

ORDINANCE AMENDMENT #1-2022
CHAPTER 9
ARTICLE 5 – ADDITIONAL TYPES OF USES

Additions noted by underline; deletions noted by ~~strikethrough~~

Section 9.57 remains the same except:

9.57 MORATORIUM ON LIVESTOCK FACILITIES LICENSING

F. Duration of Moratorium

~~The moratorium shall expire on March 1, 2022.~~ The moratorium shall expire on September 1, 2022.

CAFO Moratorium History

2016, expired 2017

February 2020 passed CB, created 9.57, 12 month moratorium

2021 extend to September 1, 2021

2021 extend to March 1, 2022

2022 extend to September 1, 2022

Conservation/UW-EX Education Committee
Special Meeting RE: MSO Public Hearing Review - Friday, January 21, 2022 Amended Minutes
Courthouse Committee Rm #2 & Virtually by ZOOM

Committee members present: Chairman Bob Mott, Jim Winkler, Bob Thome, Jr., Mitch Ives, Mike Roach, and John Engle.

Staff/Public Present in Person and on Zoom: Michele Sadauskas, Karl Jennrich, Mike Fugle, Robb Jensen, Scott Holewinski, Bob Martini, Steven Schreier, Michael Tautges, Tom Jerow, Dan Butkus, Jonna Jewell, and Merry Lehner.

Call to order: Chairman Mott called the meeting to order at 9:05 a.m. The meeting was properly posted and room is handicapped accessible.

Chairperson Announcements: Procedural announcements, purpose of ordinance and rules for public comment. Then, each CUW Committee member is to state their understanding of the Manure Storage Ordinance (MSO).

Approve Agenda: A motion by Winkler/Thome to approve the Friday, January 21, 2022 Agenda with the order of items at the Chair's discretion. All ayes; motion carried.

Approve Minutes: MSO Public Hearing January 5, 2022

Asked for approval of the minutes. Thome/Winkler made motion to approve. All ayes; motion carried.

Electronic Signatures for Meetings Attended Virtually: Committee members present will sign documents while those attending virtually will permit their typed in names to represent their signature at the meeting. Motion by Winkler/Thome. All Ayes; motion carried.

Public Comment:

Barry and Cindy Eckardt: Hobby Farmers for over 70 years. No Vote on MSO.

Tom Jerow: It is difficult to add an animal unit to the MSO and he is concerned about this. If this happens then it becomes a CAFO ordinance and you are back to DATCP. The requirements for a CAFO with State regulations are much greater. Jerow does not think we would be able to get approval from DATCP on a manure ordinance that had animal units associated with it. We wanted to have input from the State agencies so the MSO is in harmony with the State statutes. The Right to Farm law might lead to a nuisance lawsuit as Mr. Fugle pointed out. We are trying to synchronize with DNR, DATCP, and NRCS to help farmers not get in trouble with the State Law as it relates to manure. We want compliance and the County regulations requires permitting but the State is much more reactive to a problem and will only get involved then. This should be included on the State Prohibitions and County Regulation sheet shared by LWC. Jerow said the ordinance has little impact on existing farms because they manage their stacks well. The only thing required is spreading manure two times per year; it cannot accumulate for more than 180 days and he could see it done once per year. For covered piles, if not on land outside a water quality zone, just keep pile covered. This would help small producer. Jerow felt going over the 175 cubic yards limit could be allowed as long as it follows the requirement in the code, related to water a quality management area. He said you do not want to put an animal unit size into the ordinance and get into the realm of CAFO regulations. Jerow said the moratorium on CAFOs referred the ordinance back to the Committee and he feels it needs to go to the County Board for action or at least a report. The three previous CAFO moratorium resolutions were distributed to the Committee for review.

Proposed Manure Storage Ordinance Discussion:

Mott asked each committee member to state the purpose of the MSO. Then their opinion on it based on public comments made at the January 5, 2022 meeting.

Engel: Purpose was a follow up on the moratorium on the CAFO. Recognized there is minimal impact on our small farmers and not even close to CAFOs. It was not the number of animals but the amount of manure generated. From the power-point presentation, he learned there was more than one way to approach CAFOs. He felt they should discontinue any further work by this Committee. Engel said there was not one farmer in favor. Most in favor were from Lake Associations. He asked Winkler if we would be better off with an outreach program for farmers.

Roach: Questioned why using template from Fond du Lac and Sheboygan Counties where there are many farms compared to here. He likes clean air and water and it was good to have an ordinance to kick in before the State. It made sense. Small farmers contacted him who were concerned over the MSO. There was no record of mismanaged small farms related to runoff. One expert on these matters said without an ordinance, farmers could bury manure but it would infiltrate into the ground and clean-up would be expensive. The farmer would be responsible for clean-up. The DNR can help farmers that are non-compliant with manure storage. He questioned if the County has the staff to handle this. The MSO sounds good because most people want clean lakes and we currently do not have an ordinance to stop large operations, however, he does not feel we need the ordinance.

Winkler: Brought up a spill that ruined a trout stream in Lafayette County where there was a **large farm**. Winkler said that DATCP and DNR regulations were so detailed he started having questions. When he listened to farmers, he learned not all were animal farms; some were crop farms. He discussed at the Town of Newbold meeting and no one was in favor of the ordinance. The farmers are responsible and want clean water. He now does not feel we need it. He would like a roundtable discussion on best practices. Engel agreed. Mott said that if the MSO does not go through we definitely would want to form an outreach program. Many new farmers may not know what best practices are and Engel thought it was important to pursue.

Thome: Why did we create a MSO dates back to 2016 there was a moratorium to provide time to study and review for any amendment to the shoreline protection ordinance, creation of a livestock ordinance, or a manure storage ordinance was required to protect the health and safety of Oneida County. Thome referred to three resolutions (distributed to the committee) to extend the moratorium, the last one expires March 2022. The resolutions specifically spell out the purpose of the ordinance. He reviewed the maps referring 61 counties that have manure storage ordinances and Oneida County does not. We were not dealing with small farmers, they are concerned about the big ones. Bayfield County used several other counties while devising theirs. Thome prefers local government to manage versus the State. Over 500 animal units are the concern. There are three ways to control or regulate CAFOs: with a manure storage ordinance, with a **comprehensive CAFO ordinance**, or county wide **zoning district where CAFOs are permitted**. Thome heard that 7-8 favored and other half against. Those against did not give any specifics as to how it was operationally, financially, or how it would affect their operation. An outlier is bound to occur but most farmers will be unaffected. It will not affect how they will do business.

Winkler asked if the 2020-2021, moratorium resolution had a minimum 500 livestock. The proposed manure storage ordinance is not about animal units it is about manure storage. Engel said, a farmer likely would not admit if they were out of compliance. In addition, the impact on farmers will not be known until enforcement occurred.

Ives: Had no questions for Mike Fugle. In his opinion is we do not need an ordinance. He has quite of few farmers in his district. The farmers he spoke with in his district did not want it so Ives will not support it. He originally thought this was for businesses who handled manure, but it became more than that.

Further discussion on the subject went on. Holewinski said all three are moratorium resolutions. The 2020 documents reads The Oneida County hereby imposes a moratorium on the licensing of new livestock facilities of 500 or more animal units. The Planning & Zoning Committee was instructed to address it and decided not to move forward with it.

Roach said the NRCS writes the standards. He spoke with a specialist who consults farms and he said small farmers could be impacted up to \$30,000. Policy is put in place by government. Most counties have MSOs. If we do not have one now and the animal number here is very low, do we need the ordinance. An animal unit is 1000 lbs. and a 500-unit farm is 357 cows. If this is such a big problem, why doesn't the state kick in sooner? Roach favors county control and the MSO is not terrible, but it's not needed. Winkler had questions on if any grandfather clause would apply to a farm in place prior to 1997. Fugle would need more information. There are instances where a new regulation would not apply to farmers.

Mott: He reviewed the mega farm in Ohio where piped manure had leaked causing pollution. He does not want that to happen here. The MSO is to address large operations, not small farmers. Good practices are in place for most small farmers. Remember that you cannot put it in place after the fact. If CAFOs came into the County, **its negative** impact on a \$240 million tourism industry **could be affected**. People visiting do not want dirty lakes. We want to protect our lakes and rivers. The P&Z department chose not to pursue the CAFO ordinance. The CUW brought it up because the 2020 resolution said that the LWC could take up a manure storage ordinance as a way to address large storage operations. Committee

agreed to do the research, Sadauskas, Jerow, Butkus, Jennrich worked on it. There was much concern from small livestock operators and the right to farm law. Mott said it was a good law. It was not the intent to overburden small livestock farmers. If farmers are outside the water management area, it will not affect the lake. Alternatively, the restrictions are not great. Mott requested Sadauskas to contact Mr. Sweeney for a written statement on Jan 14, 2022 on how his farm was affected. He replied that did not intend to participate and refused to comment. They continue to farm in a respectful way to the land and water. Sweeney may have refused due to a public comment from last meeting by Dan Butkus who made terse comment on how Committee was handling it. Mott wanted specific information from Sweeney why it would hurt the farmer.

Winkler took calls regarding the way the ordinance the amount of 175 cubic feet, which is a manure spreader size. A farmer said he would get a stack that size in one day. Stacking is an acceptable practice, per Jerow. When stacking manure you can stack over the 175, but if in water quality management zone, you would have to cover it. Sadauskas replied that the 175 cubic ft. is State statute when unconfined in a water quality management zone if you are in 1000 ft. of a lake or 300 ft. of river. If you have something in that area over 175 cubic ft., it is illegal. They are mimicking State law.

Holewinski said if they are within those limits then the rules are already in place. This MSO directly affects small farmers. He wondered why septic systems could be within 50 feet above the high water mark, but for the small farmers why the setback is so high. Septic systems are for a few people and different from 500 animals.

Jerow said the State does not regulate 500 animals units unless there is a problem. If there is mismanagement of 500-1000, the County is supposed to take care of it and have a complimentary storage ordinance. A dairy county will regulate with their own CAFO ordinance.

Mott: Continued his comments. For the Right to Farm Law, he consulted the State Land & Water Conservation Association was referred him to Kurt Calkins, who shared article on Wisconsin's Right to Farm Law. It addresses legislative matters and states that farmers need to follow good agricultural practices. We are just looking to enhance local implementation. No frivolous law suits about farms. The Right to Farm is not a right to pollute law. We are trying to minimize pollution. The Wisconsin Lakes letter was read into the record and it addressed the impacts on quality of water. Lower surface water quality affects tourism, property values, etc. Mott stated that all have reviewed and weighed in on the MSO. Oneida County differs from most counties **because of its rich water resources of fresh water lakes that need protection**. This subject has not been concern in past but we want it in place in case CAFO comes.

Sadauskas spoke with Paul Diagle from Marathon Co. and if we establish an ordinance, the DNR will regulate the CAFO and County could permit it. It allows a close working relationship with DNR and County. LWC should work with farmers. If non-compliant, first reach out with education. Violations do not happen very often. Mott referred to the distributed Prohibitions Already in State Law and Specific to Oneida County document. We can adjust Oneida County right side if need be. Mott directed the Committee to Thome document on Water Rich Counties Targets for new CAFOs. Mott quoted page 5. He reiterated the three ways to regulate that Thome stated before. The last page lists CAFOs Bayfield example where they did not have all documents in place.

Recommendation of Changes:

Engel: Agreed with Tom Jerow's suggestions. However, he is still opposed.

Roach: If nobody is getting hurt (polluting), why are we doing this? Don't need to do anything. Science behind drainage fields. He wants to table it and watch it. Appreciated the work put into the ordinance.

Winkler: Was in favor, has agriculture background and thinks we should talk with Extension people that are agricultural specialists. He wants more education provided. We could present best practices to address to young farmers coming in as a better approach than MSO. Table it.

Thome: Any changes are related to stacks and setbacks that seem to be a problem on small plots of land.

Ives: Agreed with Roach and Winkler. Feels more confusion even after a year later. It is too complicated and written for small or large or both. Thinks it needs to be scrapped. Duplication of State law. He asked to entertain a motion.

Robb Jensen: Was still on the CUW Committee when this started. What do we need to do to make farmers aware? It was good that 270 letters were sent out to let people know the pros and cons. Now we should be talking about education. What did other counties do? Education should come before the MSO. Ask the Extension office for referrals. He said the Lake Association did not take a formal vote, but were notified of the ordinance.

Mott suggested two revisions:

1. MSO applies to any farming operation with 100 or more head. (Alternatively, equivalent of animal units) will still apply to small farmers, **because of the state law already in place**. It will take that group of people (100+) and put it on the books...if large producers come in.
2. Any farm with 100 or more units will file each year a nutrient mgmt. plan. How are you going to take care of your manure? Store it, stack it, cover it, etc. It will give Oneida County a chance to look at a plan.

Any changes, additions, corrections will be discussed with the landowner in a timely manner to assure a responsible nutrient plan for following year. County does not have anything on books about nutrient management but State does. Engel said that it cost \$2000 to have that done. Roach is against the ordinance. We do not have people to run and regulate this up here. Mott pointed out two things: when a CAFO comes in, he wants to be prepared. Small farms are in compliance but what about large operations. We want to have a way to deal with it. If the plan happens, do we have something in place that will **regulate** them. Jennrich stated the MSO cannot be retroactive. Mott wanted to keep going with the MSO. Once manure is in the lakes, the nutrients get into the sediment, takes a very long time to reverse. Engel liked Jensen's comment proactive education and zoning. Ives stated we do not have the expertise on #2. He wants to table it.

Motion to table the MSO by Ives/Roach. Discussion about word "table" not correct. All nays; motion was voted down.

Motion by Roach/Winkler to postpone MSO until such time as operations exceeding 200 animal units comes into Oneida County with an animal unit equaling 1000 lbs. of live animal weight. Roll call vote: Winkler-aye, Mott-aye, Thome-aye, Engel-aye, Roach-aye, Ives-aye. Motion carried.

Staff was directed to come up with a plan to present to the Committee where education for local farmers in Oneida County shall be included in those plans. The Farmer Education/Outreach will continue to be a standing item for the next few months on the on the CUW agenda. An Extension Area Specialist, with the Extension Institute of Agriculture was requested to assist in education for farmers. The contact will be referred to Sadauskas.

Public Comment:

Jerow: Oneida County will have no input once decided. Photos presented were only of 75 cows that caused damage to the environment. Once proposed, you cannot regulate. Iron County has a CAFO. Example of a farmer that did not practice good conservation.

Items on the next agenda: Approval of Special CUW meeting, January 21, 2022 Minutes.

Adjournment: Motion to adjourn by Winkler/Thome. All ayes; motion carried. Mott adjourned the meeting 12:05 p.m.

Respectfully Submitted,

Merry Lehner, Recording Secretary

Bob Mott, Committee Chair