

19

AB669

Assembly Hearing Slip

(Please print plainly)

Date: 2/8/96

Bill No. AB 669

Or
Subject _____

(Name) NICK NEHER

(Street Address or Route Number) _____

(City & Zip Code) _____

(Representing) WIS DEPT OF AG TRADE & CONSUMER PROTECTION

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: Feb. 9, 1996

Bill No. AB-669

Or
Subject _____

(Name) Tom Steebig, Co Supervisor

(Street Address or Route Number) 4309 Hegg Ave.

(City & Zip Code) Madison 53716

(Representing) 15th Supervisory District & himself

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: FEB. 8, 1996

Bill No. AB 669

Or
Subject _____

(Name) JIM BRICKER

(Street Address or Route Number) 4084 Mueller

(City & Zip Code) DE FOREST 53532

(Representing) TOWN OF WINDSOR (Business Manager of town)

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2-8-96

Bill No. AB 669

Or
Subject _____

(Name) JERRY DERR

(Street Address or Route Number) 1595 CTH V

(City & Zip Code) COUMBES, WI 53935

(Representing) DAVE COUNTY TOWNS

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: Feb 8, 1996

Bill No. AB 669

Or
Subject _____

(Name) ROBERT BOWMAN

(Street Address or Route Number) 4417 ROCKY DELL RD

(City & Zip Code) CROSS PLAINS, WI 53528

(Representing) MYSELF

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 210 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/8/96

Bill No. AB 669

Or
Subject _____

(Name) Rep. Gene Hahn

(Street Address or Route Number) _____

(City & Zip Code) _____

(Representing) Author

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/8/96

Bill No. AB 669

Or Subject re-zoning

(Name) John Hendrick

(Street Address or Route Number) 1315 Spraight Street

(City & Zip Code) Madison, WI 53703

(Representing)

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: Feb 8, 1996

Bill No. AB 669

Or Subject

(Name) James P. Clark

(Street Address or Route Number) 5675 WINDY LAKE RD

(City & Zip Code) WAUNAKEE WI 53597

(Representing) WIS COUNTY CODE ADMINISTRATORS

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2-8-96

Bill No. AB 669

Or Subject Re-zoning of agriculture lands

(Name) Dreux J Watermolen

(Street Address or Route Number) P.O. Box 7921

(City & Zip Code) Madison, WI 53707

(Representing) Wis Dept Natural Resources

Speaking *in favor*:

Speaking *against*:

Registering *in favor*:

Registering *against*:

Speaking for *information only*:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/18/96

Bill No. AB 669

Or Subject REZONING

(Name) LES WARFIELD

(Street Address or Route Number) 201 E. ONE E MAIN

(City & Zip Code) MADISON

(Representing) SEN. BELCH

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/18/96

Bill No. AB 669

Or Subject _____

(Name) Harold KRAVITZ

(Street Address or Route Number) 3419 City Hall Rd

(City & Zip Code) MT. PLEASANT, WI

(Representing) CROSS PLAINS TOWN ASSOCIATION

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/18/96

Bill No. AB 669

Or Subject _____

(Name) Mark Hazelbaker

(Street Address or Route Number) 2 E. WIFFLIN ST

(City & Zip Code) MADISON WI 53701

(Representing) Dane County Town Assoc.

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2/8/96

Bill No. AB 669

Or
Subject _____

(Name) William G. Lehman

(Street Address or Route Number) 3888 Terrace Circle

(City & Zip Code) DeForest, WI 53532

(Representing) Surgeon Town of Windsor

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 2-8-96

Bill No. AB 669

Or
Subject _____

(Name) SO Hill

(Street Address or Route Number) 14 W. M. St. in

(City & Zip Code) DeForest, WI

(Representing) for all towns of cities

Speaking in favor:

Speaking against:

Registering in favor:

Registering against:

Speaking for information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Legislative Representative
Tom Harnisch
44 E. Mifflin St. - Suite 900
Madison, WI 53703
Phone: 608-256-0543
FAX: 608-256-3986

Legal Counsel
James JR Habeck
W7725 Highway 29
Shawano, WI 54166
Phone: 715-526-3157
FAX: 715-524-3917

Wisconsin Towns Association

RICHARD J. STADELMAN, EXECUTIVE DIRECTOR
W7725 Highway 29, Shawano, Wisconsin 54166-9313
(1/2 Mile West of Shawano City Limits)
Phone: 715-526-3157
Fax: 715-524-3917

February 7, 1996

Via Fax
Rep. Eugene Hahn
Box 8952
Madison, WI 53708

RE: AB669

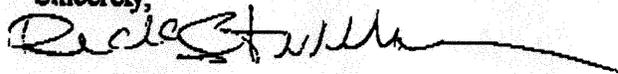
Dear Rep. Hahn:

The Wisconsin Towns Association Board of Directors has gone on record opposing AB669 as originally drafted. However, based on my discussion with your office, it is my understanding that you will offer three (3) amendments that will vastly improve the bill. These amendments will, if adopted by the Assembly Agriculture Committee, make the bill acceptable to the WTA. These amendments will:

- 1) Require that the minimum acreage limit less the 35 acres and the annual farm gross farm profits requirement will both be required, under this bill.
- 2) Create a soil classification requirement that will not allow for rezoning of prime farmland that meets certain soil characteristics.
- 3) Require that the local unit of governments will still have the right, based on existing municipal zoning and land use plans, to determine the uses that will be allowed once the land has been rezoned from exclusive agriculture.

I would hope the Assembly Agriculture Committee would adopt all three (3) amendments. Because of calendar conflicts neither Tom Harnisch nor I will be at the hearing on Thursday. However, if you have any questions or if the committee has any questions, please advise.

Sincerely,



Rick Stadelman
Executive Director

cc: Tom Harnisch
Rep. Al Ott

OFFICERS/DIRECTORS
Delmar Plank, President
S2097 State Road 88
Alma, WI 54610
608-685-4590

Don Trettin, V. President
Route 10, Box 293
Hayward, WI 54843
715-634-4554

Clifford Bowden, Secretary
4678 County Road E South
Pittsville, WI 54466
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414-667-4705

Terrence Mc Mahon
18114 52nd Road
Union Grove, WI 53182
414-878-2981

Maurice Morgan
W12162 Olden Road
Ripon, WI 54971
414-748-6286

Clarence Nartzke
W14889 HWY 45
Tigerton, WI 54486
715-535-2769

Marvin Samson
W4638 County Road B
Black Creek, WI 54106
414-984-3188

Robert Thomas
2751 County Road BB
Dodgeville, WI 53533
608-935-5446

To: Assembly Agriculture Committee, Rep. Alvin R. Ott, Chair
From: Robert E. Bowman, Phone: (608) 831-6653
Date: February 8, 1996

Mr. Chairman, and members of the Agriculture Committee. My name is Robert E. Bowman, and I reside at 4417 Rocky Dell Road, Cross Plains, Wisconsin. I am retired from the University of Wisconsin-Madison. I am now serving in town government, being elected this past April as a Supervisor in the Town of Cross Plains.

I am here today on my own behalf, to speak in support of AB 669 in its amended form, which applies only to substandard parcels inappropriately or improperly zoned as exclusive agriculture.

PURPOSE OF AB 669. The intent of this bill is simple. It is curative. It lets owners of certain substandard parcels unfit for exclusive agriculture, but inappropriately or improperly zoned as exclusive agriculture, to undo that zoning and get those parcels restored to their prior zoning.

RATIONALE FOR AB 669. This bill corrects the inequitable and unconstitutional results of zoning land as agricultural when it is unfit for agriculture. It corrects three unconstitutional results in this regard: (1) taking land by zoning it as agricultural when it is unfit for agriculture; (2) failing to provide equal treatment under the law, and (3) failing to provide due process.

EXPLANATION. The exclusive agricultural zoning district is authorized by chapter 91 of the Wisconsin statutes, for the preservation of farmland. That is clearly a valid and noble purpose, as applied to legitimate farmland. Yet, it has a cost. It intrudes on the free and unencumbered use of property, and thus reduces the individual liberties of the owners. It prohibits them from using or selling that land for development. In return for this restriction on development, chapter 91 offers a quid pro quo; that is, an incentive or compensation. It offers the farm owner the farmland tax credit.

Farmland preservation started out as fair, because it started out as voluntary. Then, it moved from voluntary to imposed. Local governments were required by chapter 91 to adopt exclusive agricultural zoning for all farms in their jurisdiction, in order to qualify farm owners for the farmland tax credit.

That opened the door to abuse, inequity, and unconstitutional treatment. Parcels of less than 35 acres are explicitly excluded as farmland by chapter 91, and thus, are ineligible for the farmland tax credit. Moreover, many such parcels are provably unfit for agriculture, by their physical nature.

Yet, some local jurisdictions exercised a "taking" of such ineligible, unfarmable substandard parcels, that are unfit for agriculture, by zoning them as exclusive agriculture and using that zoning to suppress development on those parcels. Three unconstitutional results thereby occur. First, the Wisconsin Supreme Court has declared it unconstitutional to take land by zoning it as agriculture, and thereby prevent its use for other purposes, when the land is unfit for agriculture. The second unconstitutional result is unequal treatment under the law, thus violating the 14th amendment. It is unequal treatment if some citizens get compensation for certain restrictions imposed on them, but the same restrictions are imposed on other citizens without compensation. The third unconstitutional result is denial of due process. Substandard parcels were zoned as exclusive agriculture by blanket rezoning that failed to give any consideration to the individual parcels and their fitness for the agricultural zoning, and that failed even to notify property owners that their land was being rezoned. Moreover, that practice uses exclusive agricultural zoning as a subterfuge, to suppress development in the name of preserving farmland, when it is not preserving farmland at all. This has sneaked in land use restrictions on citizens by the back door, by trickery, rather than by proper political process.

DOES THIS BILL INTRUDE ON LOCAL CONTROL? No. It merely prevents local governments from pursuing certain inequitable and unconstitutional zoning practices with regard to exclusive agricultural zoning. Local governments retain their rights, under state statutes, to zone land appropriate to its nature, and to use due political process to impose such zoning controls as are constitutional, equitable, and supported by the electorate. This bill is curative, by restoring wrongly zoned parcels to their prior zoning, upon owner's request, from which prior zoning as a starting point the local government, under its duly enacted ordinances, can then apply all its usual zoning powers. In other words, local governments do not lose even a whit of their legal control, under this bill.

EUGENE HAHN

State Representative • 47th Assembly District



February 8, 1996

Chairman:
Assembly Committee on
Tourism & Recreation

Honorable Al Ott
Chairman, Assembly Agriculture Committee
318 North
State Capitol

Dear Chairman Ott;

Thank you for scheduling a public hearing on Assembly Bill (AB) 669, a measure designed to streamline the rezoning process of property zoned agricultural use only but is ineligible for the Farmland Preservation Credit.

Recently a petition was approved by the Cross Plains Town Board, the Dane County Zoning and Natural Resources Committee, and the Dane County Board of Supervisors, but was eventually vetoed by the Dane County Executive. The petitioner, a constituent of mine, brought this to my attention, and subsequently I drafted AB 669.

AB 669 would require a city, village, town or county to approve a petition for rezoning property that is zoned agricultural use only if it meets three requirements.

The requirements include property that is ineligible for the Farmland Preservation Credit and is less than 35 acres.

In addition, the owner of the parcel has been ineligible for the Farmland Preservation Credit for 3 consecutive years because the parcel produced less than \$6,000 in gross farm profits during each of those years.

The third requirement is soil quality. Under the proposed amendment, the parcel must not predominantly consist of soil types class I or II under the United States Department of Agriculture Soil Conservation Service.

Under current law, property owners can qualify for the Farmland Preservation income tax credit if the property is zoned for exclusive agricultural use and consists of more than 35 acres. The property must produce at least \$6,000 in gross farm profits during the tax year or at least \$18,000 in gross farm profits during the tax year and the two preceding years.

The development and expansion crisis has arrived in many of our counties, municipalities and townships. AB 669 will provide for a balance between preservation of land that is agriculturally viable,



while allowing for growth on property that is suitable for development.

Thank you again for holding a hearing on AB 669. I hope that this measure creates a positive debate regarding zoning rules throughout the state.

Sincerely,

Eugene Hahn
State Representative
47th Assembly District

EHH:des

cc: Assembly Agriculture Committee Members

S:\LEGIS\ZONE.TES

CAPABILITY CLASSES, the broadest groups, are designated by Roman numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use, defined as follows:

Class I soils have few limitations that restrict their use.

Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class III soils have severe limitations that reduce the choice of plants, require special conservation practices, or both.

Class IV soils have very severe limitations that reduce the choice of plants, require very careful management, or both.

Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use largely to pasture, woodland, or wildlife.

Class VI soils have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture, woodland or wildlife.

Class VII soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to pasture or woodland or wildlife.

Class VIII soils and landforms have limitations that preclude their use for commercial plants and restrict their use to recreation, wildlife, water supply, or esthetic purposes.

CAPABILITY SUBCLASSES are soil groups within one class; they are designated by adding a small letter, *e*, *w*, *s*, or *c*, to the class numeral, for example, IIe. The letter *e* shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; *w* shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); *s* shows that the soil is limited mainly because it is shallow, droughty, or stony; and *c*, used in some parts of the United States, but not in Dane County, shows that the chief limitation is climate that is too cold or too dry.

In class I there are no subclasses, because the soils of this class have few limitations. Class V can contain, at the most, only the subclasses indicated by *w*, *s*, and *c*, because the soils in class V are subject to little or no erosion, though they have other limitations that restrict their use largely to pasture, range, woodland, wildlife, or recreation.

CAPABILITY UNITS are soil groups within the subclasses. The soils in one capability unit are enough alike to be suited to the same crops and pasture plants, to require similar management, and to have similar productivity and other responses to management. Thus, the capability unit is a convenient grouping for making many statements about management of soils. Capability units are generally designated by adding an Arabic numeral to the subclass symbol, for example, IIe-2 or IIIe-6. Thus, in one symbol, the Roman numeral designates the capability class, or degree of limitation; the small letter indicates the subclass, or kind of limitation, as defined in the foregoing para-

graph; and the Arabic numeral specifically identifies the capability unit within each subclass (15).

Management by capability units

In the following paragraphs, the capability units in Dane County are described. The numbering of units is not consecutive, because not all the capability units used in Wisconsin are in this county.

In the descriptions of the capability units, the characteristics of the soil or soils in the unit are described, the limitations are summarized, suitable crops are given, and management practices are suggested.

Soils in the same capability unit have similar degrees of damage and about the same limitations. The soils in one unit, therefore, need about the same kind of management, though they may have formed in different ways and in different kinds of parent material.

CAPABILITY UNIT 1-3

This unit consists of nearly level, deep, well drained and moderately well drained, dark-colored to light-colored soils that have a surface layer of silt loam and a thick, moderately fine textured subsoil. These soils are on ground moraines and benches in valley stream bottoms.

The soils in this unit are easy to cultivate. Their fertility is medium or high. The available water capacity is high, and permeability is moderate. These soils have high organic-matter content. The major management concerns are the maintenance of organic-matter content and fertility and the improvement and maintenance of soil tilth.

These soils are well suited to all crops commonly grown in the county. The main crops are corn, beans, oats, and alfalfa. These soils are also suited to grasses. Stands of fast-growing hardwood timber can be grown on the soils that have a light-colored surface layer.

These soils can be cultivated intensively in places where good soil structure is maintained. Row crops can be grown continuously if all crop residue is turned, minimum tillage is practiced, and a high level of fertility and good tilth are maintained. The dark-colored soils in this unit have a higher natural organic-matter content, are more permeable, and are easier to keep in good tilth than the lighter colored ones. A high level of production is to be maintained, the nutrients that have been removed by crops and those that have been lost through erosion and leaching must be replaced.

CAPABILITY UNIT 1-4

The only soil in this unit is Salter silt loam, 0 to 1 percent slopes. It is a moderately deep, well drained and moderately well drained, light-colored soil that has a surface layer of silt loam and a moderately fine medium-textured subsoil. It is on benches in valleys and on stream bottoms.

The fertility of this soil is medium. The available water capacity is medium, and permeability is moderately rapid in the upper part of the soil and moderately slow in the lower part. This soil has a medium organic-matter content. This soil is easy to cultivate. The major concerns of management are the maintenance of organic-matter content and fertility and improvement and maintenance of tilth.

Drowning victim's body recovered

The body of Jeffrey Cronn, 38, of Madison was recovered from the Wisconsin River on Wednesday by sheriff's deputies from Sauk and Iowa counties.

The body was found by fishermen near Arena in Iowa County.

Cronn drowned Monday afternoon after a canoe-inner tube accident under the train trestle near the Highway 12 bridge at Sauk City. He could swim, but he was not wearing a life jacket.

High waters and increased currents made visibility poor for divers from sheriff's departments in Sauk and Dane counties.

Cronn, a North Freedom native, was the father of five and a 17-year pressman at Madison Newspapers Inc. He drowned at a spot known for its strong, swirling currents. A sign at the top of the trestle marks the danger, but Cronn and the others with him got in the river farther upstream.

MADISON

City beach reopens

B.B. Clarke Beach, closed for fecal contamination Tuesday, reopened Wednesday morning after bacteria levels in water samples taken from the beach were deemed acceptable, the city Department of Public Health said.

SNOOP

Bachelors say, 'Viva Las Vegas'

Two dozen guys are flying out this morning for Las Vegas — and one long four-day bachelor party.

The groom is Bob Wood, a head policy adviser in the governor's office, who is marrying longtime girlfriend Carrie Davidson in Milwaukee next month.

COMMENTARY

Among those going are GOP legislative aide Louie Schuberl, Republican Senate Caucus staffer Brian Nemoir, and State Medical Society field rep Jim Schleck.



PAT SIMMS

There's no organized plan for the event. "But it's destined to be one of the wildest. I'm sure," said Schleck.

Cross Plains zoning class



Bob Bowman, right, and wife Grace, of rural Cross Plains, would like to be able to use this land to build a home for their daughter, Julie, and her dog, Bear.

Man's foiled attempt to build home for daughter causes stir

By Frank Hutchins
State Journal correspondent

The small meadow where Bob Bowman kept a Shetland pony for his children would make a nice home site, he says, and he wants to offer the property to his daughter and her family. But zoning laws circle Bowman's plans like a barbed wire fence, entangling him in the ongoing battle over rural development.

"I have lived here about 30 years on a 30-acre parcel I bought in 1964," Bowman says of his property in the town of Cross Plains. "My daughter, who grew up on this place, wants to move back out and live here. Now she's being forbidden to do this."

Bowman received the go-ahead from the town board, the Dane County Zoning and Natural Resources Committee and the County Board to split off five acres for his daughter's house. But when the petition landed on County Executive Rick Phelps' desk in April, he vetoed it, saying it would violate the town's policy restricting housing in agricultural preservation areas to a density of no more than one dwelling per 35 acres.

"The Bowman veto was based on the fact that it violated the town's version of the 35-acre rule," Phelps said.

He said his two zoning standards — the density rule, and his

opposition to unsewered subdivisions — guide his veto decisions and have been made clear to town officials. He said towns cannot be allowed to ignore their own development plans.

"I think some decisions affect the entire community," Phelps said. "If we scatter development all over the rural areas of the county, I think we'll ruin Dane

county, I think we'll ruin Dane

Please see ZONING, Page 2B

State Journal photo/CAROLYN PFLASTERER

Row 11 shot in face playing with min

orm, registering rainfall of 1.03 inches of rain, bringing the total for the day to 1.12 inches.

Elsewhere in the state, the storm raised flood worries, especially in already rain-soaked parts of southeastern Wisconsin.

The National Weather Service issued a flash flood warning effective until early today for Dodge, Jefferson and Waukesha counties.

No one was home at the time,

Zoning

Continued from Page 1B

County. I think the people who argue it's just a town decision — I don't think they're right."

Cross Plains Town Chairman Harold Krantz disagrees. He said Bowman — recently elected a town supervisor — is "entirely within his rights" in wanting to build on his property.

"I think it's a gross miscarriage of justice when a gentleman who's owned a piece of land as long as he has can't divide it so his daughter can live there," he said.

Krantz believes the town should be allowed to decide how it interprets its own plans.

"He (Phelps) is entirely out of line," Krantz said. "I think the zoning decisions should be left up to the townships."

Phelps says he developed guidelines to help towns adhere to their plans, and to create a more uniform zoning process at the county level.

Bowman says the veto ignores the fact that his hilly, wooded property is not farmland. He said it was improperly zoned as an agricultural preservation area — which subjects it to the 35-acre density rule — during the town's blanket rezoning process in 1981.

"I doubt Mr. Bowman could find enough land on that property to grow a garden, much less farm," said Lyman Anderson, who as chairman of the zoning and natural resources committee visited the Bowman property. "That's the very type of land we should put houses on, because it's not good

in Sauk and Marquette counties. Because of his prior convictions, Dahler was prohibited by state and federal law from possessing firearms.

At his sentencing, Shabaz said Dahler constituted an "armed career criminal" as defined under federal sentencing guidelines. He could have been sentenced to a maximum 24 years and five months.

Shabaz imposed such a stiff sentence because of Dahler's

Leachner lains get under way

The starting gun has gone off in contract talks between the Madison School District and the district's teachers, with the disclosure Wednesday of costing data that will form the basis for future negotiations.

Labor contract manager Susan Hawley stressed that the

Aug. 15, 1995
AUNEI, Rachel & Daniel, Madison, daughter, 1995
Aug. 15, 1995
ROYSTON, Janelle & Brian, Madison, daughter
WAGNER, Annette & Brad, Madison, son
BREUER BECKMAN, Peg & BECKMAN, Eric, Madison, daughter
HEURER, Brigit & Guido, Madison, daughter
DAVISON, Stacy & Rich, Deforest, daughter
LEE, Tong & XIONG, Vue, Madison, son

Obituaries

TODAY'S FUNERALS
BURKS, Robert A., 2 p.m., Fitch, Lawrence-Somerville Funeral Home, 8021 University Ave.
KEEHN, 4 p.m., Belsay United Methodist Church, 3918 Milwaukee Point Road, Leesville, Wis.
LEWIS, 11 a.m., St. Maria Catholic Church, 5315 15th Ave., Gorham, Wis.
MATTISON, Bernard C., 2 p.m., Covenant Lutheran Church, Stoutenburgh, Wis.
ANDERSON, Earl, 2 p.m., Ryan Funeral Home, 2418 North Sherman Ave.

Ho-Chunk Big Top AUGUST 23-25 GRAND OPENING

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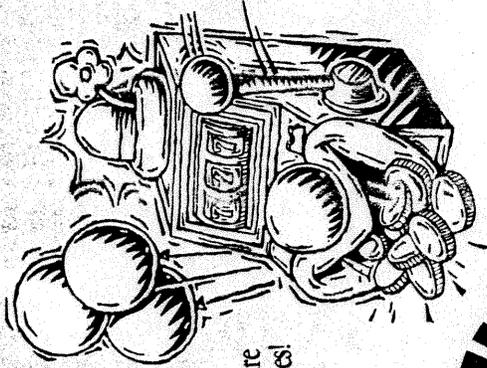
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Department of Agriculture, Trade and Consumer Protection

Alan T. Tracy, Secretary

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Madison, Wisconsin 53704-6777

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Public Hearing Testimony
of
Nicholas J. Neher
Division of Agricultural Resource Management
Department of Agriculture, Trade and Consumer Protection

Assembly Bill 669
Agriculture, Forestry and Rural Affairs Committee
Room 417 North, State Capitol

February 8, 1996
9:30 a.m.

Representative Ott and Committee Members:

My name is Nicholas Neher and I am the administrator of the Agricultural Resource Management Division with the Department of Agriculture, Trade and Consumer Protection. I am testifying today for the department in opposition to AB 669.

Assembly Bill 669 would require a city, village, town or county to approve a petition for rezoning a parcel that is zoned for exclusive agricultural use if either of the following conditions applies:

1. The owner of the farmland is not eligible for the farmland preservation credit because the parcel consists of less than 35 acres.
2. The owner of the parcel has been ineligible for the farmland preservation credit for 3 consecutive years because the parcel produced less than \$6,000 in gross farm profits during each of those years.

The bill specifies that the land should be rezoned to the district it was previously designated prior to being zoned into the exclusive agricultural use district, or as close to the prior designation as possible. Lands rezoned under this provision would not be subject to the tax credit payback.

The farmland preservation program preserves the state's agricultural resources through three components that are related to one another: (1) local land use planning and zoning, (2) tax relief, and (3) compliance with county soil conservation standards. Local land use planning and zoning helps to prevent nuisance complaints against farmers, allows future farm expansion, and protects the considerable investment farmers make in their operations. The participation in the farmland preservation program to obtain these benefits has been considerable. The program has roughly 7,600 agreements with farmers in rural counties that covers 1.4 million acres of farmland. In urban counties, there are 188 exclusive agricultural zoning ordinances that cover 6.7 acres of farmland. In total, the program covers 8.1 million acres of farmland which the Department estimates is 70% of all eligible farmland.

The Department does not support the proposed legislation because it would authorize voluntary zoning. Voluntary zoning occurs when individuals, and not the zoning jurisdiction, decide which zoning district applies to them. This approach is in direct conflict with the purpose of zoning, which establishes criteria for placement in different zoning districts and applies those criteria uniformly to all parcels. In general, the zoning jurisdictions establish criteria based on current uses in order to protect current property interests in an area. At times, other criteria are established that help direct new land uses to certain areas so the new land uses do not interfere with, or detract from, other nearby uses. Sometimes criteria are established to help ensure that a development can be adequately serviced by roads, waterlines, and fire protection services.

The courts have determined that zoning ordinances, which are based on the types of criteria I have described, are solid legal foundations for administration of such ordinances. The courts have also said that zoning criteria based on individual choice alone are illegal.

One effect of this bill, if enacted, may well be to legally invalidate the 188 certified exclusive agricultural zoning ordinances now in effect, which are administered by 428 local governments and cover 6.7 million acres of farmland in Wisconsin.

I would also add that mandatory rezoning of any parcel upon landowner petition diminishes the authority of local governments to control conflicting land uses in an exclusive agricultural zoning district. It is also in opposition to other state efforts to organize and support land use decision-making at the local level. The Legislative Council Committee on the Protection of Rural Resources developed a draft bill, now Senate Bill 370, which supports local government decision-making on land use issues and suggests several ways in which to coordinate those local decisions with state land use decisions. In addition, the interagency Land Use Council issued a report in January of this year strongly supporting local decision-making and administration of land use planning and zoning. AB 669 is directly contrary to this trend, since it undercuts the concept of zoning and renders meaningless the purposes of the farmland preservation program.

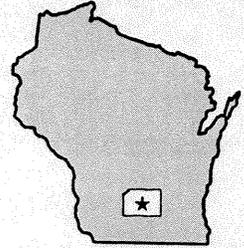
It would be inappropriate to act on this bill before seeing the outcome of either of these initiatives. Effective land use decision-making needs a comprehensive strategy not a piece-meal approach.

Thank you for the opportunity to testify. I would be happy to answer any questions you might have concerning these issues.



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Public Hearing Testimony
Assembly Bill 669
Assembly Agriculture Committee
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February 8, 1996

Chairman Ott and Committee Members:

Thank you for the opportunity to testify on Assembly Bill 669. It's good to see all of you again even though my appearance today is under different circumstances.

I am appearing in opposition to AB-669. I am testifying on my own behalf as a member of the Dane County Board of Supervisors.

Assembly Bill 669 requires cities, villages, towns or counties to approve petitions for rezoning if the parcel, currently zoned for exclusive agricultural use, meets one of the following conditions:

1. The parcel owner is ineligible for farmland preservation credits because the parcel consists of less than 35 acres, or
2. The parcel owner has been ineligible for credits for three consecutive years because the owner produced less than \$6,000 in gross farm profits.

This legislation further weakens the current Farmland Preservation Program, its key goal of encouraging local and county land use planning, and the implementation of those plans through local exclusive agricultural zoning.

Here in Dane County, efforts to adhere to exclusive agricultural zoning, despite a few controversies, have led to the desired result of funneling most residential and non-farm commercial growth within or adjacent to cities and villages. In fact, statistical analyses from the Dane County Regional Planning Commission will show that about 80% of all residential rezonings in Dane County have occurred in incorporated areas or as part of urban service territories.

Regarding the conditions under which AB 669 would require rezonings from exclusive agricultural use, I recognize that nonconforming parcels of less than 35 acres have sometimes presented difficulties for Dane County when considering rezoning petitions. However, a statutory mandate that requires the rezoning of these parcels at the parcel owner's request removes all ability of towns and

counties to decide when these parcels should be removed from exclusive agricultural districts.

More important, AB 669 does not limit or restrict the rezoning classifications that can be requested by petitioners. The request could be for any number of conflicting rezoning classifications with surrounding properties.

AB 669 will set a precedent that removes local control through a state mandate to rezone based solely on the wishes of the petitioner; infringes on the traditional rights and responsibilities of local and county governments to decide these zoning matters; and defeats the purpose and need for better land use planning and sensible growth management policies.

The second condition under AB 669 is equally onerous. Under this provision, any developer could purchase large tracts of undeveloped or agricultural land, leave the land idle for three years, and request and receive a rezoning from exclusive agricultural to the highest residential use and density.

The genesis of this legislation relates to a rezoning request by Robert Bowman, a Cross Plains Town Board member who wanted to split his 28-acre parcel to accommodate a residence for his daughter. The parcel was not being farmed. Even if it had more agricultural potential, Mr. Bowman would not qualify for tax credits because it was less than 35 acres. Yet it was designated under the density provisions of the town land use plan as being restricted to further splits, and it was zoned exclusive agricultural to ensure implementation of this planning and development goal.

To make a long story short, Mr. Bowman's rezoning petition was vetoed by the County Executive, and the veto was sustained by the County Board. Although I can sympathize with Mr. Bowman's plight, he is in the best situation to influence the Cross Plains Town Board to revise and update its land use plan -- something that hasn't been done by that town since 1978.

Mr. Bowman and I had an opportunity to briefly discuss his situation and AB 669 two weeks ago. Bowman has since submitted another zoning petition. This time, he is requesting a down zoning from A-1 Exclusive to A-2 in order to accommodate the additional residence for his daughter. I hope his rezoning petition will fare better.

What this demonstrates, however, is that we in Dane County can resolve our own differences. We do not need or want the statutory mandates proposed by AB 669 as the means for finding common ground on local planning and zoning differences. In fact, AB 669 doesn't create common ground. The bill destroys it.

Because of how AB 669 attempts to resolve what is strictly a local matter, the measure stands to reverse some other vetoes of controversial zoning decisions here in Dane County.

One case dealt with a rezoning from A-1 Exclusive to allow for a landscape business, isolated from other commercial businesses along Hwy. 14 and the Black Earth Creek. This rezoning request was opposed by most neighboring residential property owners, and was rejected twice by the Dane County Board.

Or a recent rezoning petition by a local hotel developer in the Town of Sun Prairie who requested a change from A-1 exclusive to commercial. The developer began two illegal commercial businesses in an abandoned shitake mushroom facility. The developer had earlier property and investment ties to this agricultural production operation which went bankrupt. He repurchased the land and buildings from the titleholder following the bankruptcy proceedings, and started his businesses without seeking proper local and county approvals. As a final note, let me add that one of these businesses initially operated within a Waunakee industrial park, but left that location following environmental law violations.

In each of these cases, Assembly Bill 669 will allow the zoning petitioners another opportunity to get their way at the expense and over the objection of affected property owners, not to mention its broader impacts to the Farmland Preservation Program and other counties throughout the state. With due respect to the author, I urge you to drop any further consideration of the measure.

Tom Stoebig
County Supervisor
15th District

**Wisconsin Department of Natural Resources
Testimony before the Assembly Agriculture Committee
Regarding AB 669**

Delivered by Dreux J. Watermolen
Bureau of Environmental Analysis and Review
February 8, 1996

The Department of Natural Resources appreciates the opportunity to address this committee. This testimony is for informational purposes. As many of you know, Secretary George Meyer has stated that addressing land use issues is perhaps the greatest environmental challenge currently facing the state of Wisconsin. It is because of this concern that the department is providing information on the potential effects of Assembly Bill 669.

The department recognizes the need to address the rezoning of small parcels which may have been improperly zoned as exclusive agriculture and supports efforts to enable local officials to make necessary zoning changes. AB 669 would take away local decision-making authority in this area by making such changes mandatory.

Over the past eighteen months, the DNR has been an active participant in the activities of Governor Thompson's Interagency Land Use Council and the Wisconsin Strategic Growth Task Force. As part of these group's efforts, a number of discussion sessions were held with various land use interest groups. The overwhelming response of these groups was that land use decisions should be local decisions. For example, participants in one discussion group concluded, "some broad state goals might be welcomed, but decisions should remain local." Another group concluded, "the state should provide broad goals coordinated with regional agencies, but local governments should develop their own plans." The proposed bill, AB 669, will require local governments to approve rezoning petitions, preventing any local debate or any exercise of local judgement in decision making.

In 1994, the DNR held a series of land use discussion sessions around the state and solicited public comment on its draft land use report. One of the most common themes heard from the public was that land use decisions should be informed decisions. One group articulated this concern as "dialog about these matters needs to remain at the local level" so decisions can be based on community needs and desires. This bill precludes such dialog and prevents the weighing of pros and cons in making zoning decisions, thus increasing the possibility of future land use conflicts.

Under this proposal, an individual could request that a parcel be rezoned from exclusive agricultural to some other use classification (such as manufacturing). The local government must approve the petition even if the adjacent land uses are zoned for incompatible uses (such as residential). The department recognizes that under this proposal zoning previously in place would take affect. The concern remains, however, that local officials will no longer be in the position to determine if that zoning classification is appropriate today. Similarly, neighboring land owners would have no recourse through the normal zoning process if incompatible uses resulted from an approved rezone petition.

Finally, the department believes this bill could result in a significant amount of litigation. Since local governments are required to approve rezone petitions, a landowner can voluntarily choose the zoning classification for his or her property. Such "voluntary" zoning has been challenged in the courts numerous times. AB 669 could create situations where zoning appears voluntary and is therefore subject to challenge.

As mentioned earlier, the department recognizes the need to address the rezoning of small parcels which have been improperly zoned as exclusive agriculture.. The DNR would support legislation which addresses this concern without eliminating local control.