

Support of SB2329

Senate Transportation Committee

January 30, 2025

Good morning, Chairman Clemens and Committee members.

I am Larry Syverson from Mayville. I grow soybeans on my farm in Traill County. I am the Chairman of the Board of Supervisors for Roseville Township in Traill County and the Executive Director of the North Dakota Township Officers Association. NDTOA represents 6,000 Township Officers serving more than 1,400 dues-paying member townships.

If one drives about the state, especially on rural roads, the remains of cities that once were will be encountered. A few buildings in some clusters, very likely in some state of disrepair will be seen. These cities once had a post office and a few businesses, and they all had streets and alleys dedicated to public use and recorded as such. Now most of the buildings are gone or have fallen in, and the streets only exist as lines on a map, probably somewhere in a farmer's field or pasture.

In 2022, a message was relayed to me about a township in Burke County that was trying to divest itself of the non-existent streets and alleys of the dissolved city of Larson. I knew there was nothing in township law to deal with this situation, so I asked the legal counsel of the League of Cities how the cities would handle this. She gave me a two-page paper that outlined the procedure for street abandonment. I forwarded this information to the township officer that was requesting assistance. That officer gave this information to the Burke County state's attorney. After review, the state's attorney said it is only for cities and does not apply to counties or townships. I asked the Association of Counties if they could find anything that gave counties the power to abandon streets in a dissolved city and was told they couldn't find any. Only a city has the power to vacate city streets and alleys. Once a city is unincorporated, there is no power that can abandon its streets and alleys. The process that a city can use to return the street to

private ownership while it exists is probably even more in need if the city has unincorporated and falls into decay.

These unneeded streets and alleys are a liability for the county or township and are a detraction from the clear title for the property owner. So abandonment is a benefit to both.

This is not the only time this situation has occurred. I have gotten phone calls about it a few times over the years, but each time, I would explain there was nothing in township law to deal with the problem and refer the caller to the association lawyer. The cumulative experience of these questions indicated that this situation does occur and is probably more common than expected. That led me to try to get the authority for counties and townships into statute.

SB2329 allows the county or township to use the same process that a city would use to return streets or alleys to private ownership. The exact requirements for petitions, public notices, and public meetings are described in the narrative provided by the League of Cities earlier and which I have included with this testimony. This action would be taken by organized townships or by counties if the township is not organized.

I thank the ND League of Cities and the ND Association of Counties for their assistance in developing this solution. I thank the Chairman of Keller Township, Burke County, for submitting his testimony that shows the importance of SB2329 for the township and its property owners. I also thank Senator Lee and the other sponsors for introducing SB2329.

Chairman Clemens and committee members, thank you for this opportunity to testify today. Please give SB2329 your favorable consideration. This concludes my prepared statement. I will try to answer any questions you might have.

Vacating a Street or Alley

1. **Petition.** Person seeking to vacate a street or an alley must file a petition with the city governing body that is signed by all of the owners of the property adjoining the portion of the street or the alley that the petition seeks to vacate. The petition also needs to set forth the facts and reasons for such vacation and be accompanied by a plat of the street or alley proposed to be vacated. The petition needs to be verified by the oath of at least one petitioner. NDCC 40-39-05

2. **Vacating Street or Alley Where Utilities are Located.** No street or alley may be vacated when any sewers, water mains, gas or other pipes, or telephone electric, or cable television lines exist unless:
 - a. The sewers, mains, pipes, or lines have been abandoned and are not in use;
 - b. The owner of utility consents to the vacation; or
 - c. Perpetual easements for the maintenance of the sewers, water mains, gas, or other pipes, or telephone, electric, or cable television lines has been given.Any vacation of areas within which are located electric facilities, whether underground or above ground, is subject to the continued right of location of such electric facilities in the vacated area. NDCC 40-39-04

3. **Governing Body Initial Review of Petition.** If the governing body finds that the petition is in proper form and contains the required signatures, and that it is expedient to consider the petition, the governing body of the city shall order the petition to be filed with the city auditor. NDCC 40-39-06

4. **Expenses of Vacation Process.** All expenses incurred in vacating any street or alley shall be paid by the petitioners. The amount shall be deposited with the city auditor before any expenses are incurred. The amount to be deposited is determined by the governing body. Any part of the deposit not used for expenses will be returned to the petitioner. NDCC 40-39-09

5. **Filing with City Auditor and Publication.** The city auditor will give notice by publication at least once each week for four weeks. The notice needs to state that the petition has been filed and the object of the petition and the date the petition will be considered by the governing body. The hearing date cannot be less than thirty days after the first publication of the notice. NDCC 40-39-06

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NDTOA gratefully thanks the North Dakota League of Cities for providing this information.

6. **Hearing on Petition.** The governing body shall investigate the matter set forth in the petition and will take testimony and evidence of interested parties at the date set in the public notice. NDCC 40-39-07

7. **Governing Body Decision.** After hearing the evidence, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the street or alley described in the petition vacated upon such terms and conditions as it shall deem just and reasonable. NDCC 40-39-07

8. **Publication of Resolution.** Before the resolution is effective, it must be published once in the official newspaper. NDCC 40-39-07 and 40-11-06

9. **Filing and Recording Resolution with County Recorder.** A transcript of the resolution, certified by the city auditor, shall be filed and recorded in the county recorder's office. The resolution has the effect of conveying to the abutting property owners all of the right, title, and interest of the municipality to the property vacated. NDCC 40-39-08

Thanks to:

Stephanie Dassinger Engebretson,
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