

Freedom Matters

A Weekly Newsletter

Dane County, Wisconsin

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We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. Yet, when a legislature is in session, no one's life, liberty or property is safe. It's the curse of a democracy. That's why we have a republic instead. *Freedom Matters* dedicates itself to be a watchdog which helps protect our freedoms from government excess. A free press must, for the courts seriously fail to do so.

News Briefs War and terrorism are tragedies, as we have just seen. Let us not compound the tragedy by letting it cost us more of our freedoms.

Back Issues of *Freedom Matters* are available on request, as a virtue of electronic publication.

Ordinance Amendment #4 Alert

Farmers and Rural Residents whose homes are on land zoned exclusive agriculture should register their position with the county board on OA #4. In either its original form or its Sub 1 form, it threatens to cloud their titles to their homes. The county board's public hearing on OA #4 will likely occur at their meeting of 7:30 PM, Thursday, October 4, in Room 201, City-County Building, at 210 Martin Luther King, Jr. Blvd., Madison.

Hans Nielson Hauge & His Church

Hauge was a Norwegian reformer, who began to preach in 1795. He opposed the authorities of his time, both church and secular, because of their arbitrary and overbearing persecution of dissent. Though guilty of no crime, he was imprisoned for 10 years. How sad, that the church he founded should now be used as a cudgel in the hands of authoritarian government power, to suppress the freedoms and legal rights of dissenting citizens.

Two Feature Articles

1. The County Executive's Position: A Farmer Has No Right to a Farm House. Ord. Amend. #4.

Commentary by Bob Bowman

The Perry-Gehl dispute is being used by County Executive Kathleen Falk as cheese for a trap. On July 16, 2001, her press release says, she spoke to assembled citizens in front of the "historic Hauge Log Church," and said: "I support and will immediately approve proposed county legislation to close a loophole that might allow an adjacent landowner to construct buildings which will detract from this historic landmark."

"Specifically, I support Ordinance Amendment #4 which requires building projects such as those proposed by the neighboring landowner to be rezoned. Because of the broad definition of farm income, landowners who are not actively farming have been able to take advantage of the exemption intended to benefit farmers living and working

their lands in our agricultural areas. If a landowner qualifies for this exemption, it becomes extremely difficult for a town or the county to stop or modify his or her project, even if it might have had bad consequences for that community."

Thus she foments class warfare, that hallmark of progressive-liberal politics. In her eyes, landowners who make farm income but "are not actively farming" are classed as a lesser life form. It did not trouble her that such landowners include retired farmers. Equal protection of the laws? Not on her radar.

Also, her comments were misleading. Ordinance Amendment #4 requires farmers to rezone to build farmhouses. It does not require them to rezone to build other agricultural buildings.

Yet, the dispute between Perry and

Gehl was over Gehl's intent to construct a farm shed, not a farmhouse. The farm house was added much later, at the instigation of the Perry Town Board.

Kathleen Falk knows this. She's no dummy. She also knows that OA #4 confiscates power from towns but gives them none in return. True, it would let town boards say no to farmhouses. But, since the county will say no in all those cases and more, the town's no is irrelevant (i.e., it's a mere pretence of power).

The towns are no dummies either. They are in the process of rejecting OA #4. Hence, Sub 1 to OA #4. Instead of requiring a rezone, Sub 1 would let the land remain zoned Exclusive Agriculture. Its gimmick for political control is to require a Conditional Use Permit (a CUP) to build a farmhouse, while again offering the towns a pretence veto.

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Readers' Bulletin Board. If you have comments you want published, e-mail them to us and include your name. We reserve editor's rights to delete parts or not publish.

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2. Ordinance Amendment #4. The Devil is in the Details...

Commentary by Michael Byrne

Sensible Dane County Board supervisors or a majority of our 34 towns must confront the stark fact that a group of planners are seeking to confiscate rights that farmers were promised would never be taken. Ordinance Amendment #4, or its offspring Sub 1, seek to repeal the permitted residential uses now legal as part of the unalienable civil rights of farmers, after having confiscated most of those rights by zoning their property Exclusive Agriculture years ago.

Readers may recall that the Farmland Preservation Act that became law over twenty years ago sought to "preserve" farmland by rezoning all land as exclusive agriculture that was previously zoned agricultural. In other words, farmers could no longer freely sell land for development, and those citizens who had chosen rural residential living were placed in the limbo of living on a nonconforming parcel. Additionally, towns that adopted exclusive agriculture now had to submit to the gauntlet of the county rezoning process before nonfarm residential development could take place.

The proponents of exclusive agriculture used the "carrot" strategy to get the support of landowners, especially farmers (already facing heavy economic pressures), by offering tax credits on land designated as "exclusive agriculture." Nearly every town adopted exclusive agriculture. However, many have realized since that it was a terrible decision, for it took away individual property rights. Once a parcel was designated exclusive ag, it could be controlled forever by a county board bent on restricting development.

Over the years there have been many long and drawn out battles over the rezoning necessary to allow a landowner to sell land to someone who merely wanted to build their home in the country. With OA #4, this struggle now threatens the last bastion of residential freedom for landowners, the family farm and farmer.

Under the existing system, any landowner who has 35 or more acres, and who meets the test of "substantial" income from agricultural activity can construct a house on their farmland wherever they see fit, and also accommodate parents or farm hands as well.

Those in support of OA #4 are trying to make it more palatable by proposing to exempt "real farmers" from these cumbersome and restrictive zoning regulations. You see, planners are persistent people, and our climate of ever intrusive government has tempted them once again to take a run at controlling the siting of houses everywhere.

Ordinance Amendment #4 is fueled by the complaints, efforts and desires of some town boards and county board supervisors, who seek to control all development in the county, even farm houses and farm buildings.

At the heart of it is a form of class envy. Some successful people have acquired large parcels of land, met the requirements that define farmers, and thus kept their land zoned exclusive ag. They then have built houses and sheds on THEIR OWN land, harming no one.

Yet, some people construe this as wrong. What is really wrong is the notion that government can control where a rural landowner who has met the setback, health and safety standards can place their house on THEIR OWN LAND! Even cities do not try to control the siting of houses beyond setback, health and safety standards.

Readers of *Freedom Matters* know of the struggle of the David Gehl family to site their house on their land near the Hauge Log Church in the town of Perry. It appears the town board doesn't have the legal right to block the Gehls, and wants the County Board to give them that right via OA #4.

You see, they say, Gehl is not *really* a farmer. Never mind that he derives tens of thousands of dollars a year in income from crops he raises on his land. In an astounding twist of perception, they say Mr. Gehl owns and runs a construction company, making that his *real* occupation. They spout nonsense! Many people hold down two jobs at once.

OA #4 states that siting a farm residence requires a rezone under the house itself. In other words, even if you're a farmer, to build yourself a new house you would have to rezone. That would mean seeking county board and town board approval, paying various fees, enduring the complexities of land use plans, density issues, and other such road blocks created to block development, only to be strait jacketed or denied in the end.

Immediate reactions from many town boards, property rights defenders and farmers raised red flags warning that this amendment would destroy the last property rights of those owners of lands designated Exclusive Agriculture.

Supporters of OA #4, seeing it Dead on Arrival, created a proposed Substitute Amendment for it, Sub 1. Sub 1 makes the right to build a farmhouse a Conditional Use, which is an administrative decision of the county, and purports to give the town board an administrative veto over it. What bank will loan money for a Conditional Use home? Moreover, if the court voids this proposed town veto power, then the county gets all the new power and the towns have not even a pretence of it.

Thus, Sub 1 is fatally flawed. Of course, representatives of the towns are preparing to point out these flaws, and to ask the county board to reject both OA #4 and its Sub 1.

It's ironic that those who claim to want to preserve farmland are doing all they can to make life impossible for farmers.

Falk, on OA #4 (continued from page 1)

Sub 1 is even worse than the original OA #4. What bank will loan money to build a house as a CUP? If the farmer violates conditions in the CUP, that could mean that the house must be torn down. There goes the bank's collateral.

Farming is too precarious financially to let the county confiscate its loan value. Of course, in disavowing Gehl as a farmer, despite his farm income of \$80,000- \$100,000 per year, Falk and her ilk are saying we really have no farmers.

This fits Falk's other policies to a tee. In *Farms & Neighborhoods*, she proposes actions that would confiscate a half a billion dollars of property value from farmers. That too will bankrupt farmers. Why does she do these terrible things? It seems that her goal is "rural cleansing."