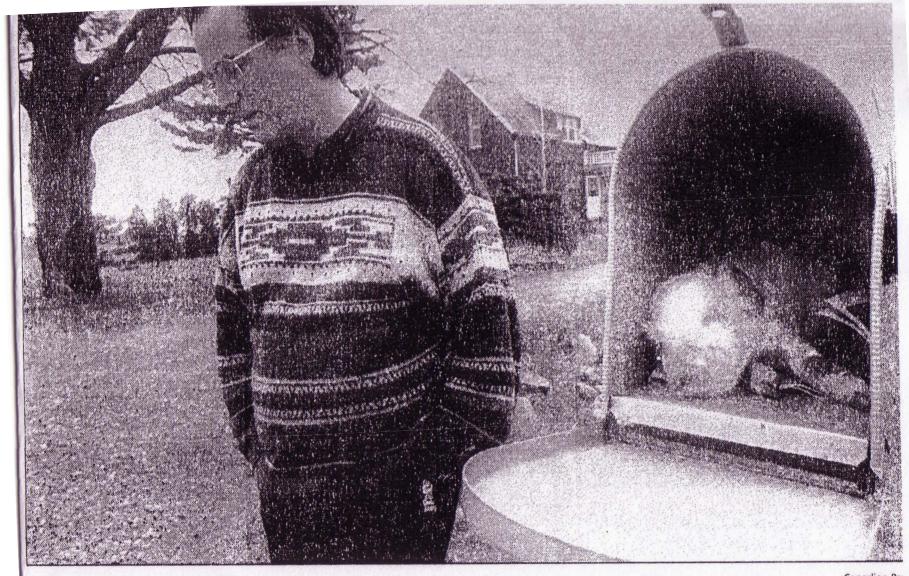


Wayne Caldwell and Alicia Evans

University of Guelph and County of Huron Planning Department www.waynecaldwell.ca/Projects/NMP/NMP.htm (research funded by Ontario Pork)

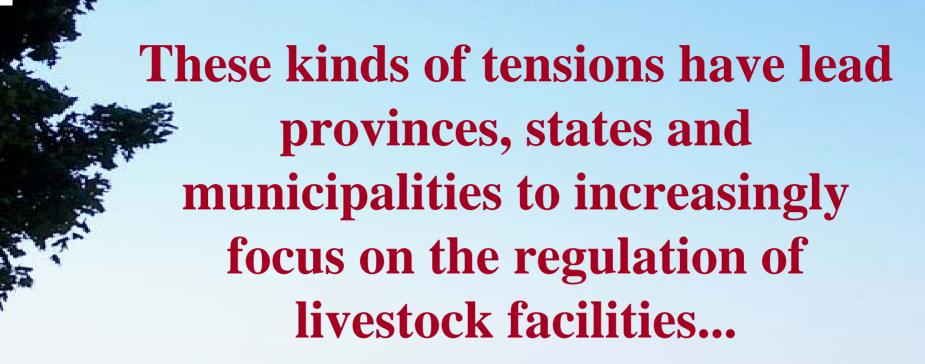
CIP Conference - July, 2005





Canadian Pre

John found a dead baby pig inside the mailbox at his home near Morpeth in Chatham-Kent recently. president of the Rural Rights Alliance of Ontario, has also received death threats. He has been a critic of hog-farming operations near his home, specifically pointing out the pollution generated by large-scale operations.







• Historically in Canada and the U.S. this was a Municipal Responsibility

• In some jurisdictions, however, this responsibility has been consolidated at the province or state level

Why have provinces & states assumed the authority to approve livestock facilities?

Because they can!

Political pressure

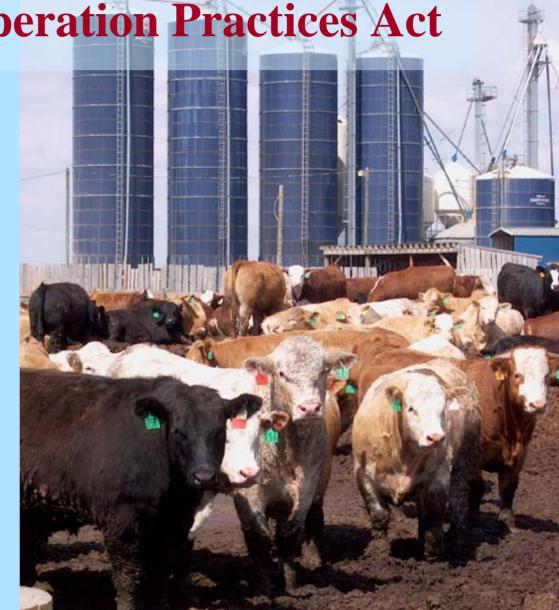
- From farm groups and producers concerned with restrictive and at times "discriminatory" municipal by-laws and uneven standards
- From environment and community groups wanting appropriate standards
- -From municipalities that recognize their limitations

Joint goals of protecting the environment and protecting agricultural production



The Alberta Context: The Agricultural Operation Practices Act

The province will have the authority and responsibility for the siting, monitoring and enforcement of all new and expanding CFO's in Alberta



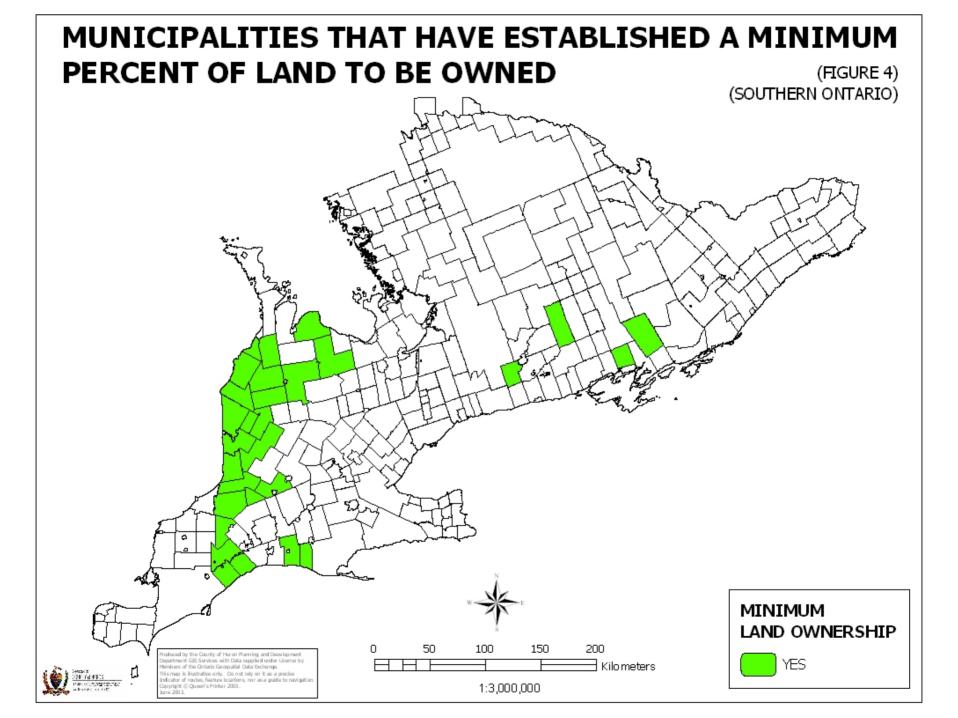


Section 61(1) "A regulation supersedes a by-law of a municipality or a provision in that by-law if the by-law or provision addresses the same subject matter as the regulation" (Planning Act & Municipal Act)



So... What was the situation in Ontario before the Nutrient Management Act...





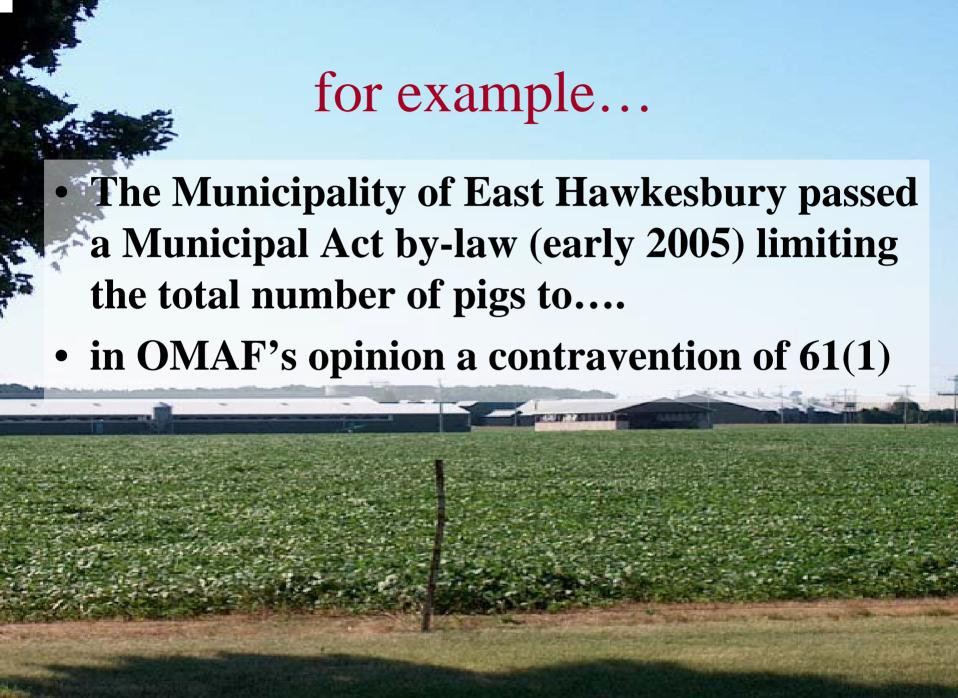
By-law provisions that appear to be inconsistent with provincial regulation

(same subject matter - farms subject to the regulation)

- requiring a NMP for new and expanding operations (300 or more NU)
- minimum ownership requirements
- maximum distance for hauling
- storage requirements
- caps
- · other...



- Limited municipal action to repeal or amend existing by-laws (exemptions include Huron & Oxford)
 - A dilemma for building officials who have a bylaw that calls for the application of a provision that appears to be superseded
 - Legal issues predating the by-law suggest that some municipalities may challenge 61(1)



Results from a 2004 Ontario survey...

(2005 update this summer)

	Municipalities with Nutrient Management By-laws	84
	Municipalities that have amended their Nutrient Management By-laws since new legislation (Oct 1, 2003)	20%
	Municipalities in process of amending their Nutrient Management By-laws	25%
THE PERSON NAMED IN	Municipalities with no plans to amend their by-law?	55%

In Response to the Question: If an application clearly requires provincial approval and your municipal by-law deals with the same subject matter how will you proceed: ...

we have already amended our by-law so there is no overlap with provincial regulation	16%
we will apply the local by-law despite the fact it deals with the same subject matter	6%
we will exempt the applicant from the by-law	69%
we will apply both our by-law and the provincial regulation	9%

When the province or state assumes responsibility what are the resulting issues?

For municipalities:

- sometimes a sense of loss of control
- sometimes thrilled to not have the responsibility!
- sometimes confusion over changing roles
- harmonization with the provincial role
- mixed reactions from ratepayers
- is the province doing enough re. envtal issues
- cumulative impact of small farms
- other



