

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Agriculture and
Insurance
(SC-AI)

File Naming Example:

Record of Comm. Proceedings ... RCP

- > 05hr_AC-Ed_RCP_pt01a
- > 05hr_AC-Ed_RCP_pt01b
- > 05hr_AC-Ed_RCP_pt02

COMMITTEE NOTICES ...

> Committee Hearings ... CH (Public Hearing Announcements)

> **

> Committee Reports ... CR

> **

> Executive Sessions ... ES

> **

> Record of Comm. Proceedings ... RCP

> **

INFORMATION COLLECTED BY COMMITTEE
CLERK FOR AND AGAINST PROPOSAL

> Appointments ... Appt

> **05hr_SC-AI_Appt_pt05**

Name: L. Engelbrecht

> Clearinghouse Rules ... CRule

> **

> Hearing Records ... HR (bills and resolutions)

> **

> Miscellaneous ... Misc

> **

Vote Record Committee on Agriculture and Insurance

Date: 4-13-06

Moved by: Olsen

Seconded by: E11

All appointments

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

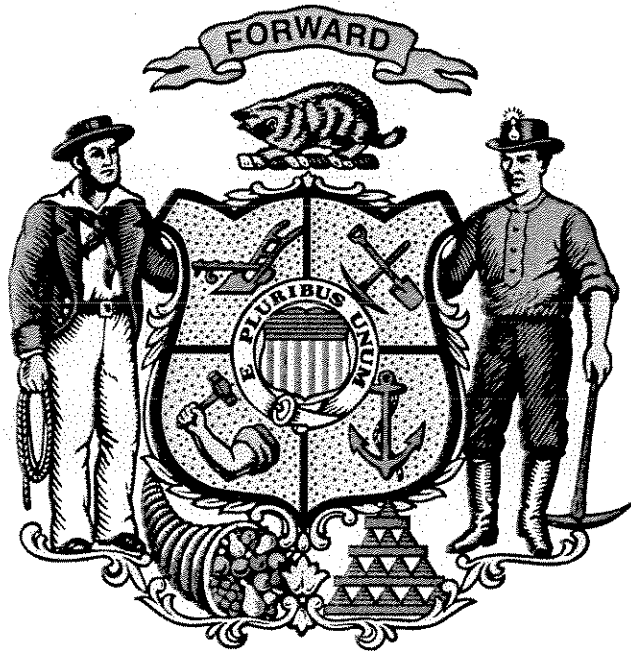
A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dan Kapanke, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Polby</i> Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Polby</i> Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Polby</i> Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>1</u>	<u>1</u>	<u>1</u>

Motion Carried Motion Failed





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

Livestock Facility Siting Review Board Member Biography

NAME: Lee Engelbrecht

MAILING ADDRESS: Town of Two Creeks
4928 Two Creeks Road
Two Rivers, WI 54241

E-MAIL ADDRESS: bengelbrecht@tm.net

RESIDES IN: Two Rivers, WI

TELEPHONE: 920-946-7695 (w)
920-755-4042 (h)

OCCUPATION: Town Board Supervisor

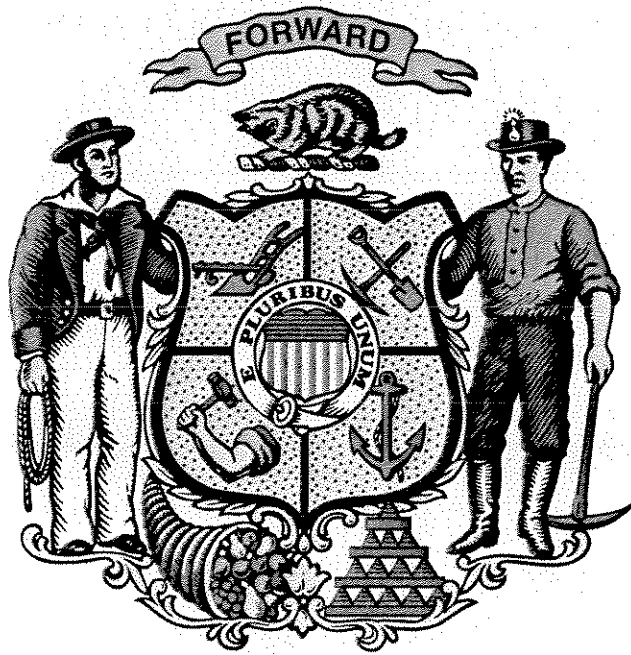
TERM: A term to expire May 1, 2007

SUCCEEDS: Newly created board

SENATE CONFIRMATION:

DATE OF APPOINTMENT: February 24, 2006

Agriculture generates \$51.5 billion for Wisconsin





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

February 24, 2006

Mr. Lee Engelbrecht
Town of Two Creeks
4928 Two Creeks Road
Two Rivers, WI 54241

Dear Lee,

You were nominated by the Wisconsin Towns Association to serve on the Livestock Facility Siting Review Board (Board). I have selected you as the member of the Board representing Towns, subject to confirmation by the Senate. You will join six other members, three of which must represent counties, livestock farming, and environmental interests. Your term for this seat expires May 1, 2007.


The livestock facility siting law created the Board as a new option to appeal local decisions to approve or deny a proposed livestock facility or expansion. The Board will hear appeals from "aggrieved parties", including the livestock facility operator and any persons who live within 2 miles of the proposed facility. I believe the Board is key to successfully implementing the livestock facility siting program and reducing local siting conflicts.

The schedule of the Board will depend entirely on the number of appeals. I anticipate the Board will meet more frequently during the first year--possibly six to eight times -- and then less frequently over time. The Board will have two to three organizational meetings prior to hearing any appeals.

If you have any questions about this appointment, please contact Jennifer Heaton-Amrhein, at 608-224-4613 or at jennifer.heaton-amrhein@datcp.state.wi.us.

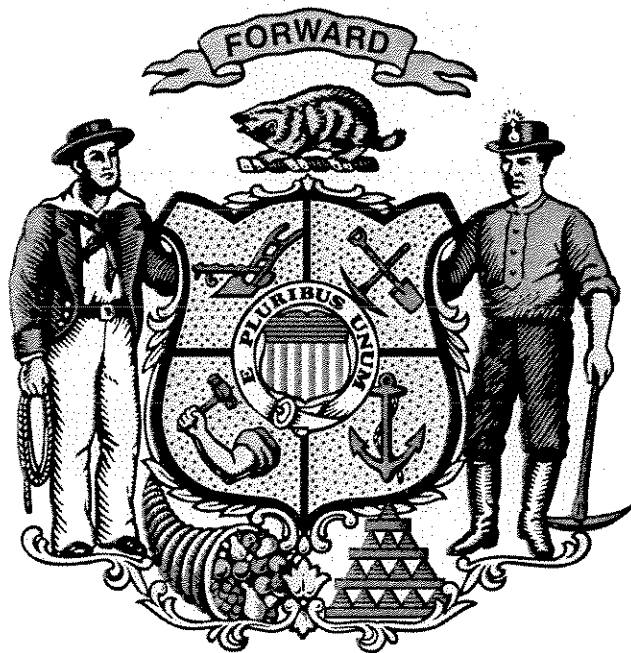
Thank you very much for your willingness to serve the state in this capacity.

Sincerely,


Rod Nilsestuen
Secretary

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2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • 608-224-5012 • Wisconsin.gov





**STATE OF WISCONSIN
OFFICE OF STATE REPRESENTATIVE BARBARA GRONEMUS**

P.O. BOX 8952
MADISON, WISCONSIN 53708-8952
608-266-7015
TOLL-FREE 1-888-534-0091
FAX: 608-282-3691
E-MAIL: rep.gronemus@legis.state.wi.us

DISTRICT ADDRESS:
P.O. BOX 676
WHITEHALL, WI 54773-0676
715-538-4130
FAX: 715-538-2119

March 20, 2006

Jerome Hlinak
3709 Cty Hwy BB
Two Rivers WI 54241

Dear Jerome:

Thank you for calling and expressing your concerns about the nomination of Lee Engelbrecht to the proposed Livestock Siting Review Board.

Mr. Engelbrecht was nominated to the board by the Department of Agriculture, Trade, and Consumer Protection Secretary Rod Nilsestuen from a list of candidates provided by the Wisconsin Towns Association. This nomination requires the consent of the State Senate before Mr. Engelbrecht can serve on the board. I have included the DATCP press release announcing and explaining the nomination.

Following your phone conversation with my office, I contacted the Wisconsin Department of Justice and inquired about the disposition of the ethics complaint filed against Mr. Engelbrecht. This case is still open and pending before that department. I have notified the Secretary's office of this information. At this time, actions regarding this situation should come from the Secretary or his designee and not from the Legislature.

Wisconsin's Livestock Siting Review Board is an important part of the governance of this new law. It is important that the individuals that serve on this board are acting in the best interest of the citizens of Wisconsin, as should the elected officials and appointed officials at all levels of government in our state.

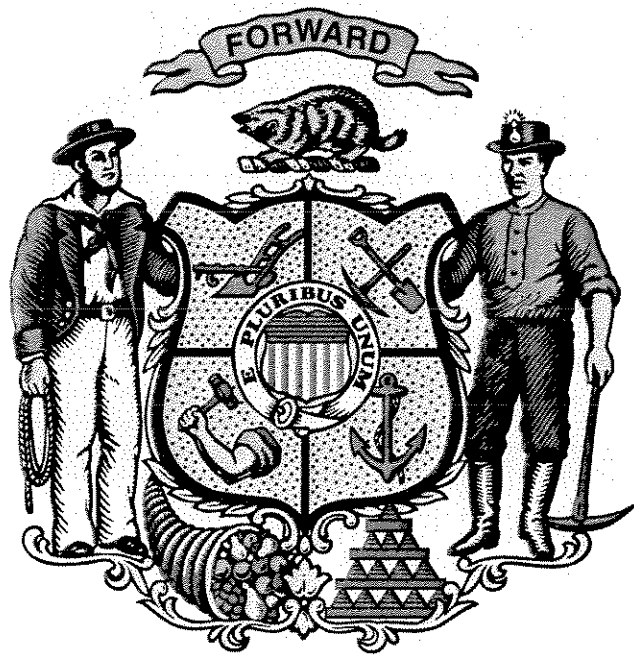
Sincerely,

BARBARA GRONEMUS
Ranking Member, Committee on Agriculture
State Representative, 91st Assembly District

BG:emp

enclosure

cc: Secretary Rod Nilsestuen
Rep. Frank Lasee
Sen. Alan Lasee
Sen. Dan Kapanke





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

March 22, 2006

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint Mr. Lee Engelbrecht to be a member on the Livestock Facility Siting Review Board to serve a term expiring May 1, 2007.

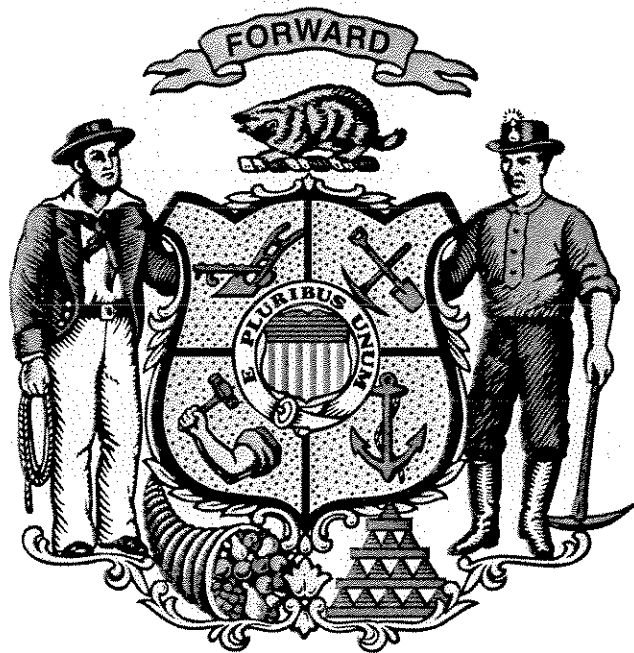
Mr. Engelbrecht will be available to the Senate for hearings and my staff will assist in any way they can.

Respectfully submitted,

Rod Nilsestuen, Secretary
Department of Agriculture, Trade and Consumer Protection

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Perlich, John H.

From: OBrien, John
Sent: Tuesday, April 11, 2006 9:39 AM
To: Perlich, John H.
Subject: FW: livestock siting nomination

From: Barb Engelbrecht [mailto:bengelbrecht@tm.net]
Sent: Monday, April 10, 2006 9:57 PM
To: Sen.Kapanke; Sen.Kedzie; Sen.Brown; Sen.Olsen; Sen.Hansen; Sen.Erpenbach; Sen.Miller
Cc: witowns@frontier.net
Subject: livestock siting nomination

Good Morning,

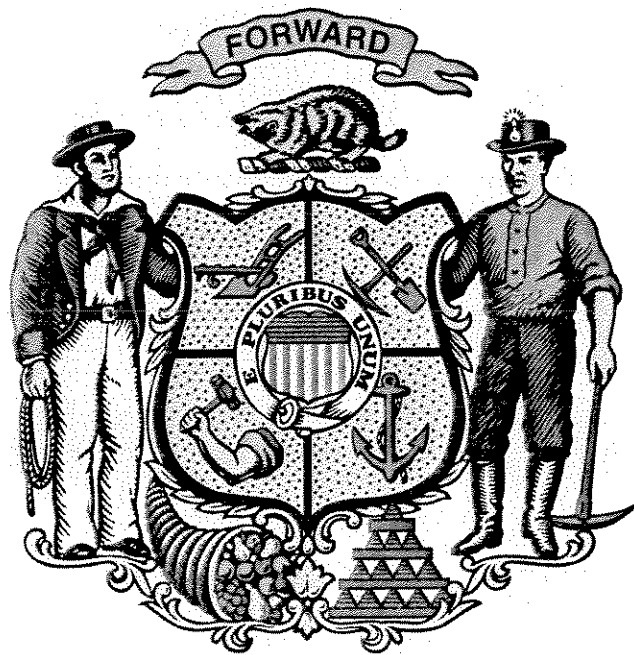
My name is Lee Engelbrecht and I have been nominated for the Livestock Siting Review Board by the Wisconsin Towns Association. I have been a town supervisor for 25 years, and am currently serving on the Wisconsin Towns Association board as vice president. I am a former dairy farmer having sold our cows 3 years ago. I am currently in the livestock hauling business and raising heifers and feeder steers along with crop farming. We are currently renting our dairy facilities to our oldest son who is milking cows.

The hearing is being held for this on Thursday, April 13th and I have every intention on attending this hearing.

If you have any further questions or concerns please feel free to call give me a call at 920-755-4042 or 920-946-7695 or you can e-mail me at this e-mail address (bengelbrecht@tm.net).

Thank you for considering me for this position,
Lee Engelbrecht

04/13/2006



H.C. HUMKE
WILLIAM R. POWELL
WILLIAM W. MOIR III
ELDON L. BOHROFEN
CARL K. BEYBINO
MARY LYNN DONCHUE
MICHAEL J. BAUER
J. PHIL MUELLER
HERBERT C. HUMKE III
PAUL A. DIRKSE

JACKIE MOYER, C.F.A.

ATTORNEYS
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Neumann
Humke LLP

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Of Counsel
ALEXANDER HOPP
Member
U.S. Bank Building
607 North High Street
Suite 400
Sheboygan, WI 53081
Phone 920/457-8400
Fax 920/457-8411

FAX DOCUMENT

FAXED TO: Senator Dan Kapanke Date: April 11, 2006

FAX #: (608) 267-5173

FROM: William R. Powell

REGARDING: Lee Engelbrecht, Nominee for Livestock
Facility Siting Review Board

NUMBER OF PAGES TO FOLLOW: 8

REMARKS: Please see accompanying correspondence, together with its enclosures.

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Humke LLP

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607 North Eighth Street
Suite 400
Sheboygan, WI 53081
Phone 920/457-5400
Fax 920/457-8411

April 11, 2006

VIA FACSIMILE
(608) 267-5173

Senator Dan Kapanke, Chairperson
Committee on Agriculture and Insurance
Room 104 South
State Capitol
P. O. Box 7882
Madison, WI 53707-7882

Re: Lse Engelbrecht
Nominee for Livestock Facility Siting Review Board

Dear Chairperson Kapanke and
Fellow Senators:

I am legal counsel for the Town of Two Creeks, Manitowoc County, Wisconsin. The above-named nominee is one of three Town Supervisors on the Town Board of the Town of Two Creeks. It is my understanding that there have been some citizen complaints or objections to Mr. Engelbrecht being appointed to the above review board. It is my further belief that the objectors have indicated that Mr. Engelbrecht may have violated Wis. Stat. § 19.59, the Code of Ethics for local government officials, when in October of 2004, he, along with two other Town Board Supervisors, unanimously voted to approve a draft of a wind siting ordinance prepared by the Manitowoc County Park and Planning Commission. Manitowoc County has countywide zoning and not Town zoning.

A number of Town residents, including an organization known as COWS (Citizens Opposing Wind Turbine Sites), complained to the Manitowoc County District Attorney concerning the perceived ethics violation and the District Attorney referred the matter to the Wisconsin Attorney General's office. I am enclosing my letter response to the Wisconsin Attorney General's office, which is dated May 31, 2005, with respect to the AG's office inquiry.

The Wisconsin Department of Justice, Special Agent Deborah K. Strauss subsequently, in October 2005, met with myself, Mr. Engelbrecht and another Town Board member with regard to this complaint. All information requested by the Department of Justice and the Attorney General's office was promptly provided to those entities. I enclose my letter of response solely for the purpose of providing background information concerning this matter.

I also am enclosing a page from the Wisconsin Department of Administration web site pertaining to Model Wind Ordinance for Wisconsin, and the Reference Guide to Model Wind Ordinance for Wisconsin. The ordinance enacted by Manitowoc County substantially followed these model ordinances.

H. C. HUMKE

WILLIAM R. POWELL

WILLIAM W. MOIR III

ELDON L. BOHROFEN

CARL K. BUESING

MARY LYNN DONOHUE

MICHAEL J. BAUER

J. PHIL MUELLER

HERBERT C. HUMKE III

PAULA A. DIRKSE

JACKIE MOYER, C.P.A.

ROLAND M. NEUMANN

Of Counsel

ALEXANDER HOPP

Barred

Senator Dan Kapanke, Chairperson
April 11, 2006
Page 2

In April 2004, I did verbally opine to the Town Board of Two Creeks that filing an application for consideration of a wind turbine did not violate Wis. Stat. § 19.59, and specifically I made reference to Wis. Stat. § 19.59(1)(d), which states as follows:

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful . . . , or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

My reasoning, right or wrong, is based on the fact that the State of Wisconsin mandated that utilities develop renewable energy resources and the resulting model wind ordinance had been developed by the Public Service Commission, the Wisconsin Department of Natural Resources and the Energy Division of the Department of Administration. Secondly, the Town Board was a recommending body and not a legislative or enforcement agency with respect to the resulting wind ordinance. Finally, in order to be on the Town Board, the Supervisors needed to be a resident in the township, and in a small township such as Two Creeks, more than likely that meant that they would also own their residence or farmstead. Under what scenario would any Town Board member ever be in a position to vote yea or nay with regard to a wind energy ordinance?

In conclusion, I have received no further communication from the Department of Justice or the Attorney General's office with regard to the ethics complaint levied in February or March of 2005. Hopefully, the documentation that I have forwarded will assist you in your determination as to whether or not Mr. Engelbrecht is a worthy candidate for the above review board. If any of you have any further questions, please do not hesitate to contact me by telephone, fax or e-mail.

Very truly yours,

HOPP NEUMANN HUMKE LLP

By 

William R. Powell
Writer's E-mail: bill@hopnlsw.com

WRP/mrp
Enclosures

c: All via fax (w/enc.) --
Senator Neal Kedzie (608) 282-3551
Senator Ronald Brown (608) 267-2871
Senator Luther Olsen (608) 267-4350
Senator Jon Erpenbach (608) 266-2508
Senator Dave Hansen (608) 267-6791
Senator Mark Miller (608) 266-5087

ATTORNEYS
AT LAW

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Neumann

Humke L L P

U.S. Bank Building
609 North Eighth Street
Suite 400
Sheboygan, WI 53081
Phone 920/457-8400
Fax 920/457-8411

May 31, 2005

Mr. Paul L. Barnett
Assistant Attorney General
STATE OF WISCONSIN DEPARTMENT
OF JUSTICE
P.O. Box 7857
Madison, WI 53707-7857

Re: Manitowoc County Wind Turbine Project

Dear Mr. Barnett:

Your office has directed an inquiry to myself, as attorney for the Town of Two Creeks, as well as to counsel for the Town of Mishicot, with respect to whether or not any members of the Town Board may have violated Wis. Stat. § 19.59. The Town of Two Creeks has a three- (3-) member Board of Supervisors. Two (2) of the members, in May of 2004, submitted an application with Navitas Energy, Inc., to be considered for an option to lease their property in conjunction with the Wind Turbine Project.

BACKGROUND

The Town of Two Creeks has a population of approximately 557 people, comprises 9,652.62 acres of land, and is the second smallest township in Manitowoc County. The Town of Two Creeks adopted the Manitowoc County Comprehensive Zoning on April 13, 1966. The Manitowoc County Planning and Park Commission administers the zoning ordinance with respect to regulating and restricting of the locations, construction, and use of buildings, structures, and the use of land in the County of Manitowoc. It provides for the public health, safety, and general welfare of the unincorporated areas of Manitowoc County. The County zoning ordinance serves as the main land use control in the Town of Two Creeks. The current existing land use inventory shows that 74% of the land is agricultural. The two (2) Town Board members subject to the complaint(s) are actively engaged in farming. I am enclosing a copy of MAP 8-5 from the Town of Two Creeks Comprehensive Land Use Plan, which sets forth the agricultural area. As you can see, most of the agricultural land has been identified as prime agricultural, with sections being designated as other agricultural and residences being designated as rural residences.

H. C. HUMKE
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J. PHIL MUELLER
BERBERT C. HUMKE III
PAULA DIRKSE
JACKIE MOYER, C.P.A.
ROLAND M. NEUMANN
Of Counsel
ALEXANDER HOFF
Attorney

Mr. Paul L. Barnett
May 31, 2005
Page 2

Also enclosed is another map, namely 8-3, which is designated an Agricultural Buffer Areas map, but which locates all of the rural residences, as well as the farmsteads. The issue of wind turbines being situated in Mishicot and Two Creeks area was presented by Navitas at a public informational meeting held at Fox Hills Resort in Mishicot in April of 2004. I am enclosing a third map designated the Twin Creeks Wind Farm map, setting forth the property corridor that Navitas intended to locate the wind turbine farm within.

I am enclosing a copy of the Town of Two Creeks Annual Meeting minutes from April 13, 2004, beginning at Page 5, and basically ending on Page 13, where the subject of wind turbines was first presented at a public meeting. Frankly, this was the first exposure to wind turbines that I personally had as a municipal attorney.

After the annual meeting, the Town Board requested that I do some research with regard to the permitting process of these wind turbines. Starting with the statute book, I uncovered Wis. Stat. § 66.0401, which began as follows:

66.0401 Regulation relating to solar and wind energy systems.

(1) Authority to restrict systems limited. No county, city, town, or village may place any restriction, either directly or in effect, on the installation or use of a solar energy system, . . . or a wind energy system, . . . unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

The permitting procedure was set forth in Wis. Stat. § 66.0403(2):

(2) Permit procedure. The governing body of every municipality may provide for granting a permit. A permit may not affect any land except land which, at the time the permit is granted, is within the territorial limits of the municipality or is subject to an extraterritorial zoning ordinance

(12) Construction.

(a) This section may not be construed to require that an owner obtain a permit prior to installing a solar collector or wind energy system. (emphasis supplied)

Mr. Paul L. Barnett
May 31, 2005
Page 3

(b) This section may not be construed to mean that acquisition of a renewable energy resource easement under s. 700.35 is in any way contingent upon the granting of a permit under this section.

I found the last section cited above as confusing. Did Navitas need to get a permit from anybody? Wis. Stat. § 700.41(1) goes on to state:

The purpose of this section is to promote the use of solar and wind energy by allowing an owner of an active or passive solar energy system or a wind energy system to receive compensation for an obstruction of solar energy by a structure outside a neighbor's building envelope as defined by zoning restrictions in effect at the time the solar collector or wind energy system was installed.

I also reviewed the case of *Nunrich v. City of Mequon* BZA, 2001 WI App 88, 242 Wis.2d 677, 626 N.W.2d 366, wherein the Court of Appeals determined in reviewing the aforementioned statutory sections, that an owner of an energy system does not need a permit to construct such a system, barring any other enforceable municipal restrictions. And secondly, "unlike most land use regulations that require a permit and which are designed to protect the public and nearby property owners by placing restrictions on the permittee, Wis. Stat. § 66.032 operates largely in the reverse. It serves to benefit and protect the owner of a solar or wind energy system permit by restricting users or owners of nearby property from creating an 'impermissible interference' with the energy system." The Court went on to state that then Wis. Stat. § 66.031, now § 66.0401, represents a legislative restriction on the ability of local governments to regulate solar and wind energy systems. The Court found that the Legislature expressed concern about the diminishing supplies of non-renewable energy resources, and "it observed that renewable energy systems could address this concern." The Court went on to find that "To encourage the use of renewable sources of energy, the legislature resolved to remove legal impediments to such systems by:

"codifying the right of individuals to negotiate and establish renewable energy resources easements, by clarifying the authority of, and encouraging, local governments to employ existing land use powers for protecting access rights to the wind and sun, by creating a procedure for issuance of solar access permits to owners and builders of active and passive solar energy systems and by encouraging local governments to grant special exceptions and variances for renewable energy resource systems."

The State of Wisconsin Department of Administration went so far as to draft and place upon its website a model wind ordinance for Wisconsin. This occurred back in October of 2003. As of April of 2004, Manitowoc County had not adopted a wind ordinance. The Manitowoc County zoning ordinance, set forth in Chapter 8 of the Manitowoc County Code of Ordinances, did not deal with the siting of wind or solar energy systems. The County did adopt, in November of 2004, what has now been designated as Chapter 24 of their General Code of Ordinances, a wind energy ordinance.

Mr. Paul L. Barnett
May 31, 2005
Page 4

This was adopted by the Manitowoc County Board of Supervisors on October 27, 2004. Navitas filed a conditional use application on that same date, which application was denied under the authority of Wis. Stat. § 59.694, and an appeal was taken to the Manitowoc County Board of Adjustments on December 20, 2004, and the variance(s) was granted and the matter was appealed by Mr. Korinek and others, including a group designating themselves as Citizens Opposing Wind Turbine Sites (COWS) to the Circuit Court of Manitowoc County on January 18, 2005, where the case is currently pending.

CONCLUSION

Based on my review of the legislative history and the statutes enacted therefrom, and on the further fact that Manitowoc County is the permitting agency that the Town Board of Two Creeks would not have a significant impact on whether the wind farm would be located in the Town of Two Creeks or not, I did not believe that a member of the Town Board would violate Wis. Stat. § 19.59 by filing an application for an option to lease with Navitas Energy. Politically, it has proven not to be a very popular choice as no one on the Town Board anticipated that there would be a significant outpouring of objection by members of the township against wind turbines. My conclusion was also based upon the fact that Two Creeks is bordered on the East by Lake Michigan, is relatively flat, and is primarily agricultural, and that the proposed turbine sites would not be located anywhere near a non-participating property owner so as to impact the property owner by noise, health or safety, or aesthetic issues.

If you have any other questions or need additional information, please do not hesitate to contact me.

Very truly yours,

HOPP NEUMANN HUMKE LLP

By

William R. Powell
Writer's E-mail: bill@hopplaw.com

WRP/dmp
Enclosures

F:\DCCS\TwoCreeks\services\2005\02\WRP

cc: Mr. Lee Engelbrecht, w/o enclosures
Mr. Kenneth Duveneck, w/o enclosures
(both sent to home addresses)

(920) 755-4042
4928 Two Creeks Road, Two Rivers, WI 54241-9533
13017 State Highway 42, Mishicot, WI 54228-9471
(920) 755-2474



wisconsin.gov

state agencies

subject directory

State of Wisconsin - Department of ADMINISTRATION

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Wind Siting Guidance

The draft documents below are provided for guidance in siting wind energy facilities in V. They apply to utility-scale wind turbines, not home or farm systems. A separate set of documents for these smaller systems is now being drafted.

Providing these draft documents for comment does not imply or constitute an endorsement the Department of Administration or any state agency.

Please provide comments. Questions are also welcome. Click to send an email to: [Paul & Alex DePillia](#)

[Model Wind Ordinance for Wisconsin - DRAFT](#)

[Reference Guide to Model Wind Ordinance for Wisconsin - DRAFT](#)

Last Modified: 8/31/2004

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Department of Administration
101 East Wilson Street
Madison, WI 53702

Application Provided by DET's G2C/G2E Section © 2001 - 2006

The preferred browser for the DOA Internet is Internet Explorer 4.x or higher.
The site is best seen with the screen resolution at 800 x 600 or higher

Wisconsin Statutes

 Wisconsin Statutes CHAPTER 19 GENERAL DUTIES OF PUBLIC OFFICIALS SUBCHAPTER III CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES[\[Previous Document in Book\]](#)[\[Next Document in Book\]](#)

19.59 Code of ethics for local government officials, employees and candidates.

(1)

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11.

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

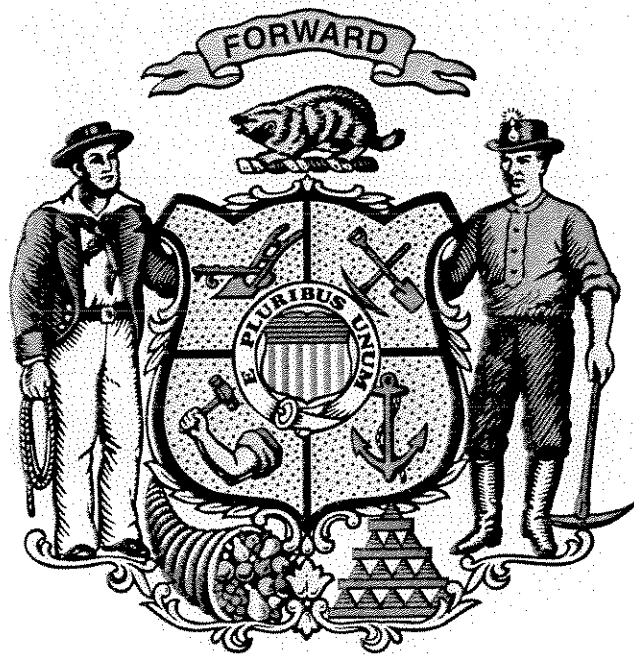
(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.



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April 11, 2006

VIA FACSIMILE
(608) 267-5173

Senator Dan Kapanke, Chairperson
Committee on Agriculture and Insurance
Room 104 South
State Capitol
P. O. Box 7882
Madison, WI 53707-7882

Re: Lee Engelbrecht
Nominee for Livestock Facility Siting Review Board

Dear Chairperson Kapanke and
Fellow Senators:

I am legal counsel for the Town of Two Creeks, Manitowoc County, Wisconsin. The above-named nominee is one of three Town Supervisors on the Town Board of the Town of Two Creeks. It is my understanding that there have been some citizen complaints or objections to Mr. Engelbrecht being appointed to the above review board. It is my further belief that the objectors have indicated that Mr. Engelbrecht may have violated Wis. Stat. § 19.59, the Code of Ethics for local government officials, when in October of 2004, he, along with two other Town Board Supervisors, unanimously voted to approve a draft of a wind siting ordinance prepared by the Manitowoc County Park and Planning Commission. Manitowoc County has countywide zoning and not Town zoning.

A number of Town residents, including an organization known as COWS (Citizens Opposing Wind Turbine Sites), complained to the Manitowoc County District Attorney concerning the perceived ethics violation and the District Attorney referred the matter to the Wisconsin Attorney General's office. I am enclosing my letter response to the Wisconsin Attorney General's office, which is dated May 31, 2005, with respect to the AG's office inquiry.

The Wisconsin Department of Justice, Special Agent Deborah K. Strauss subsequently, in October 2005, met with myself, Mr. Engelbrecht and another Town Board member with regard to this complaint. All information requested by the Department of Justice and the Attorney General's office was promptly provided to those entities. I enclose my letter of response solely for the purpose of providing background information concerning this matter.

I also am enclosing a page from the Wisconsin Department of Administration web site pertaining to Model Wind Ordinance for Wisconsin, and the Reference Guide to Model Wind Ordinance for Wisconsin. The ordinance enacted by Manitowoc County substantially followed these model ordinances.

H. C. HUMKE

WILLIAM R. POWELL

WILLIAM W. MOIR III

ELDON L. BOHROFFEN

CARL K. RUESING

MARY LYNN DONOHUE

MICHAEL J. BAUER

J. PHIL MUELLER

HERBERT C. HUMKE III

PAULA DIRKSE

JACKIE MOYER, C.P.A.

ROLAND M. NEUMANN

Of Counsel

ALEXANDER HOPP

Att-04

Senator Dan Kapanke, Chairperson
April 11, 2006
Page 2

In April 2004, I did verbally opine to the Town Board of Two Creeks that filing an application for consideration of a wind turbine did not violate Wis. Stat. § 19.59, and specifically I made reference to Wis. Stat. § 19.59(1)(d), which states as follows:

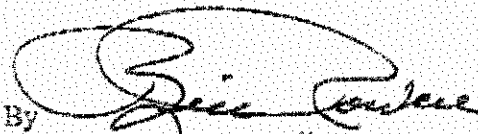
(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful . . . , or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

My reasoning, right or wrong, is based on the fact that the State of Wisconsin mandated that utilities develop renewable energy resources and the resulting model wind ordinance had been developed by the Public Service Commission, the Wisconsin Department of Natural Resources and the Energy Division of the Department of Administration. Secondly, the Town Board was a recommending body and not a legislative or enforcement agency with respect to the resulting wind ordinance. Finally, in order to be on the Town Board, the Supervisors needed to be a resident in the township, and in a small township such as Two Creeks, more than likely that meant that they would also own their residence or farmstead. Under what scenario would any Town Board member ever be in a position to vote yea or nay with regard to a wind energy ordinance?

In conclusion, I have received no further communication from the Department of Justice or the Attorney General's office with regard to the ethics complaint levied in February or March of 2005. Hopefully, the documentation that I have forwarded will assist you in your determination as to whether or not Mr. Engelbrecht is a worthy candidate for the above review board. If any of you have any further questions, please do not hesitate to contact me by telephone, fax or e-mail.

Very truly yours,

HOPP NEUMANN HUMKE LLP

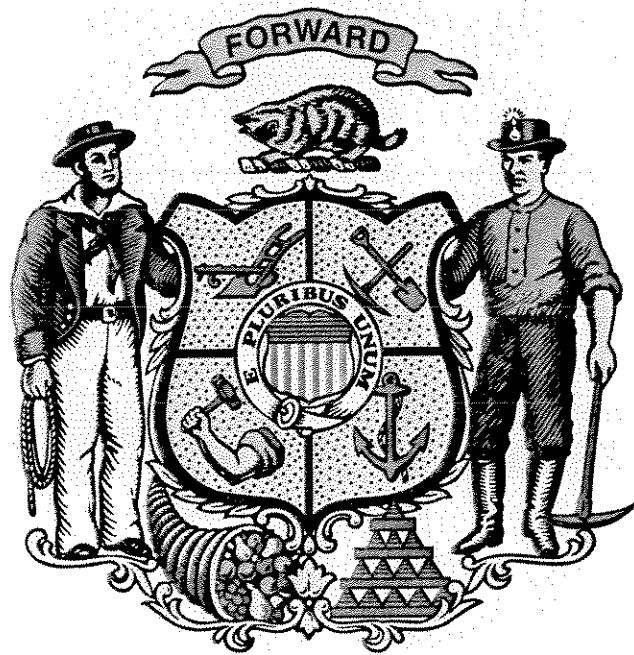
By 

William R. Powell

Writer's E-mail: bill@hopplaw.com

WRP/mrp
Enclosures

c: All via fax (w/encs.) --
Senator Neal Kedzie (608) 282-3551
Senator Ronald Brown (608) 267-2871
Senator Luther Olsen (608) 267-4350
Senator Jon Erpenbach (608) 266-2508
Senator Dave Hansen (608) 267-6791
Senator Mark Miller (608) 266-5087



Livestock Facility Siting Review Board
Member Resumes

Dr. Jerome Gaska, Columbus, WI

Dr. Gaska works exclusively with dairy farms; his largest client milks 1,800 cows. He has worked with expanding farms and has the respect of his clients and the veterinary community. Dr. Gaska has been in practice since 1989 when he graduated from the University of Wisconsin School of Veterinary Medicine and has been a solo practitioner since 1993. Currently Dr. Gaska is a member of the WVMA's Public Health and Food Safety Committee.

Bob Topel, Waterloo, WI

Mr. Topel serves on the Town of Portland (Dodge County) Plan Commission and previously served on the town's Smart Growth Committee. In his current position, he is responsible for conducting land use public hearings and making recommendations to his townships.

Mr. Topel also serves as vice-chair of the Foremost Farms USA Board, the largest Wisconsin-based dairy cooperative and processor. He presides as co-chair of the Wisconsin Federation of Cooperatives-Minnesota Association of Cooperatives Two-State Dairy Committee.

Mr. Topel and his family recently modernized and expanded their own Dodge County dairy operation to 200 cows in recent years. This modernization required him to work effectively with county and town officials and would provide valuable expertise to the LFSRB.

Robert Selk, Madison, WI

Mr. Selk is a former Assistant Attorney General for the State of Wisconsin. He is currently an attorney and international consultant in criminal justice reform. He recently served on the state's Manure Management Task Force.

Mr. Selk is an avid trout fisherman and active member of Trout Unlimited.

Fran Byerly, Barron, WI

Mr. Byerly is a Director at Jennie-O Turkey Store, Inc.

Jim Holte, Elk Mound, WI

Mr. Holte is a beef and grain farmer in Dunn County, WI. He is a member of the Wisconsin Farm Bureau Federation's Board of Directors, Vice-President of the Elk

Mound School Board, and previously served on the Board of Agriculture, Trade, and Consumer Protection. He received the 2005 Master Agriculturalist Award, in recognition of proven ability and accomplishments as one of the state's most progressive farmers. Master Agriculturalists are farmers who contribute a considerable amount of their time, effort and knowledge to their communities and the agricultural organizations to which they belong. Mr. Holte is a graduate of the Wisconsin Rural Leadership Program.

Andrew Johnson, Wausau, WI

Mr. Johnson is a conservation specialist with the Marathon County Conservation, Planning, and Zoning Department. He is also the chair of the Wisconsin Association of Land Conservation Employees Administrative Committee.

Lee Engelbrecht, Two Creeks, WI

Mr. Engelbrecht is a former dairy farmer who is a supervisor for the Town of Two Creeks. He is also the chair of the Manitowoc County Town's Unit, and has been on the Wisconsin Towns Association Board of Directors for four years.