

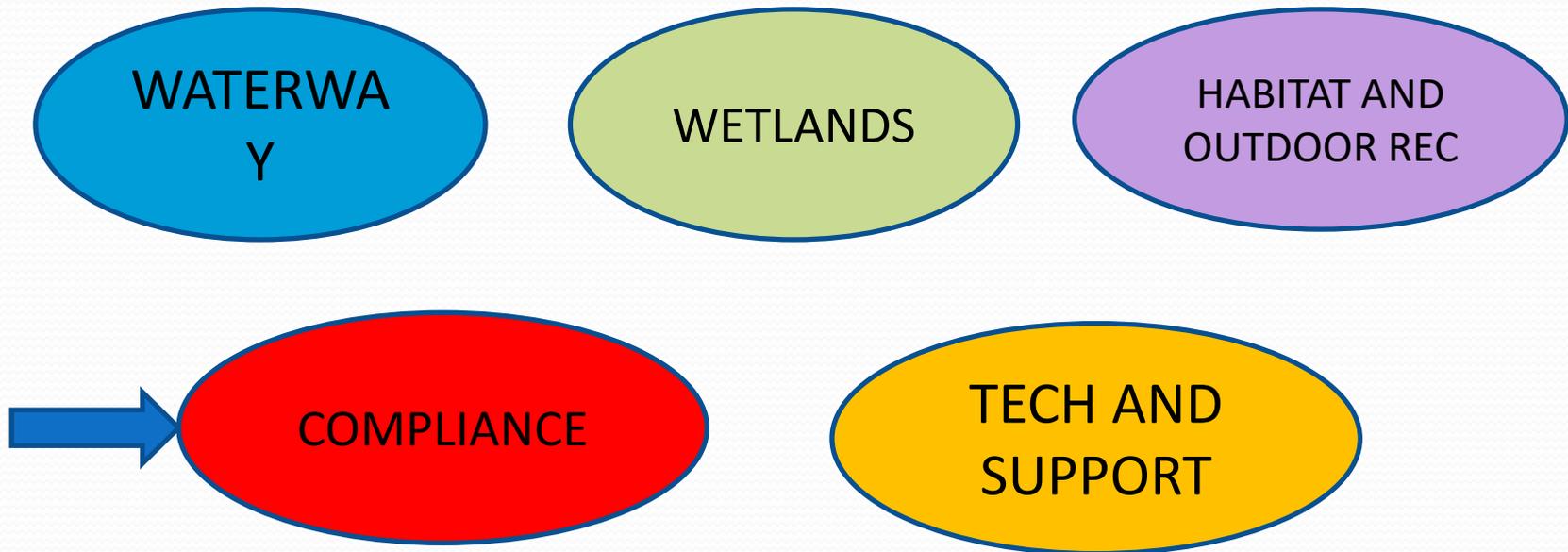
Updates!!

Waterway and Wetland Program Changes

AG Opinion

Wi Supreme Court Case(s)

Team Organization



Why are we moving to specialization?

- Improve staff expertise
- Manage and balance workload
- Improve consistency
- Increase customer satisfaction
- Improve timeliness
- Improve program efficiency
- Improve staff morale

Schimmel AG Opinion

- Attorney General concluded that:
 - (1) a county may incorporate provisions from its general zoning ordinance into its shoreland zoning ordinance so long as such provisions do not violate any of the specific restrictions of Wis. Stat. § 59.692(2), and
 - (2) that counties possess sole authority to zone shorelands without regard to town action, or inaction, with respect to a county's general zoning code.

One additional item.....

- a county may impose a general zoning provision within a town that has not approved the county general zoning ordinance under s. 59.69(5)(c) **if** that general zoning provision is imposed pursuant to the county's shoreland zoning powers/authority **and if** (an "if" the opinion does not discuss) the general zoning provision that the county imposes under shoreland zoning authority can be plausibly related/connected to/in service of the statutory purposes and authorizations for shoreland zoning

59.692

- **59.692 Zoning of shorelands on navigable waters.**
- **(1c)** To effect the purposes of s. **281.31** and to **promote the public health, safety and general welfare**, each county shall zone by ordinance all shorelands in its unincorporated area.
- **(1d) (a)** An ordinance enacted under this section may not regulate a matter more restrictively than the matter is regulated by a shoreland zoning standard.
- **(b)** Paragraph **(a)** does not prohibit a county from enacting a shoreland zoning ordinance that regulates a matter that is not regulated by a shoreland zoning standard.
- **|**

281.31

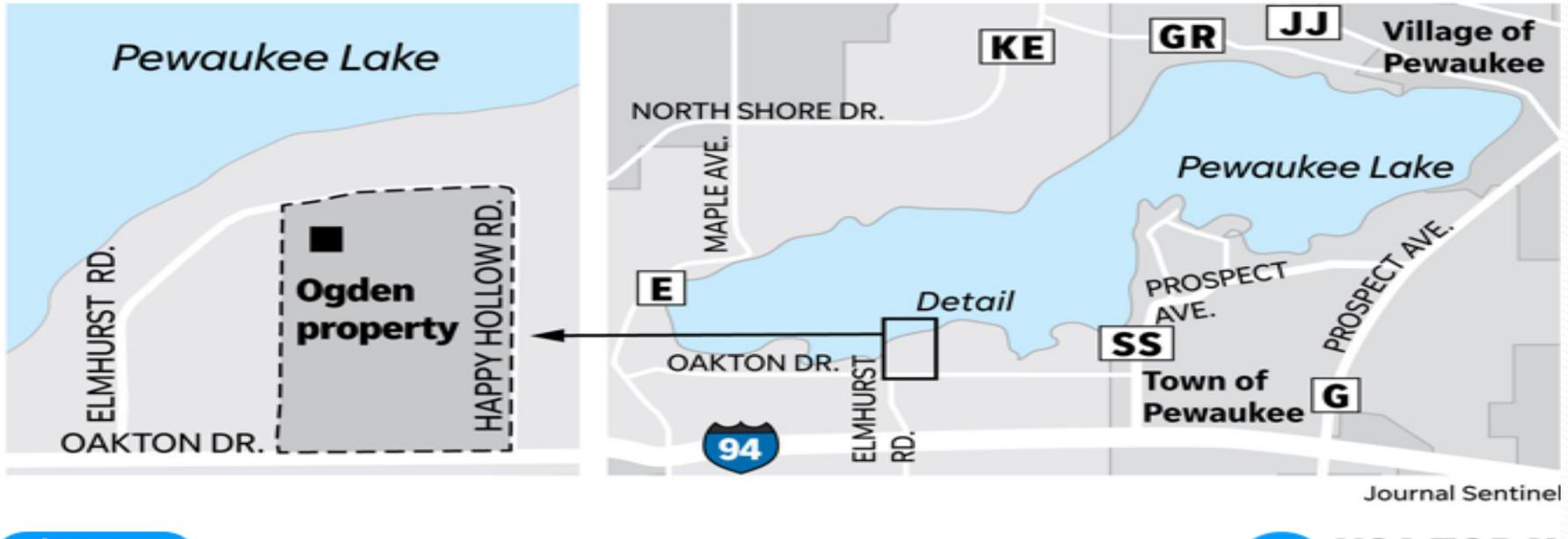
- **281.31 Navigable waters protection law.**
- **(1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions: prevent and control water pollution: protect spawning grounds, fish and aquatic life: control building sites, placement of structure and land uses and reserve shore cover and natural beauty.**



Movrich vs. Lobermeier

- Movriches and the Lobermeiers both owned property on a flowage
- Brother – sister conflict
- Movriches wanted to install a pier extending from their shoreline.
- The Lobermeiers objected based on the apparently unchallenged fact that they owned legal title to the land under the water
- Court decided in favor of the Lobermeiers, and ruled that in the case of a flowage, the bundle of rights held by the owner of property along a navigable body of water (known as riparian rights) does not include the right to place a pier on a waterbed that is owned by another party

and hay growing there.



Owens 3 parcels: Two reclassified by town assessor after claims of growing a tree farm. Assessor reclassified it back to residential after having doubts. Property owner said – takes time for trees to grow and fruit trees to have fruit. Board of review and circuit court sided with the town. Court of appeals disagreed with the town and the WI Supreme Court backed that decision: statutory interpretation - simply planting trees or hay qualified as agricultural land for tax purposes and there did not need to be any business or commercial application. Previously assessed at \$887,000 now \$20,000. May see future action from League of Municipalities regarding the ag. Exemption.