



08/12/2020

Nathan Walrath
Chair, Town Board
Polar Town Hall
W6979 St. Hwy 64
Polar, WI 54418

Chair Walrath:

I am writing on behalf of the Venture Dairy Cooperative, Wisconsin Manufacturers and Commerce, and Wisconsin Dairy Alliance regarding the Town of Polar's (Town) "Implements of Husbandry Ordinance," Ordinance # 1511 (Ordinance) adopted on November 23rd, 2015. Collectively, our organizations represent thousands of farmers and businesses tied to Wisconsin agriculture including in the Town of Polar. It is deeply concerning to members of Wisconsin's business community, especially Wisconsin's agricultural sector, that the Town would *de facto* ban farmers moving a single commodity – manure – on Town roads under the guise of a surety bond. This action is both bad public policy and likely unlawful.

Farmers comprise a vital and necessary part of Wisconsin's economy, including in Langlade County and the Town of Polar. A necessary part of farming is hauling manure. The Town's unlawful actions will harm local farmers and likely lead to costly and reputation-damaging litigation, for which your taxpayers (the very farmers you are harming) will have to foot the bill.

The Ordinance requires farmers who haul manure on town roads to "post a surety bond of \$50,000 with the Town to cover any possible damage that may be done" by the hauler. The Town cites Wis. Stat. § 349.16(1)(c) as its authority to impose this onerous requirement. The section, in its entirety reads:

Order the owner or operator of any vehicle being operated on a highway to suspend operation if in its judgment such vehicle is causing or likely to cause injury to such highway or is visibly injuring the permanence thereof or the public investment therein, except when s. 84.20 is applicable or when the vehicle is being operated pursuant to a contract which provides that the governmental unit

will be reimbursed for any damage done to the highway. Traffic officers also may order suspension of operation under the circumstances and subject to the limitations stated in this paragraph.

Wis. Stat. § 349.16(1)(c). The plain language of the statute does not mention a “surety bond” at all, let alone give the town authority to impose such a requirement as a prerequisite to driving on town roads. What the statute does allow is officers in charge of highway maintenance and traffic officers to order the suspension of a vehicle currently operating on a road if the vehicle is causing injury or likely to cause injury to the roadway. Officers do *not* have this authority if the vehicle is being operated “pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the highway.” This language does not give the Town additional authority to impose a surety bond requirement, rather it is a restriction on the Town’s authority under certain circumstances.

The Town should take note of three other issues related to this statute. First, that the Town cannot use it to restrict vehicles from operating based on the commodities they haul. All else being equal, whether the vehicle is hauling 50,000 lb of feathers or 50,000 lb of lead, it degrades the roadway in the same manner. Thus, to avoid constitutional equal protection issues, the Town must be prepared to render the same requirements to haulers of sand and gravel, logs and other materials to the same extent it applies to manure hauling. Second, unlike other subsections of this statute, the Town cannot use sub. (1)(c) to restrict whole classes of vehicles from operating (unlike subs. (1)(a)-(b)) in advance. See Wis. Stat. § 349.16(1)(c), (2). Third, the Town cannot enforce this unlawful surety bond requirement, or any other requirement subsequently created, to deny permits for certain implements of animal husbandry (those that fall under s. 340.01(24)(a)1.b.). Wis. Stat. § 348.27(19)(b)4m. Rather, the Town only has authority to modify the proposed route.

Rather than continue to act in this legally dubious manner that will harm local farmers, the Town should rescind the ordinance and work with its farming community to come to a mutually beneficial solution.

Respectfully,

Kim Bremmer, Venture Dairy Cooperative
Cynthia Jetzer, Wisconsin Dairy Alliance
Scott Manley, Wisconsin Manufacturers and Commerce

cc: Jason Muraski, Supervisor
Jake Leiterman, Supervisor



08/12/2020

Mr. Casper Buettner
Chair, Town Board
Wolf River Town Hall
N4393 Blue Goose Dr.
White Lake, Wisconsin

Delivered via email:
wlfvr@hotmail.com

Chair Buettner:

I am writing on behalf of the Venture Dairy Cooperative, Wisconsin Manufacturers and Commerce, and Wisconsin Dairy Alliance regarding the Town of Wolf River's (Town) "Implements of Husbandry Ordinance (Amended)," Ordinance #2015-01 (Ordinance) adopted on March 13th, 2018. Collectively, our organizations represent thousands of farmers and businesses tied to Wisconsin agriculture including in the Town of Wolf River. It is deeply concerning to members of Wisconsin's business community, especially Wisconsin's agricultural sector, that the Town would *de facto* ban farmers moving a single commodity – manure – on Town roads under the guise of a surety bond. This action is both bad public policy and likely unlawful.

Farmers comprise a vital and necessary part of Wisconsin's economy, including in Langlade County and the Town of Wolf River. A necessary part of farming is hauling manure. The Town's unlawful actions will harm local farmers and likely lead to costly and reputation-damaging litigation, for which your taxpayers (the very farmers you are harming) will have to foot the bill.

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Kim Bremmer, Venture Dairy Cooperative
Cynthia Jetzer, Wisconsin Dairy Alliance
Scott Manley, Wisconsin Manufacturers and Commerce

cc: Susan Hawley, Supervisor
Jim Tilkens, Supervisor