

TOWN OF DUNN

RES. 2013-03

OPPOSITION TO SB-349 RELATING TO REGULATION OF NONMETALLIC MINING

Whereas, town boards have been authorized by vote of the town electors at a town meeting of the electors to exercise village powers to regulate various activities for the public health, safety, welfare and convenience of the public for over 100 years;

Whereas, the Wisconsin Supreme Court in February, 2012 in the case of Zwiefelhofer v. Town of Cooks Valley, 338 Wis. 2d 488, upheld the right of the town to adopt regulatory requirements to regulate nonmetallic mining by means of a town ordinance enacted under village powers;

Whereas, some towns have enacted regulatory ordinances as an exercise of “police powers” under the village powers authority in the past two years to regulate nonmetallic mines, in particular industrial frac sand mines and processing plants, to protect the public health and safety of their town;

Whereas, SB-349 has been introduced in the Wisconsin State legislature to limit town, village, city, and county authority to regulate nonmetallic mining operations, including industrial frac sand operations, to zoning authority only, by prohibiting local units of governments to exercise policy type ordinances, which for towns would be enacted by means of village powers, over nonmetallic mining operations;

Whereas, limiting towns who do not have town zoning or are under county zoning would dramatically limit town board authority to protect the public health and safety in the town by taking away their authority to adopt industrial frac sand regulatory ordinances using village powers;

Whereas, SB-349 would vest exclusive jurisdiction over air quality, water quality and quantity issues with the State on all types of activities, not just nonmetallic mining;

Whereas, SB-349 would require all highway contracts for reimbursement of highway damage caused by heavy vehicles under Sec. 349.16(1)(c) of Wis. Statutes to follow new statutory requirements including an engineering study for all such highway contracts;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF DUNN, DUNN COUNTY, that the town board opposes the passage of SB-349 which would prohibit local governments from regulating nonmetallic mining through the use of “police power type” ordinances enacted under village powers in an effort to protect the public health and safety of town residents and result in other limitations on local control.

Chairman, Don Heit

1 Supervisor, Dennis Weber

2 Supervisor, John Miller

**Passed and approved this
13th day of November, 2013.
Recorded in the Regular
Town Board Minutes dated
November 13, 2013.**

Vicki Price, Clerk, Town of Dunn