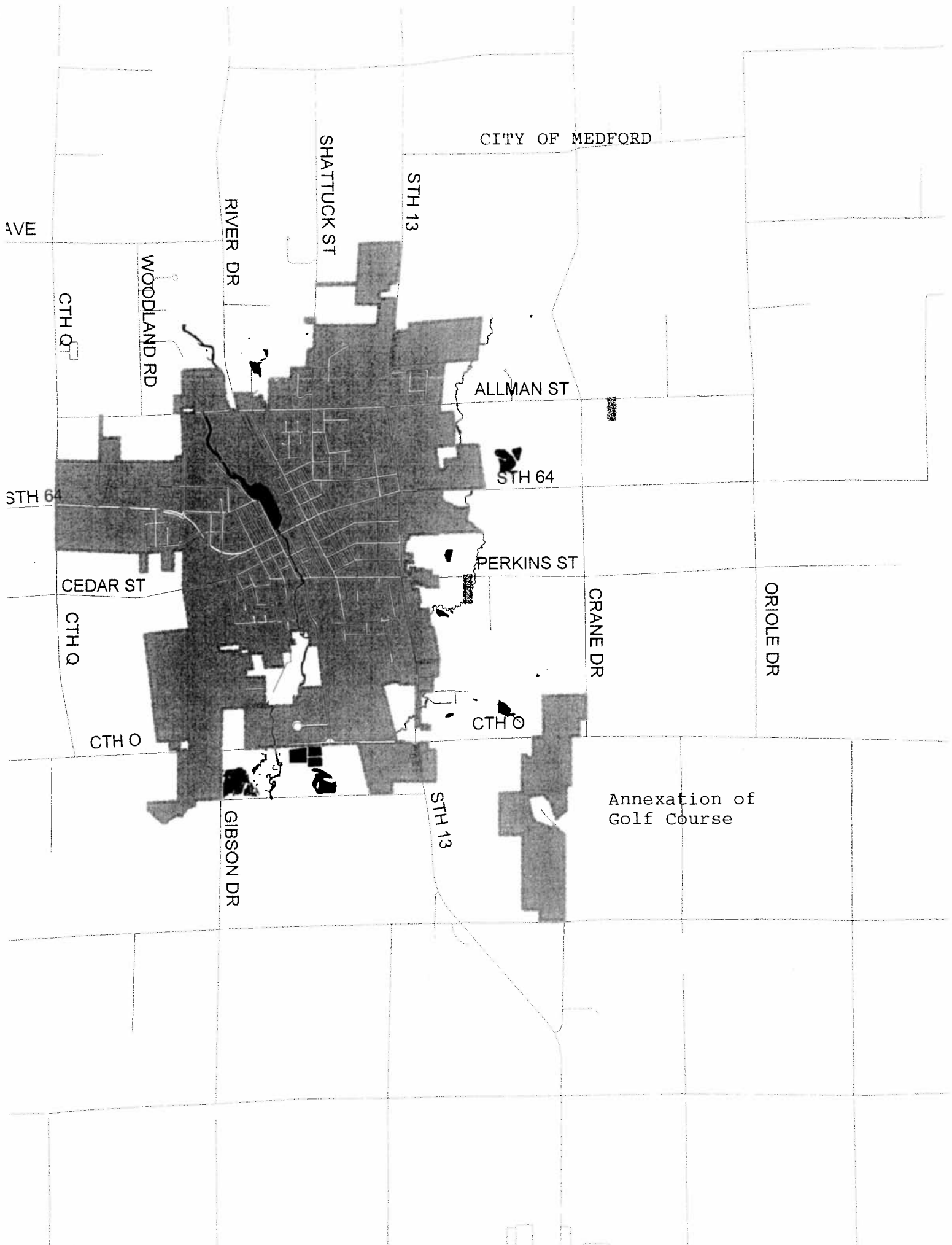
Wisconsin Towns Association disagrees with this attorney's opinion and does not believe that the change in unanimous annexation law about five years ago was intended to create city and village islands. Yet, because the towns do not have legal standing to challenge unanimous annexations, the City of Medford went ahead and annexed the land creating an island of city land over one half mile from the city.

AB 239 would explicitly state that all unanimous annexations must be contiguous. Without making this change, a city or village could go up to miles away from their current borders and create city or village islands, without being challenged.

AB 239 would further give towns legal standing to challenge whether the unanimous annexation was in fact contiguous to the city or village. Without making this change, no one has legal standing to stop cities and villages from annexing such non-contiguous islands.

We ask you to consider this fact situation when taking executive action on AB 239 in the near future. The abuses of unanimous annexation by cities and villages as exhibited by the City of Medford must be stopped.

Thank you for your consideration in this matter.



CITY OF MEDFORD

AVE

RIVER DR

SHATTUCK ST

STH 13

CTH Q

WOODLAND RD

ALLMAN ST

STH 64

STH 64

CEDAR ST

PERKINS ST

CTH Q

CRANE DR

ORIOLE DR

CTH Q

CTH Q

GIBSON DR

STH 13

Annexation of
Golf Course



Medford, Wisconsin

STAR NEWS

August 20, 2009
Volume 136 ★ Number 34

SERVING TAYLOR COUNTY SINCE 1875
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Leap of faith
pages 10-11
Second Section

Inside
Opinion 6
Legals 15
Court News 17
Obituaries 19



Photo by Brian Wilson

Ribbon cutting

Health Center officials cut the ribbon officially opening the new Memorial Health Center Kidney Care/Dialysis Center in Medford. The facility is located in the south end of the remodelled professional building on MHC's Medford Campus. Participating in the ribbon cutting were (l. to r.): Chip Courtney, MHC board president; Haley Erl, Kidney Care Center manager; Gregg Olson, president and CEO of MHC; Dr. Robert Millican, Kidney Care Center medical director; Russ Weichelt, Aspirus manager of dialysis services and Kaaron Keene, vice president of patient care services. See pages 10 and 11 for story and more pictures.

NTC wants Green Institute for Medford

by Reporter Karyn Eckert

pearing, NTC has seen a 73 percent increase in full-time equivalent students at the Medford campus.

by News Editor Brian Wilson and Reporter Mark Berglund

Annexation tees off town officials

When push came to shove, Medford aldermen on Tuesday night looked out for city residents and the potential for city growth first and in the process raised some hard feelings from neighboring town officials.

The council was being asked to give final approval to annexation to a 210-acre parcel spread across the towns of Medford, Little Black, and Deer Creek. The parcel is owned by the Black River Country Club and includes the current 9-hole golf course and additional property on which they hope to expand to 18 holes and sell residential lots.

What set this annexation apart from others in the city is that the property does not border Medford. While city attorney Ken Schmiege was specific in his wording noting the only way you can create an island is if the town is surrounded by the city, the parcel otherwise resembles an island in that it is detached from the rest of the city.

Historically, annexations had to border the city which they were being annexed to. However, with the removal of the word contiguous from the state's annexation rules and a subsequent court ruling in the southern part of the state affirming the interpretation of the law, the door is open to jump over parcels and annex land that does not border cities.

The annexation had already come through the city's planning commission and it would have taken a super majority of six of the eight aldermen to override the planning commission's recommendation.

See CITY on page 3

City council approves Black River Country Club annexation request

Continued from Page 1

Chuck Zenner of the Town of Little Black called on the city to do what is neighborly and either deny the annexation request or at the very least delay it.

On Monday evening, a delegation from the Town of Little Black met with the board of directors from Black River Country Club to try to convince them to change their minds and withdraw the request.

Terry Eggebrecht, president of Black River Country Club, told aldermen on Tuesday that the golf course was committed to proceeding with the annexation and asked for the council to approve it.

"All we are asking is for the city to put it on hold for while," Zenner said. He quoted from an e-mail from Mary Williams regarding the matter and noted a proposal to reinsert the bordering requirement was in committee in the Assembly.

"If this loophole did not exist, we wouldn't be here," Zenner said, noting the town does not want to lose the tax base. Under state law, the city must pay the municipal portion of the local property taxes for five years on any annexation.

According to Zenner, the town was not given a chance to voice their concerns, he said the town clerk was told she could not talk at the planning commission meeting on the subject, a point that Wellner disputed, and only learned of the commission meeting where the annexation was to be considered the Friday before the Tuesday meeting.

It was later clarified that the clerk was advised by the town's assessor that she was not able to speak at the public hearing on the annexation.

He said while the city may be able to annex the parcel it also has the ability to not annex it and called on

the city to have a spirit of neighborliness.

"When I look at a loophole I ask is it an oversight or did the legislature intend to do it ... I look at it as the law is today. It looks to me like the city has the right to do it," Schmiege said.

"Why would we tell them no?" asked mayor Mike Wellner.

"What's our answer to the constituents we serve? Someone has come to us asking for annexation and each of us has to answer to our constituents," he added.

The city did not initiate the annexation effort, and is prohibited from soliciting property owners for annexation. One of the reasons given for the annexation was the potential for future sewer and water needed for development of lots to fund the expansion of the golf course. It is much easier for the city to provide the services.

The question then was raised by alderman Pat DeChatelets about who would pay for the sewer and water extension. Under city policies the extension would be paid for through special assessments on the adjoining property owners. If and until those properties either annexed to the city or hooked to the city services the special assessments would be deferred.

However, the golf course isn't asking for services at this time.

"We may be 7 or 8 years down the road with development. We would fund nine holes by selling lots and we feel there would be more value if they were served by city water and sewer," Eggebrecht said.

"Have we ever denied an annexation of property because of sewer and water issues?" asked alderman Peggy Kraschnewski. "We have a private property owner who wants to annex to the city. We have a recom-

mendation from the plan commission. There is no basis to deny," she said.

The annexation request generated some strong emotions. "You wonder why you don't get rural support, this is just another stab at the towns," said Town of Little Black supervisor Al Peissig. To which Wellner replied, "I wonder if the towns would have a good neighbor policy if they were gaining 210 acres?"

"I still have not heard why we would deny this. We are a conservative county which believes in private property rights," said alderman Greg Knight.

"We are criticized for not growing. What happens in 5-6-7 years if they have 18 holes and 10 homes on those lots and people ask why we didn't annex it in when we had the chance?" asked Wellner.

Aldermen voted to approve the annexation request on a 5-2 vote with Mike Bub and DeChatelets opposed. Bub noted he was bothered by the tight time frame getting the annexation passed.

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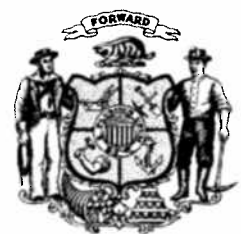
(715) 748-9334

83-9172





WISCONSIN STATE LEGISLATURE



T H E T O W N O F
MERRIMAC

56911 State Highway 113 – P.O. Box 115
Merrimac, WI 53561

February 3, 2010

Senator Spencer Coggs
Room 123 South
P.O. Box 7882
Madison, WI 53707

Dear Senator Coggs,

On Tuesday, I will be speaking at the public hearing regarding SB-172 to limit a city's and village's use of direct annexation. I wanted to give you an opportunity to review a brief history of the Town of Merrimac v. Village of Merrimac as it relates to this proposed amendment.

Specifically at issue was the direct annexation of a parcel of land into the Village of Merrimac from the town that is not contiguous to the village. The occurred after a rewrite of the annexation law as amended in 2003. The town's position that the property is not contiguous was never heard by the court. The case was dismissed because of Statute 66.0217 (11) (c) which blocks the town from such challenges.

The Wisconsin courts have historically upheld the concept of contiguous annexations dating back as far as 1880 (Smith v. Sherry, 50 Wis.210, 6 N.W.561, 564-65) when the court recognized the legislature's discretion to set "boundaries of a village so long as the territory of which it is composed is adjacent or contiguous".

The decision as handed down by the courts in this case never got to the issue of contiguity. Without the town having the ability to challenge this very basic protection in annexation law, municipalities now have the ability to "cherry-pick" prime real estate. This very concept will shift local property tax burdens and create a quilted patch-work of cities and villages across Wisconsin.

Enclosed is a story the MILWAUKEE JOURNAL-SENTINAL did on the court case and a map of the property. If you have any questions prior to Thursday's hearing, I can be reached at 608-963-4648.

Sincerely,



Tim McCumber
Town Administrator
townmerr@merr.com

cc: Senators; Committee on Labor, Elections, and Urban Affairs

Telephone: (608) 493-2588
Fax: (608) 493-2238
www.Tn.Merrimac.Wi.Gov



Court ruling on annexation raises alarm

Merrimac property does not border village

By Marie Rohde of the Journal Sentinel

Posted: May. 24, 2008

In a decision that some say could have a devastating impact on rural communities in Wisconsin, the 4th District Court of Appeals has ruled that a town can't stop direct annexation of a property by a village.

The property in question was annexed by the Village of Merrimac at the owner's request, even though it shares no border with the village.

At its closest point, the property is separated from the village by 25 feet of Town of Merrimac farmland. The only access to the property is by a town road.

"Yes, it's only 25 feet this time," said Natalie Bussan, a lawyer for the town. "But what will it be next time? A quarter mile? A half mile?"

Town of Merrimac Administrator Tim McCumber said the ruling could be devastating for towns and a rural lifestyle that some still cherish.

"This decision will allow the creation of islands within the town," McCumber said. "It will allow the village to cherry-pick prime real estate - we have a \$7.5 million resort that the village could take, and we couldn't do anything about it."

That would mean remaining property owners in the town would have to pick up the burden of the taxes that those annexed properties had paid, he said.

Under a state law adopted several years ago, a village must pay a town the taxes the town would have collected on an annexed property for five years after annexation. In this case, the town tax rate is 76 cents per \$1,000 of assessed property value; the village's rate is \$5.21, McCumber said.

In exchange for the period of shared taxes, towns were barred from challenging a property owner's request to be annexed by a community with which the town shared a border.

Rick Stadelman, executive director of the Wisconsin Towns Association, said his association supported the legislation because members believed it would prevent annexations such as this one. But the court ruling never got to the question of whether a town property could be annexed if it did not share a border with a village or city.

"It could open the door to abuses all over the state," Stadelman said. "We will ask the Legislature to

clarify the issue."

Earlier, George Hall, director of municipal boundary review for the state Department of Administration, cautioned that the annexation "may trigger legal uncertainties."

The property at the heart of the dispute is owned by David Gerry, who recently built the waterfront home on Lake Wisconsin.

McCumber said the dispute began over a zoning issue. Gerry, who owns two Madison health clubs, built the 5,519-square-foot home in 2006. He also built a detached garage with a separate living unit above, a pool and a boathouse but did not have separate building permits for the accessory structures.

McCumber said the living quarters over the garage constituted a second home and were too tall to meet the town's zoning code. After the town raised the issue of noncompliance with the zoning code, Gerry asked the village to annex the property, which is valued at about \$2 million, McCumber said.

In the annexation request, Gerry said he wanted to be part of the village so he could get sewer and water services. McCumber said Gerry had a well and septic system.

After the village annexed the property, the town sued, losing its case in Sauk County Circuit Court. The town then took the case to the appellate court. The Town Board will consider in June whether to ask the Wisconsin Supreme Court to review the decision.

Bussan said the town expected the appellate court to address a narrow issue: Could Lake Wisconsin be the connection between the Gerry property and the village that would allow annexation? Instead, the court, in a decision written by Judge Paul Lundsten, found that state law bars a town from contesting annexations in cases such as this one.

The decision allows the village to annex pricey property, resulting in higher taxes for the properties that remain in the town, McCumber said. It could also mean that the village eventually could annex the rest of the town, even if the property owners object, McCumber said.

Neither the Village of Merrimac administrator, Shellie Benish, nor the village lawyer, Mark Sewell, returned calls for comment.



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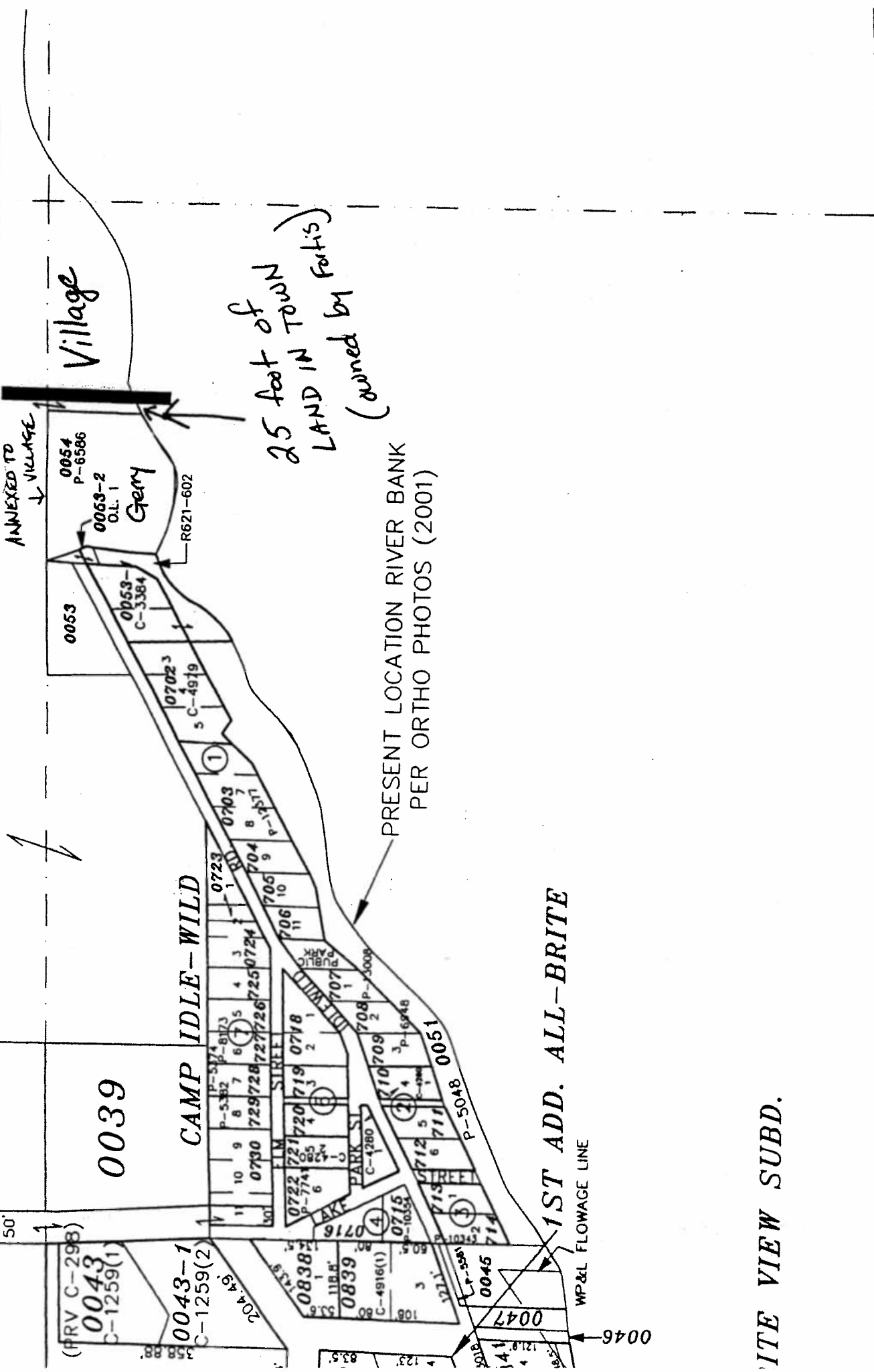
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Check the box to include the list of links referenced in the article.



ANNEXED TO VILLAGE

Village

25 feet of LAND IN TOWN (owned by Fortis)

PRESENT LOCATION RIVER BANK PER ORTHO PHOTOS (2001)

CAMP IDLE-WILD

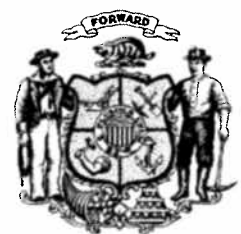
1ST ADD. ALL-BRITE

WP&L FLOWAGE LINE

WHITE VIEW SUBD.



WISCONSIN STATE LEGISLATURE



TOWN OF SHELBY

2800 Ward Avenue
La Crosse, WI 54601



COUNTY OF LA CROSSE
STATE OF WISCONSIN

February 8, 2010

Senator Spencer Coggs, Chair
Senate Committee on Labor, Elections & Urban Affairs
Room 123 South, State Capitol
P O Box 7882
Madison, WI 53707-7882

Dear Senator Coggs and Members of the Committee,

We are writing today to urge your support for passage of Senator Bill 172, which would limit direct annexation of territory by cities or villages to land that is contiguous to the annexing city or village. SB 172 will allow towns to challenge non-contiguous annexations.

Towns have expended a great deal of time, effort and taxpayer dollars creating and updating their comprehensive land use plans. These plans, developed by town Planning Commissions with input received from residents, incorporated the wishes and desires of our residents. The comprehensive plans were approved by the Town Board following a series of public forums and a public hearing of the town residents. Town should not be denied the opportunity to challenge an annexation if the annexation is not contiguous to the annexing city or village or any annexation for that matter. Simply stated, a town should have a legal voice in determining its future.

In the interest of preservation of all 1266 Wisconsin towns, we ask you to support SB172. Thank you in advance for your attention to this issue.

For the Shelby Town Board,

Lynnetta P Kopp, Chair
Town of Shelby

Cc Senator Dan Kapanke, Representatives Mike Huebsch & Jennifer Schilling

Phone: 608-788-1032
Fax: 608-788-6840
townofshelby@charter.net



Wisconsin Towns Association

Richard J. Stadelman, Executive Director
W7686 County Road MMM
Shawano, Wis. 54166

Tel. (715) 526-3157

Fax (715) 524-3917

Email: wtowns1@frontiernet.net

To: Senate Committee on Labor, Elections, and Urban Affairs
From: Richard J. Stadelman, Executive Director
Re: SB 172 changes to unanimous annexation
Date: February 16, 2010

Wisconsin Towns Association respectfully asks the Committee to recommend passage of SB 172 which makes changes to the unanimous annexation law under Sec. 66.0217 (2) and (11)(c) of Wis. Statutes.

SB 172 reverses *Town of Merrimac v. Village of Merrimac*, 753 N. W. 2d, 552, District IV Court of Appeals decision on May 22, 2008 that held the town did not have legal standing to challenge whether unanimous annexation in that case was contiguous to the city or village.

This bill provides on page 3 of the bill draft at lines 4 through 6, "No territory may be annexed by a city or village under this subsection unless the territory to be annexed is contiguous to the annexing city or village." Some city and village attorneys have indicated because the term "contiguous" does not appear in this subsection (Sec. 66.060217 (2) of Wis. Statutes) that unanimous annexations do not have to be contiguous. Further, because of the decision in *Merrimac* case cited above, there is no legal standing on the part of the town to challenge in court a noncontiguous unanimous annexation. Lines 8 through 9 of the bill on page 3 provide that towns would have legal standing to challenge whether a unanimous annexation is contiguous.

The Assembly committee has adopted an amendment (LRBa0751/1), a copy of which is attached to this memo, provides that if the town brings a legal challenge to a unanimous annexation on the grounds that it is not contiguous and the annexation is found to be contiguous that the town would be subject up to \$5,000 in actual attorney fees to the village or city plus court costs. This amendment is intended to keep towns from filing frivolous lawsuits to delay unanimous annexations. Our Association accepts this amendment to eliminate the threat of frivolous annexations.

If this bill is not adopted, more cities and villages will be approving unanimous annexations that are not "contiguous" to the city or village, such as the City of Medford as is evidenced by the attached map and article did when it annexed a golf course nearly three quarters of a mile from the city boundary, creating a city island in two towns.

We respectfully request that the State Legislature pass SB 172 to stop these types of abuses under the unanimous annexation law as it is being interpreted and abused by cities and villages.



State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa0751/1
MES:bjk:md

ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 239

October 16, 2009 – Offered by Representative JORGENSEN.

1 At the locations indicated, amend the bill as follows:

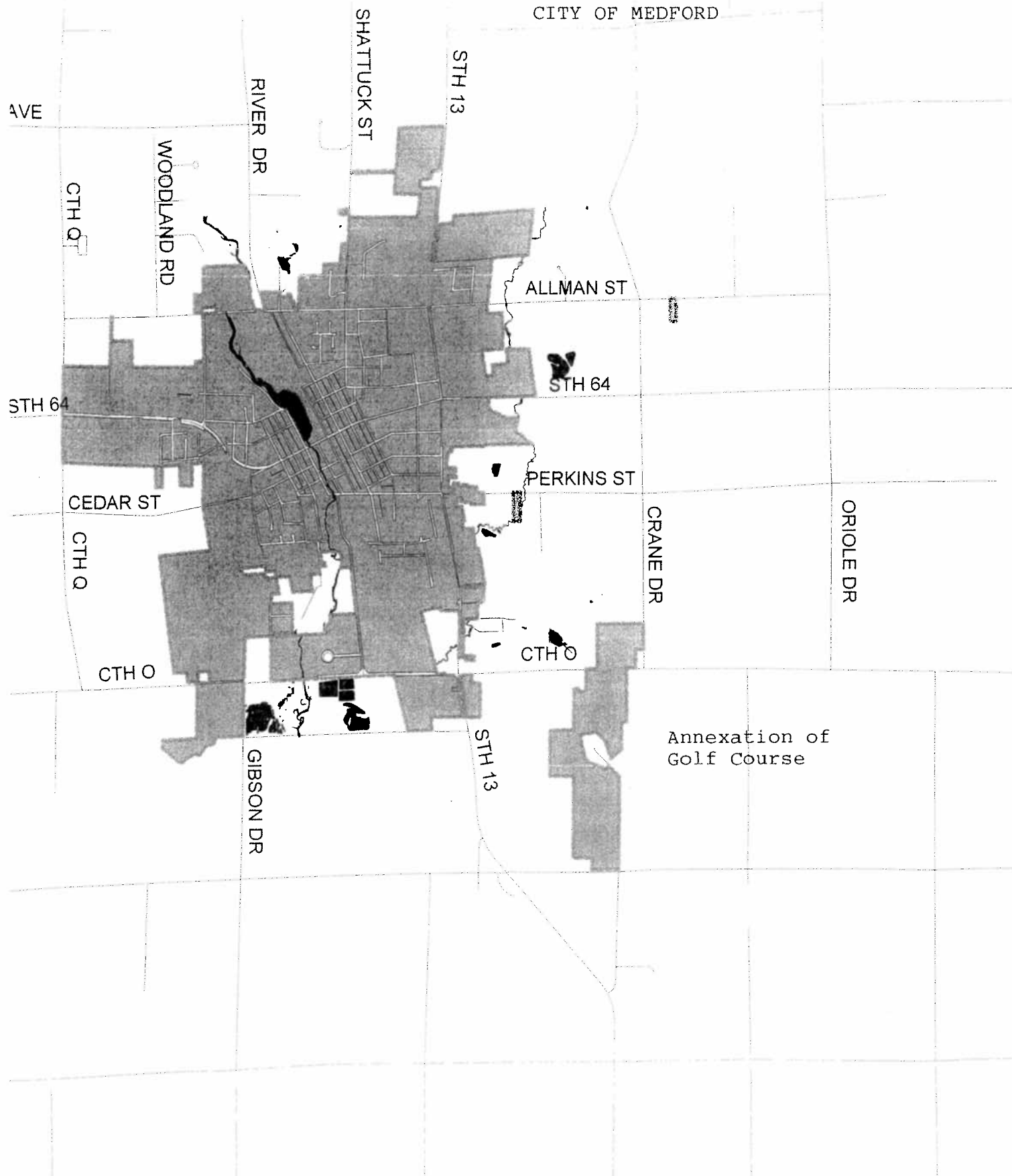
2 **1.** Page 3, line 11: after that line insert:

3 “**SECTION 2m.** 66.0217 (11) (d) of the statutes is created to read:

4 66.0217 (11) (d) With regard to an action challenging an annexation under sub.
5 (2) on the basis of contiguity, under par. (c), if a court finds that the challenged
6 annexation involves territory that is contiguous to the annexing city or village,
7 notwithstanding s. 814.04 (1), the court shall order the town to pay the annexing
8 city's or village's actual attorney fees, up to a maximum of \$5,000, plus costs.”.

9 (END)

CITY OF MEDFORD



AVE

CTH Q

WOODLAND RD

RIVER DR

SHATTUCK ST

STH 13

ALLMAN ST

STH 64

STH 64

PERKINS ST

CEDAR ST

CTH Q

CRANE DR

ORIOLE DR

CTH O

CTH O

GIBSON DR

STH 13

Annexation of
Golf Course

Commission approves golf course annexation

by Reporter Mark Berglund

The City of Medford Plan Commission approved an annexation request at its meeting Monday from the Black River Golf Country Club which will bring the 9-hole course and a total of approximately 200 acres into the city. The golf course property is currently located in three different towns - Medford, Little Black and Deer Creek. The request now goes to the city council for action at its August 18 meeting.

In the letter requesting annexation, club president Terry Eggebrecht, cited an anticipated future plan to link to the city's sewer and water system and the added value of city police and fire department coverage as one of the reasons for the move. He wrote about the challenge of getting a fair assessment for the operation with assessors from three different towns determining the worth.

Mike Wellner

"Is there any reason we wouldn't want to do this," commission member Dave Clark said. "Not that I can see," said Medford Mayor Mike Wellner.

The annexation would be slightly different as the area does not directly border the city. A recent change in state law allows the colony to occur. The move would not bring the nearby roads into the city fold. "So anyone from any part of Taylor County could annex to the city?" plan commission member Dave Zimmerman asked. "Basically, that's true," city attorney Ken Schmeige said. The golf course property is currently



at Our House and she has not seen a parking problem with the current layout, even on high visitor volume days.

The commission approved the site plan for an addition to the Bone and Joint Clinic on Hwy 13. Commission member Tim Hansen noted the work on the addition is already underway before the commission's review. Christianson said city staff reviewed the plans prior to the start of construction and gave the go-ahead. He said there is no rule requiring site plan review by the commission before work begins. "I realize they are ahead of the horse. I would never allow it if I was concerned about the plan," Christianson said.

The commission approved adding a definition to section 2.2 of the zoning code which reads "Ground floor means the floor that is normally located at ground level (a.k.a. first floor, ground floor) when referenced from the street that serves as the primary entrance to the building."

The commission tabled a proposed change to the code which would require building the primary structure on a residential lot before building a garage at the site. The commission felt there would be enough difference with each situation where the issue would arise so they did not want to be tied down by a new addition to the code.

Black River COUNTRY CLUB



a mix of usage with the nine holes taking up about 80 acres and the rest being devoted to facility buildings and agricultural land which is rented out. The land currently devoted to golf would be zoned G-1, a designation given to the Tee-Hi Golf Course in the city. The zoning class is also used for areas like schools and churches, which are public or semi-public areas expected to remain in that type of land usage. The agriculture land owned by the club would remain under an ag zoning class. City planner Bob Christianson said the difference in zoning does not change how the land is taxed as it is assessed for current use, not future potential.

The commission approved the plans for an addition to Our House, a senior assisted living facility on Hwy 64 near the high school. The addition would add 24 units to the north and a common area to the south. The additional space will allow the facility to upgrade its memory care unit. The commission decided to waive a parking space formula requirement aimed at apartment buildings as indications are the senior designed facility would not need as much parking. In addition to saving cost, waiving the parking stall rule would also save many of the trees surrounding the building. Commission member Pat DeChatelets said her mother is currently

Hammel crash injures four

by Reporter Mark Berglund

A two-vehicle accident in the Town of Hammel injured four people Thursday, July 30. The accident occurred at 8:52 a.m. on CTH E, 150 feet south of Perkinstown Ave. Drivers Tammi J. Stunkel, 38, Sheldon and Marissa E. Meyer, 19, Medford, and a passenger in the Stunkel vehicle, Tristin J. Stunkel, 13, Sheldon, were transported for medical treatment while another passenger in the Stunkel vehicle, Katlyn L. Stunkel, 6, Sheldon, was not transported for treatment. Memorial Health Center reports neither Stunkel nor Meyer were patients at its facility. Another passenger, Ryan L. Stunkel, 8, Sheldon, was uninjured.

According to the accident report, the Stunkel vehicle was southbound when Meyer's northbound vehicle entered its lane of traffic making a left turn. The Meyer vehicle came to rest in the east ditch. The report said the officer inter-

viewed Meyer at the scene. Meyer was going to turn into her grandmother's driveway and had coughed from fluid in her mouth following a dentist visit. She said she opened her eyes and the airbag went off. Meyer said she had a local anesthetic while at the dentist. She said she had her signal on and her headlights on and may have moved over but could not recall for certain. She said she closed her cell phone and put it in her lap and had not taken her eyes off the road to do so.

The report said the officer interviewed Tammi Stunkel after clearing from the scene. Stunkel said the Meyer vehicle appeared suddenly and she thought about taking the ditch but decided to hold straight instead. Stunkel said the other vehicle did not signal and did not have its headlights on.

Meyer was issued a citation for unsafe turn/lane deviation.

The Medford Area Fire Department also responded to the scene.



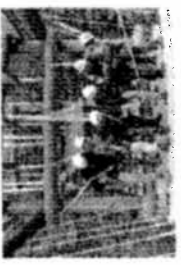


Medford, Wisconsin

STAR NEWS

August 20, 2009
Volume 136 ★ Number 34

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Leap of faith
pages 10-11
Second Section

Inside
Opinion 6
Legals 15
Court News 17
Obituaries 19

ARTICLE # 2



Photo by Brian Wilson

Ribbon cutting

Health Center officials cut the ribbon officially opening the new Memorial Health Center Kidney Care/Dialysis center in Medford. The facility is located in the south end of the remodelled professional building on MHC's Medford Campus. Participating in the ribbon cutting were (l. to r.): Chip Courtney, MHC board president; Hailey Kidney Care Center manager; Gregg Olson, president and CEO of MHC; Dr. Robert Millican, Kidney Care center medical director; Russ Weichelt, Aspirus manager of dialysis services and Kaaron Keene, vice president of patient care services. See pages 10 and 11 for story and more pictures.

NTC wants Green Institute for Medford

Reporter Karyn Eckerl
Leaders from Northcentral Technical College (NTC) are presenting an idea to build the Medford campus. NTC has seen a 73 percent increase in full-time equivalent students at the Medford campus. In May, NTC presented an idea to build the Medford

Annexation tees off town officials

by News Editor Brian Wilson and Reporter Mark Berglund

When push came to shove, Medford aldermen on Tuesday night looked out for city residents and the potential for city growth first and in the process raised some hard feelings from neighboring town officials.

The council was being asked to give final approval to annexation to a 210-acre parcel spread across the towns of Medford, Little Black, and Deer Creek. The parcel is owned by the Black River Country Club and includes the current 9-hole golf course and additional property on which they hope to expand to 18 holes and sell residential lots.

What set this annexation apart from others in the city is that the property does not border Medford. While city attorney Ken Schmiege was specific in his wording noting the only way you can create an island is if the town is surrounded by the city, the parcel otherwise resembles an island in that it is detached from the rest of the city.

Historically, annexations had to border the city which they were being annexed to. However, with the removal of the word contiguous from the state's annexation rules and a subsequent court ruling in the southern part of the state affirming the interpretation of the law, the door is open to jump over parcels and annex land that does not border cities.

The annexation had already come through the city's planning commission and it would have taken a super majority of six of the eight aldermen to override the planning commission's recommendation.

See CITY on page 3

Page 2 of Article # 2

City council approves Black River Country Club annexation request

Continued from Page 1

Chuck Zenner of the Town of Little Black called on the city to do what is neighborly and either deny the annexation request or at the very least delay it.

On Monday evening, a delegation from the Town of Little Black met with the board of directors from Black River Country Club to try to convince them to change their minds and withdraw the request.

Terry Eggebrecht, president of Black River Country Club, told aldermen on Tuesday that the golf course was committed to proceeding with the annexation and asked for the council to approve it.

"All we are asking is for the city to put it on hold for a while," Zenner said. He quoted from an e-mail from Rep. Mary Williams regarding the matter and noted a proposal to reinsert the bordering requirement was in committee in the Assembly.

"If this loophole did not exist, we wouldn't be here," Zenner said, noting the town does not want to lose the tax base. Under state law, the city must pay the municipal portion of the local property taxes for five years on any annexation.

According to Zenner, the town was not given a chance to voice their concerns, he said the town clerk was told she could not talk at the planning commission meeting on the subject, a point that Wellner disputed, and only learned of the commission meeting where the annexation was to be considered the Friday before the Tuesday meeting.

It was later clarified that the clerk was advised by the town's assessor that she was not able to speak at the public hearing on the annexation.

He said while the city may be able to annex the parcel it also has the ability to not annex it and called on

the city to have a spirit of neighborliness.

"When I look at a loophole I ask is it an oversight or did the legislature intend to do it ... I look at it as the law is today. It looks to me like the city has the right to do it," Schmiege said.

"Why would we tell them no?" asked mayor Mike Wellner.

"What's our answer to the constituents we serve? Someone has come to us asking for annexation and each of us has to answer to our constituents," he added.

The city did not initiate the annexation effort, and is prohibited from soliciting property owners for annexation. One of the reasons given for the annexation was the potential for future sewer and water needed for development of lots to fund the expansion of the golf course. It is much easier for the city to provide the services.

The question then was raised by alderman Pat DeChatelets about who would pay for the sewer and water extension. Under city policies the extension would be paid for through special assessments on the adjoining property owners. If and until those properties either annexed to the city or hooked to the city services the special assessments would be deferred.

However, the golf course isn't asking for services at this time.

"We may be 7 or 8 years down the road with development. We would fund nine holes by selling lots and we feel there would be more value if they were served by city water and sewer," Eggebrecht said.

"Have we ever denied an annexation of property because of sewer and water issues?" asked alderman Peggy Kraschewski. "We have a private property owner who wants to annex to the city. We have a recom-

mentation from the plan commission. There is no basis to deny," she said.

The annexation request generated some strong emotions. "You wonder why you don't get rural support, this is just another stab at the towns," said Town of Little Black supervisor Al Peissig. To which Wellner replied, "I wonder if the towns would have a good neighbor policy if they were gaining 210 acres?"

"I still have not heard why we would deny this. We are a conservative county which believes in private property rights," said alderman Greg Knight.

"We are criticized for not growing. What happens in 5-6-7 years if they have 18 holes and 10 homes on those lots and people ask why we didn't annex it in when we had the chance?" asked Wellner.

Aldermen voted to approve the annexation request on a 5-2 vote with Mike Bub and DeChatelets opposed. Bub noted he was bothered by the tight time frame getting the annexation passed.

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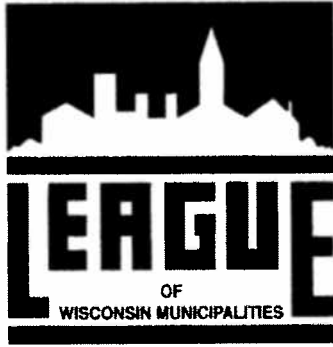
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E-mail: league@lwm-info.org
www.lwm-info.org

To: Senate Committee on Labor, Elections and Urban Affairs.
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: February 17, 2010
Re: SB 172, Annexation Law Changes

The League of Wisconsin Municipalities opposes SB 172, which makes the following two changes to annexation law:

- (1) Clarifies that territory annexed by the unanimous approval process must be contiguous to the annexing city or village; and
- (2) Restores the ability of towns to file actions contesting the validity of unanimous approval annexations when there is a question regarding whether the territory is contiguous.

The League supports the first item, because it reflects our understanding of current law and it clears up an ambiguity that some communities have used to annex non-contiguous territory. We've seen this in Merrimac and Medford. We agree this is an area of the law that needs to be clarified.

We absolutely oppose the second item. Section 2 of the bill creates a new problem by restoring the ability of towns to use taxpayer dollars to sue neighboring cities and villages over the validity of unanimous approval annexations when the town claims that contiguity is lacking. These are lawsuits that cities and villages will need to defend against and these are lawsuits that are currently not happening because state law prohibits towns from suing cities and villages to challenge a unanimous approval annexation.

We believe the Town Association's goal of prohibiting annexation of noncontiguous territory can be reached without restoring the ability of towns to file actions challenging unanimous approval annexations. The League would support this bill if it were amended to only clarify that unanimous approval annexations must be contiguous.

Under current law, a town may not challenge in court, on any grounds, any annexation by unanimous approval. This language was inserted into the annexation law by 2003 Wisconsin Act 317, which was compromise legislation that the Towns Association negotiated with the Builders Association and the Realtors Association. In return for giving up the right to sue cities and villages, the towns gained the following:

- ◆ A prohibition against municipalities annexing across county lines without town and county board approval.
- ◆ A requirement that municipalities make annual property tax setoff payments to towns for 5 years following an annexation.

STRONG COMMUNITIES MAKE WISCONSIN WORK

Towns are now seeking to partially renege on this deal without offering cities and villages relief from any of the limitations on annexation that were part of the original deal.

We urge the Committee to pass an amended version of SB 172. This amended version would retain the bill's language clarifying that unanimous approval annexations must be contiguous, but would delete the language allowing towns to file actions challenging unanimous approval annexations.

Thanks for considering our comments and concerns.



**Wisconsin Towns Association Legislative Priorities
For Balance of 2009-2010 Legislative Session**
Prepared by Richard J. Stadelman, Executive Director
(Telephone # (715) 526-3157)

Date?

The following issues are priorities for Wisconsin Towns Association in the balance of the 2009-2010 Legislative Session:

1. Passage of **AB 239** (Rep. Jorgensen) and **SB 172** (Senator Holperin) as amended which provides that unanimous annexations must be "contiguous" to cities and villages and gives towns legal standing to challenge if the annexation is not contiguous.
 - a. The Assembly Committee on Renewable Energy and Rural Affairs, recommended passage of AB 239 as amended, Ayes 13, Noes 1, on November 16, 2009.
2. Passage of **AB 260** (Rep. Smith) and **SB 117** (Senator Kreitlow) which reverses the Wood v. City of Madison, Wis. Supreme Court case on extraterritorial powers. The effect of the bill is to limit city and village extraterritorial platting power to traditional platting and land division powers, thus encouraging extraterritorial zoning through cooperative agreements.
 - a. The assembly Committee on Renewable Energy and Rural Affairs recommended passage of AB 260, Ayes 14, Noes 0, on November 16, 2009.
3. Passage of the Government Accountability Board (GAB) final recommendation on "**early voting**" to streamline absentee voting procedures; limit in-person absent voting (which is without cause) to Friday at 5:00 p.m. before the Tuesday elections unless prior to 5:00 p.m. on Monday before the election the voter signs an affidavit that the voter is unable to attend the polls on election day.
 - a. No draft legislation has been introduced to date. This GAB recommendation is a compromise from other options discussed at GAB listening sessions.
4. Oppose introduction and passage of Department of Revenue (DOR) proposal to eliminate municipal assessment of property and create a system of **county assessment**. WTA opposes this DOR proposal because it takes away local control and will increase costs to local governments and the individual property owners. WTA proposes further study to address concerns with municipal assessments, which can be implemented through changes at the local level.
 - a. Note that no bill draft has been introduced in the legislature to date. The DOR has released a copy of bill draft at the DOR website.

January 5, 2010



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

Companion to SB 172

2009 Assembly Bill 239

Assembly
Amendment 1

Memo published: November 17, 2009

Contact: David L. Lovell, Senior Analyst (266-1537)

Under *current law*, a city or village may annex land using what is termed direct annexation by unanimous consent. If all electors residing in the territory to be annexed and the owners of all property in that territory sign a petition for annexation, the city or village may annex the territory upon adoption of an annexation ordinance by a 2/3rds vote of the governing body of the city or village. The town is barred from challenging such an annexation on any grounds, whether procedural or jurisdictional.

2009 Assembly Bill 239 requires that land annexed by unanimous consent must be contiguous to the annexing city or village. It further provides that a town may challenge such an annexation relating to the issue of whether the annexed territory is contiguous to the annexing city or village.

Assembly Amendment 1 to Assembly Bill 239 provides that, if a town challenges whether territory annexed by unanimous consent is contiguous to the annexing city or village, and if the court finds that the territory is contiguous, the town must pay the city's or village's actual attorney fees, up to maximum of \$5,000, plus costs.

Legislative History

On October 22, 2009, the Assembly Committee on Renewable Energy and Rural Affairs recommended adoption of Assembly Amendment 1 on a vote of Ayes, 12; and Noes, 2, and recommended passage of Assembly Bill 239, as amended, on a vote of Ayes, 13; and Noes, 1.

DLL:jal



①

LEVA - Public Hrg. - 2/17/10

Bob Glaser

SB 172

~~had one straw~~

- Glaser spoke

- why continue to serve?

SB 423

- SC reads testimony

- Jennifer Gonda has written testimony

SB 172

- Rick Stadelman - has written testimony w/ supporting material

- SC? on broader ramifications

- Ed Huck

- OK w/ clarification aspects

- bill doesn't define contiguity, opens door to lawsuits

- eliminate second half of bill

- \$5k cap on legal costs not enough

- too much ambiguity

- Jerry Derr

- Chair of Urban Towns, Pres. of Dane Co. Towns

- a correction to a flawed law

- never intent to allow non-contiguous annexation

- creates patchwork annexation

- Working Lands Initiative in State Budget (?)

- SC? - may allow more court litigation

(2)

- Brothman? on Medford situations
 - disagreement w/ assessor's
 - should have ability to challenge in court
- Curt Witynski - has written testimony
 - agree w/ clarification of contiguity
 - would support amendment to delete second half of bill
 - taxpayer funded litigation
 - major limitations on annexation already in place
 - SC? on Towns 'renewing' on previous agreement
 - renewing in good faith
- Tim McCumber, Town of Merrimac
 - Sup. Ct. case law defines contiguity
 - Ch. 66 defines orderly annexation process
 - who has standing to challenge annexation?
 - law says town can't challenge direct unanimous annexation
 - no state direction or review of annexations
 - Merrimac came down to zoning dispute
 - doesn't care about legal fee amendment
- Bryan Joehimser, Town of Little Black
 - lost high value golf course
 - created town island
 - passage of bill won't fix old problems
 - City of Medford doesn't ~~totally~~ disagree with town
- Matthew Fleming, Town of Windsor
 - he's an atty. @ Murphy/Desmond
 - represents Windsor & 2 villages & city

③

- towns need standing to challenge contiguity
- hard to find standing - "fox in charge of henhouse"
- won't result in runaway litigation - hard to challenge contiguity
- \$5k cap is enough
- bill is a no-brainer
- have to do both parts of bill, not just part one
- Village of Singer court case
- Jeffrey Bayliss, Town of Cross Plains (Supervisor)
 - law is stacked in favor of cities + villages
 - Town comprehensive plans get trampled
 - no incentive for ~~boards~~ working w/ towns
 - 2 key aspects: contiguity + judicial review
 - towns are victims, but not instigators, of frivolous lawsuits
- Lyle Updike, Town of Sun Prairie
 - Village of Cottage Grove Plan Comm. or Board meeting tonight highlights problem against
 - DOT: "ball on a string" - Mt. Pleasant decision
 - have no standing, need negotiated boundary agreement
- Arnold Harris, Western Dane Coalition for Smart Growth
 - 66.0001 - doesn't protect farmland preservation
 - ~~~~~
 - town gov't's being destroyed by annexation
 - ~~~~~
 - sustainable growth + smart planning
 - ~~~~~

4

- Stebi Harris, Western Dore Coalition for Smart Growth
 - pass bill as is, but there are other needed changes
 - extraterritorial jurisdiction
 - preservation of natural resources

~~~~~  
~~~~~

~~deposition~~



LEVA Exec + Hearing

4/8/10

EXEC

SB 172

Kumbaya on SB172
no GOP, quick roll

HEARING

Ronald Polacek

no one showed or registered

SB435

Kevin Kennedy

- has written testimony
- SC - ? on retaining records in financially feasible way
 - paper printout + ballots retained
 - problem is space on memory card
 - cost prohibitive to retain data electronically

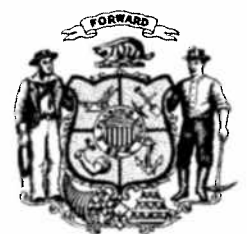
John Washburn

- no written testimony, but a lot of supporting material
- takes some shots at Kevin + GAB
- impossible to check election complaints
- goes through his "sub" section by section
- central court tabulation
- concern with a personal challenge that he filed
- wants election records defined as open records

①



WISCONSIN STATE LEGISLATURE



- ▶ Home
- ▶ Lobbying in Wisconsin
- ▶ Organizations employing lobbyists
- ▶ Lobbyists

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as of Thursday, January 07, 2010

2009-2010 legislative session
Legislative bills and resolutions
 (search for another legislative bill or resolution at the bottom of this page)

Companion to SB 172

Assembly Bill 239

limiting a city's and village's use of direct annexation and authorizing limited town challenges to an annexation.
 (FE)

TEXT
 sponsors
 LRB analysis

STATUS
 committee actions and
 votes
 text of amendments

COST & HOURS
 of lobbying efforts
 directed at this proposal

Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comments, click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comments
●	●	Association of Wisconsin School Administrators	12/4/2009	↔	
●	●	Fox Cities Chamber of Commerce & Industry	6/9/2009	?	
●	●	League of Wisconsin Municipalities	5/6/2009	↓	💬
●	●	Wisconsin Alliance of Cities Inc	5/21/2009	↓	
●	●	Wisconsin Association of School Business Officials	12/4/2009	↔	
●	●	Wisconsin Association of School District Administrators	12/4/2009	↔	
●	●	Wisconsin Builders Association	5/20/2009	↔	
●	●	Wisconsin Council for Administrators of Special Services	12/4/2009	↔	
●	●	Wisconsin Realtors Association	5/21/2009	↑	
●	●	Wisconsin Towns Association	5/4/2009	↑	

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House Assembly
Senate

Proposal Type Bill
Joint Resolution
Resolution

Proposal Number (enter proposal number)

Legislative Session 2009 Regular Session



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as of Wednesday, February 03, 2010

2009-2010 legislative session

Legislative bills and resolutions

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Senate Bill 172

limiting a city's and village's use of direct annexation and authorizing limited town challenges to an annexation. (FE)

TEXT sponsors LRB analysis	STATUS committee actions and votes text of amendments	COST & HOURS of lobbying efforts directed at this proposal
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Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comments, click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comments
●	●	League of Wisconsin Municipalities	5/6/2009	↓	
●	●	Wisconsin Alliance of Cities Inc	4/29/2009	↓	
●	●	Wisconsin Builders Association	4/27/2009	?	
●	●	Wisconsin Realtors Association	5/21/2009	↓	
●	●	Wisconsin Towns Association	4/24/2009	↑	

Select a legislative proposal and click "go"

House

Proposal Type

Proposal Number (enter proposal number)

Legislative Session