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Vice Chairman

Comments to Advisory Commission on Governmental Relations
June 3, 2008

Mr. Chairman, Commission Members, Ladies and Gentlemen

I ask for your support to have the Legislative Council draft a bill changing extraterritorial authority. The last several legislative sessions extraterritorial authority has been an issue. In 2007 HB1321 was introduced and received huge public input at the House and Senate committee hearings. Subcommittees were established to work on the bill. HB1321 passed calling for a partial rollback of ETA and called for a Legislative Study of ETA.

This Commission has heard hours of passionate testimony from North Dakota citizens asking for relief from financial loss, loss of private property rights and the loss of the right to vote for those who govern them. Those citizens have pleaded with us to restore the rights they lost because of ETA. They have said the Legislature gave this power, the Legislature should take it away. These citizens are not against planning, or zoning or permitting. The question is who should be in charge of doing it.

Please don't be fooled. This ETA discussion has nothing to do with whether there should or should not be planning, zoning, or permitting. The proponents of the status quo have tried to make the necessity for planning, zoning and permitting the discussion. But that is not the issue.

The question is who should do these things not whether they should be done. The question is, should a city be allowed to enforce their ordinances and control citizens private property uses outside of the city's legal corporate boundary. The question is, should cities be allowed to govern the citizen's uses of their private property in an area where the citizen cannot vote for the officials of that government. Governance without the right to vote for those who govern; seems I remember a tea party over this issue. Isn't the right to vote for governance and to own private property the very reason this, the greatest nation in the world, was formed?

I would like to review some concerns brought forward by ETA proponents.

1. Without ETA there wouldn't be planning for roads, sidewalks, and bike paths.

Planning of roadways etc. began in 1871 when the Session Laws of the Dakota Territory accepted congressional section lines as granted by an act of Congress in 1866. This grid of section lines, public corridors, set aside for public uses, has been, is and should continue to be the backbone of public corridors. Efficient planning to expand upon this grid of public corridors should be done on a regional level. Often these corridors cross city, township and even county lines. The planning should not be limited to be done by one city or one township. The Bismarck-Mandan MPO consisting of the cities of

Bismarck, Mandan, Lincoln, and portions of Burleigh and Morton Counties, The Fargo-Moorhead Transportation Improvement Program consisting of Fargo, West Fargo, and Cass County in North Dakota; and Moorhead, Dilworth, and Clay County in Minnesota, and The Grand Forks-East Grand Forks Metropolitan Planning Organization are examples of the way transportation needs should be studied.

2. Without ETA there wouldn't be utility planning.

Utilities always plan with an eye on future development. I serve on the board of an electric cooperative. We plan line extensions, substations and future power supply needs based on projections of community growth. Cities and rural water systems do the same. ETA is not needed to do adequate utility planning. Is government control over the usage of private property the goal? I don't think it is right for government to tell private property owners they cannot develop a particular parcel because the utility didn't plan for it. There may be need for a special assessment or a contribution of aid to construction if the property owner wants the services, but that should be their option.

3. Without ETA they wouldn't be able to provide municipal services outside city.

I am not aware of any municipal services provided with city property taxpayer dollars in areas outside of the city corporate limits. If there are such services I would expect the citizens of that city to revolt. Why should their property tax dollars be spent on services outside city?

4. Without ETA there would be hodgepodge new development.

Private property owners know the best way to develop their property. They bought it with their own money. They care about it. Their personal interest and market pressure will make proper development their first choice. Do we need standards and limitations on how and what can be done with private property outside the corporate city limits? Absolutely, and that will be done by the townships who have been charged with zoning for over 60 years, by NDCC 58-03-11, and the counties who have been charged with subdivision platting for about 30 years by NDCC 11-33.2. The state is charged with building, electrical and plumbing permitting in NDCC Chapter 54. We have government entities in place to provide these services without ETA.

5. Without ETA there would be premature annexation.

Why? We have state laws to govern annexation in the NDCC. If those sections need to be changed and improved then we should look at them with an eye toward improvement. We should not use ETA to solve problems that may exist in annexations.

6. Without ETA there wouldn't be storm sewer and floodway development.

Storm sewers and floodways affect cities, townships, counties and multi county areas. Planning for them is best managed by water districts and the North Dakota Water Commission; not by any one city.

7. Without ETA there would be interference with long term comprehensive land use planning.

The whole current craze for comprehensive land use planning is suspect. Should current and future private property owners have the right to decide what is the best legal use of their property or should the best use of their property be decided by a government planning entity? But that aside, any comprehensive land use planning should be done on a regional level, not by one city, or one township or even one county.

8. If ETA was eliminated; what would happen to zoning and subdivisions done under ETA? Are they all voided leaving residents without zoning protection they had counted on?

Subdivision platting is done by the county. Zoning is done by townships. That would not change. Zoning done under ETA should remain in effect unless changed by the township. It may be necessary to spell that out in new legislation. That is something I envision all of us working on together between now and when the final legislation is passed.

9. Without ETA; how will annexation disputes between geographically close cities be handled?

If geographically close cities need to be guided and or controlled by state law as they fight over corporate limits, then we should deal with that problem. That is a separate issue. It is totally wrong to disenfranchise citizens living between cities and use them as pawns in the war between the two cities. I would volunteer to help work on other legislation to protect cities from each other.

Yes, we can change ETA without any negative effects on planning, zoning or permitting. In fact, it will improve planning, zoning and permitting. Will we need to look at some specific issues as we craft the final bill next session? Yes, we should all work together from now through the 2009 legislative session to make certain the final legislation is the best product possible.

Let's make things better, let's do the right thing, give the citizens the right to control their own destiny, give back their right to vote for those who govern them.

Please ask the Legislative Council to draft a bill changing ETA, as we know it, and put in its place any language needed to insure a smooth transition of authority back to where it should be and any additional new language needed to settle annexation disputes between cities.

Sincerely,



Representative Dwight Wrangham
District 8, North Dakota