

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS**JANUARY 23, 2008****TESTIMONY FROM KEITH BERNDT****CASS COUNTY ENGINEER**

Good afternoon Chairman Kaldor and members of the Advisory Commission. I'm Keith Berndt. I serve as the Engineer for Cass County. I'm also charged with supervising the Cass County Planner and associated planning activities.

On January 22, 2008 the Cass County Commission passed Resolution 2008-3 and authorized me to testify on behalf of Cass County. I'll provide some introductory testimony and then I'll read that resolution for the record.

We enjoy excellent working relationships with our Township and City officials. Nothing in the testimony I'm about to discuss is intended to reflect negatively on the fine work done by the many township volunteers in Cass County.

Counties in North Dakota have subdivision authority outside of municipal boundaries and extraterritorial zoning areas. Cass County has a comprehensive plan and detailed subdivision ordinance. Cass County has an active Planning Commission and exercises subdivision authority. Cass County does not exercise zoning authority because townships in Cass County do exercise zoning authority and North Dakota Statutes do not allow Counties to exercise that authority if townships do. This lack of zoning authority is an impediment to planning efforts by the County.

One of the primary considerations in planning should be to minimize the tax burden on current and future citizens.

If one accepts that premise and then asks who is in the best position to plan for future growth in a way that minimizes unnecessary tax burden on future citizens, you reach some inevitable conclusions.

Despite good intentions, townships lack resources to adequately plan for metropolitan growth. Townships generally have no professional planning staff, no engineering staff, and no legal counsel. Work is done by volunteers with a lack of time and training. Proper planning and zoning administration in a growing area requires a significant resource commitment and specialized knowledge.

Enforcement of a zoning ordinance may require legal work and in many instances townships simply do not have the budgets to take enforcement actions when necessary.

Township Officials are not in the business of building infrastructure other than gravel roads and associated culverts. It would seem unreasonable to expect individuals without experience in building and maintaining urban infrastructure to have an understanding of what it takes to plan for future infrastructure.

Right of way costs make up a significant percentage of the costs of many projects. When corridors are preserved through right of way dedications, access control, and adequate setbacks it assists efforts to build projects and minimizes the burden on taxpayers.

When lots are developed in a manner that considers future infrastructure, taxpayers do not have to unnecessarily subsidize overly expensive infrastructure installation. In order to be effective, preservation and planning efforts must be done many years ahead of development.

When good planning is done, it allows current landowners to better understand the long range plans and make their individual plans in a way that is compatible with good sustainable development.

The Cities of Fargo, Moorhead, West Fargo, and Dilworth; the Counties of Clay and Cass as well as the Departments of Transportation from both states participate actively in the Metropolitan Council of Governments. The metropolitan area townships are not members in the Metropolitan Planning Organization yet the mile line roads near the metropolitan area that are under the control of the townships will become the future arterial corridors.

Much of eastern Cass County is in a flood plain. Floodplain zoning administration requires considerable technical expertise. Townships may not have the technical resources necessary for proper and fair administration of floodplain ordinances in developing areas. Two townships in Cass County have adopted a 1" maximum stage raise impact standard in their ordinances but apparently lack the resources to map and administer it. As a result, some of those that understand it and try to comply with it (such as government highway agencies) spend a lot of money doing it. Others are given permits to build in unsafe flood prone areas despite the ordinance.

Cass County Resolution #2008-3 follows:

RESOLUTION #2008-3

EXTRATERRITORIAL ZONING AUTHORITY

WHEREAS, It is the desire of the Cass County Board of Commissioners that necessary local government services be provided to all citizens of Cass County in a high quality and cost effective manner;

WHEREAS, In order to effectively plan for and reserve the opportunity to build future transportation facilities, water supply, sewage, flood control, schools, parks, emergency management and other public requirements, it is necessary for city officials to consider build out requirements that may occur 25 or more years into the future;

WHEREAS, City planning officials are in the best position to understand and plan for the future needs of the city;


WHEREAS, It is necessary for city officials to have adequate statutory authority to effectively plan for future needs;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Cass County, North Dakota that the Cass County Commission supports statutory provisions that allow cities over 25,000 in population to exercise 4 mile extraterritorial zoning and subdivision authority and cities over 5,000 in population, but less than 25,000, to exercise 2 mile extraterritorial zoning and subdivision authority.

APPROVED:


Ken Pawluk, Chairman
Cass County Board of Commissioners

ATTEST:


Michael Montplaisir, Auditor
Cass County, North Dakota

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Thank you for the opportunity to testify.