

**\$10,000**  
Property Tax

# **SPRAWL**

**How Uncontrolled Sprawl  
Increases Your Property Taxes  
and Threatens Your  
Quality of Life**

**by Brett Hulsey**  
Midwest Representative, Sierra Club

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## **About the Sierra Club**

Founded by Wisconsin conservationist John Muir in 1892, the Sierra Club is dedicated to protecting, enjoying, and preserving the outdoors. The Sierra Club's Midwest Regional Campaign to Protect People's Health, Homes, and Environmental Rights is designed to educate citizens about threats to their communities, like sprawl and property tax increases, and to recommend policies that can reduce these threats. This effort is supported by the Joyce Foundation.

## **About the author**

Brett Hulsey is former president of Citizens for a Better Fitchburg, an ad hoc citizens group dedicated to controlling taxes and creating a better, not bigger community. He now chairs the Dane County Environmental Caucus and is Midwest Representative for the Sierra Club.

Hulsey is in the Certified Public Manager Program at the University of Wisconsin, has a Masters in Geography from the University of Oklahoma, and has a Bachelors in Political Economy from Middlebury College. He has worked on land use and protection issues for more than 15 years.

Other reports co-authored by Brett Hulsey and the Sierra Club Midwest Office include:

*Danger on Tap: Protect America's Drinking Water*

*Clean Lakes, Clean Jobs: A Case for Cleaning Up Contaminated Sediments*

*Clean Lakes, Clean Sediments: A Citizens' Guide and Action Plan*

*Great Lakes Critical Lands: Lake Michigan Briefing Book*

*Clean Lakes, Clean Steel: A Citizens' Guide to the Great Lakes Steel Industry*

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**For more copies, send \$5 to:**

**Sierra Club Midwest Office**

**214 N. Henry Street, Suite 203**

**Madison, WI 53703**

**Phone 608-257-4994, fax 608-257-3513,**

**Internet: [brett.hulsey@sierraclub.org](mailto:brett.hulsey@sierraclub.org)**

First Edition.

# CONTENTS

Executive Summary .....	2
No Property Tax Relief in Sight .....	3
Estimating Sprawl's Impact on Property Taxes .....	4
The Costs of Sprawl .....	6
The Problem, The Challenge .....	8
Wisconsin Land Use Laws: Weak... ..	11
... and Getting Weaker: Proposed Land Use Legislation .....	12
Property Tax Impact Statements .....	13
A Vision for Dane County and Wisconsin .....	14
Our Values .....	15
Practical Solutions: What you can do .....	15
Conclusion .....	16
Bibliography .....	17

## EXECUTIVE SUMMARY

Property taxes continue to increase despite efforts of the legislature and local officials to contain them. Evidence suggests that a major cause of this unrelenting rise in property taxes is inefficient, sprawling development in our cities, villages, and towns. Dane County is nationally-recognized as a great place to live and has been the fastest-growing county in Wisconsin for the past two decades. This rapid growth not only fuels the increase in property taxes, but also threatens the special character of the community.

To make informed land use decisions, we must know the full costs and benefits of new development. Just as environmental impact statements allow us to understand the effects of building projects on environmental resources, **Property Tax Impact Statements** will help us understand the full costs and benefits of new development. These statements are needed to make better land use decisions, to protect the character of our communities, and to control property taxes.

# NO PROPERTY TAX RELIEF IN SIGHT

Property tax growth is a top concern of Wisconsin's citizens.

The politicians have once again promised property tax relief, but a recent study by the non-partisan Wisconsin Taxpayers Alliance states that the one-time average relief of \$200 will soon be gobbled up by increased county and city taxes to service new homes and building.<sup>1</sup>

The non-partisan Wisconsin Taxpayers Alliance says that the property tax will continue growing at 5% per year due to rising costs in other government sectors, like city and county taxes.<sup>2</sup> Their analysis states:

**If recent trends continue, property taxes collected for municipal, county, and technical college purposes will grow more than 5% annually. The amount of property taxes raised by other local governments may soon exceed school taxes. These taxes will slowly reverse the property tax slowdown of 1994 and 1995 and the anticipated cut in 1996.<sup>3</sup>**

The Wisconsin Taxpayers Alliance goes on to estimate that city and county property taxes rose in Wisconsin by 5 and 6.1% respectively in 1995.<sup>4</sup>

Independent estimates by the Associated Press and the Legislative Fiscal Bureau show that school property tax relief promised for Dane County this year will be hardly noticeable. In 1996, the change in school taxes in Dane County will range from a mere 0.7% savings to an increase of 2.1%.<sup>5</sup> School taxes make up roughly 52.7% of property taxes statewide.<sup>6</sup>

Ignoring the costs of sprawl and uncontrolled building has serious tax consequences. Fitchburg city leaders ignored repeated citizen requests to estimate the cost of increasing development in 1994. Total taxes have soared by over 24% in the last three years according to news reports. Much of this increase was due to a 200% increase in police calls. "We are feeling growing pains," said police Lt. Tom Blatter.<sup>7</sup>

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<sup>1</sup> Mayers, Jeff, "Property tax relief for short term," Wisconsin State Journal, Jan. 18, 1996, page 4b.

<sup>2</sup> "Does school tax relief ensure property tax relief?" Wisconsin Taxpayers Alliance, Number One, January 15, 1996.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Eggleston, Rich, "Rich Get Richer: Poor districts shorted under Thompson rules," The Capital Times, January 3, 1996, page 1

<sup>6</sup> Wisconsin Taxpayers Alliance, "Area communities finalize budgets, tax rates," The Capital Times, December 6, 1995, p. 5a.

<sup>7</sup> Delange, Brad, "Big tax hike sought in Fitchburg," The Capital Times, November 8, 1994, page 1.

Across Dane County last year, tax levies skyrocketed by up to 22%.<sup>8</sup> Oregon village taxes are up 11.5%.<sup>9</sup> Madison taxes are up by over 6%.<sup>10</sup> Verona school taxes will increase by 19%, Belleville by 17%, Deerfield by 16%, Middleton-Cross Plains by 8.9% according to the Legislative Fiscal Bureau.<sup>11</sup> Mt. Horeb assessments rose as well. Middleton faces increased taxes and an unpopular and expensive new sewer line to service its suburban sprawl. All this while inflation is running less than 3%.

We do not know the exact cost of sprawl to county taxpayers, but we do know sprawl continues to add to our property tax burden.

While we appreciate the tax relief the Wisconsin Legislature just passed, we know that won't last long if eaten up by the costs of inefficient sprawl development. For example, it will take only \$6,600,000 in new construction to offset the average McFarland resident's \$200 property tax break. That means that the cost of servicing only 50 new homes will wipe out any gains McFarland residents will get in their property tax cut.<sup>12</sup>

### **SPRAWL:**

"Haphazard growth or extension outward, especially that resulting from new housing..."

- *American Heritage Dictionary*

"To develop irregularly...To spread out carelessly or awkwardly."

- *Webster's New Collegiate Dictionary*

## **ESTIMATING SPRAWL'S IMPACT ON PROPERTY TAXES**

We suspect that inefficient sprawl development threatens our families by worsening problems like increased taxes, lost farm and park land, neighborhood breakdown, increased crime, and clogged roads and traffic. But how much of our property tax check goes to pay for sprawl?

UW Professor of Regional Planning Jack Huddleston estimates that Wisconsin taxpayers will be asked to pay over \$4 billion in the next 15 years for services for 400,000 new state residents. These services include transportation, public works, public safety, education, culture, recreation, and government.

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<sup>8</sup> "Does school tax relief ensure property tax relief?" Wisconsin Taxpayers Alliance, Number 1, January 15, 1996, page 1.

<sup>9</sup> "Village tax rate rising 11.5% in Oregon," *The Capital Times*, November 21, 1995, page 5a.

<sup>10</sup> Eisen, Marc, "Area big business reel in tax cuts," *Isthmus*, January 5, 1996, page 11.

<sup>11</sup> Pommer, Matt, "Dane County bears brunt of tax growth," *The Capital Times*, December 20, 1995, page 1.

<sup>12</sup> 1995 Dane County Tax Rates, *Wisconsin State Journal Book of Business*, February 11, 1996, page 12. If each \$1 million in residential building costs each taxpayer an average \$30 to service, then \$7,000,000 in residential building would cost \$210 per taxpayer on average ( $7 \times \$30 = \$210$ ). The estimated property tax relief for each Wisconsin taxpayer is \$200.  $\$7,000,000 \div \$138,000$  average home price in McFarland = 50.72 new homes.

As the chart below shows, Wisconsin governments could save over \$25 million each year by curbing sprawl and promoting compact development.<sup>13</sup>

<b>PAYING FOR GROWTH</b> Estimated additional local government expenditures required to meet needs of 400,000 new Wisconsin residents by the year 2010.			
Development pattern	Capital	Operations	Total
Suburban, low-density, significant "leapfrogging"	\$3,949,000,000	\$495,000,000	<b>\$4,444,000,000</b>
Dispersion beyond suburbs, but minimal "leapfrogging"	\$3,746,000,000	\$493,000,000	\$4,239,000,000
Higher density, urban containment	\$3,552,000,000	\$488,000,000	<b>\$4,040,000,000</b>

Source: UW-Madison Dept. of Urban & Regional Planning. Costs include transportation, public works, public safety, education, culture, recreation, and government. Methods based on 1974 study by Chicago-based Real Estate Research Corp. Findings are preliminary and are listed in constant 1994 dollars.

Huddleston estimates the cost difference between low-density sprawl development and high-density contained development at \$400 million over 15 years— or \$25 million per year.

The sprawl option will cost \$300 million per year and each new resident will cost taxpayers an average of \$11,000 each in 1994 dollars.<sup>14</sup> Clearly, we need to get more specific information about these local costs so we can weigh the benefits of additional development.

Some villages and towns, like McFarland and Dunn in Wisconsin, have already started to estimate these costs. According to the Wisconsin State Journal, Dane County Board Supervisor Kevin Kesterson said that **each new \$1 million new construction costs each McFarland taxpayer \$30** in additional property taxes to pay for police, fire, sewer, schools, and other services.<sup>15</sup>

While new home building brings in additional property tax revenue, it appears that this revenue does not adequately cover the costs of servicing these new developments with roads, sewers, fire and police protection, garbage collection, buses, water, and other public services.

The Town of Dunn estimates that new residential building costs town taxpayers \$1060 to service for each \$1000 the owner's will pay in taxes, while farm and park land only costs \$180 for each

<sup>13</sup> Hall, Andy, "Expert: Sprawl limits could save local money," Wisconsin State Journal, September 29, 1995, page 1.

<sup>14</sup> \$4.04 billion/400,000 people = \$10,100 per new person.

<sup>15</sup> Smith, Susan Lampert, "Town of Dunn opposes McFarland growth plan," Wisconsin State Journal, January 30, 1994, page 13A.

\$1000 in taxes paid.<sup>16</sup> These figures may be conservative considering that the service cost of single family homes is \$1670 in Madison Village, Ohio and \$1070 in Lake Elmo, Minnesota.<sup>17</sup>

The average cost of public services for communities in the Midwest is 124% of the tax income derived from residential housing, versus 44% of the tax income derived from farm and park land.<sup>18</sup> This means that the average new home costs taxpayers \$1240 while farms and parks cost only \$440 for every \$1000 paid in property taxes in six Wisconsin, Minnesota, and Ohio communities.

Sprawl ➡ Inefficient Services ➡ Higher Taxes?

Compact Development ➡ Efficient Services ➡ Taxpayer Savings?

The relationship seems to be that sprawl causes expensive services and drives up property taxes. Conversely, compact development can lead to more efficient services and property tax savings.

## **THE COSTS OF SPRAWL**

There are many models for assessing the cost of new development, but any plan commission, city council, town and county board can consider these costs, adapted from UW Professor Jack Huddleston.<sup>19</sup>

The annual costs to provide these public services should be compared for various types, configurations, and locations of development ranging from the most compact, densely clustered to loosely scattered building.

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<sup>16</sup> Town of Dunn Cost of Community Services by Land Use, July 25, 1994, page 1.

<sup>17</sup> American Farmland Trust, Farmland and the Taxbill: The Cost of Community Services in Three Minnesota Cities, 1994, page 14.

<sup>18</sup> Ibid.

<sup>19</sup> Huddleston, Professor Jack R., "Comparative Costs of Development, Supporting Analysis," prepared for Wisconsin Strategic Growth Task Force, September 28, 1995.

### **Transportation**

- Streets and road building, maintenance, and added traffic\*
- Freeway and expressway needs and demands created by sprawl
- Bus and mass transit needs and costs

### **Utilities and Public Works**

- Water and sewage treatment costs including added lines and capacity\*
- Storm drainage and additional polluted run-off demands\*
- Solid waste collection and disposal\*

### **Safety Services**

- Police protection\*
- Fire protection\*
- Emergency Medical Services\*

### **Education**

- Elementary and secondary schools
- Vocational/technical education

### **Culture and Recreation Services**

- Libraries\*
- Parks, playgrounds and recreation\*
- Open space

### **General Government**

- Employees, planning, and support service

### **Other Costs**

- Loss of productive farm families and agricultural land
- Loss of wildlife habitat
- Lower drinking water supplies and qualities

\* 1993 Wisconsin Act 305 authorizes local units of government to charge impact fees to developers for capital costs, but not for annual operating costs. Note that schools costs, the largest cost item for most communities, cannot be charged.<sup>20</sup>

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<sup>20</sup> Franklin Impact Fee Task Force, Impact Fee Needs Assessment, 1995, p. 1.

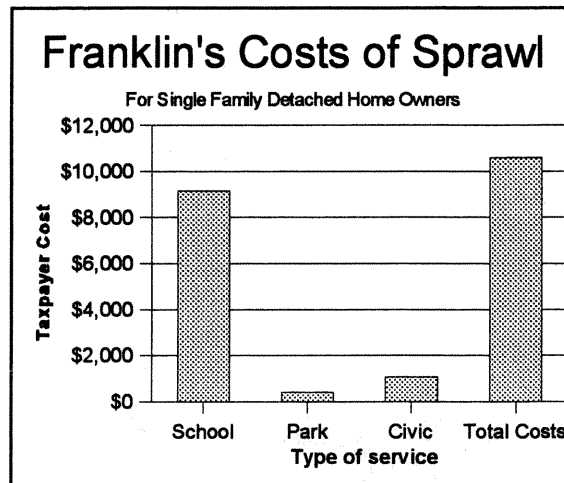


# THE PROBLEM, THE CHALLENGE

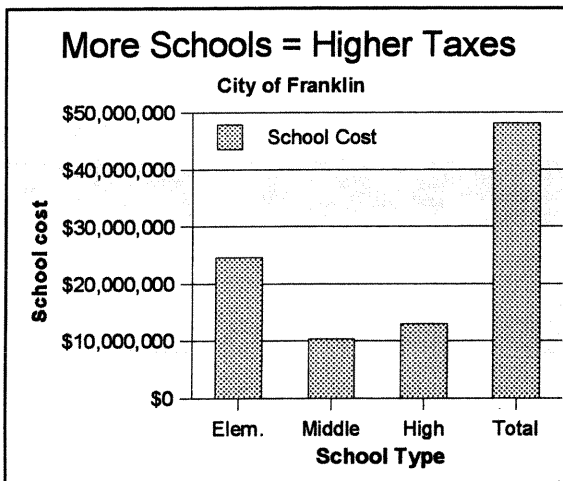
Why do property taxes continue to rise despite state cost controls and promised tax relief? Several communities have begun to trace the cause of this continued tax increase.

## Franklin, Wisconsin

The City of Franklin, a fast growing suburb of 25,000 south of Milwaukee, similar to Fitchburg, did an exhaustive study of the cost of new sprawl and development in 1992. City leaders estimated that a new single family detached home costs city taxpayers \$10,607<sup>21</sup> to service. The home's average value was \$96,000, and it paid much less than \$5,000 in property taxes at that time. As you can see from the chart to the right, most of these costs were in providing school, park, and civic services.



Source: Franklin Impact Fee Task Force, Report to the Mayor, August 1992, p. 1.



Source: Franklin Impact Fee Task Force, Report to the Mayor, August 1992, p. 3.

The city proposed charging half this new cost in the form of an impact fee at the time. However under the 1993 Impact Fee Act 305, Franklin now only charges \$813 to offset the estimated \$10,607 costs of a new home.<sup>22</sup> Act 305 limits the impact fees communities can charge to direct on-site costs. But sprawl costs more, like added school costs.

## School Costs Add Up

Franklin estimated it will have to build four new elementary schools, one middle school, and one new high school to meet predicted sprawl-related growth totaling over \$48 million in 20 years.<sup>23</sup> With an estimated 6,000 new residential units in Franklin, each of these units would add over \$8,000 in school costs to the public.<sup>24</sup>

<sup>21</sup> Hanley, Terry, chair, Franklin(WI) Impact Fee Task Force, Report to the Mayor and Common Council on Impact Fees, August, 1992, page 1.

<sup>22</sup> Franklin Impact Fee Task Force, Impact Fee Needs Assessment, 1995, pg.1.

<sup>23</sup> Hanley, p. 3.

<sup>24</sup> Hanley, p. 3.

## Dane County

Dane County grew by nearly 27,000 people between 1990 and 1995 and is expected to add another 43,000 people in the next decade.<sup>25</sup> That will mean adding communities the size of Sun Prairie, Middleton, and Fitchburg in the next 10 years.

The question remains where will they live and who will pay for the public services they need? If each household has an average of 2.4 people, we will need an additional 18,000 new residential units to house them.

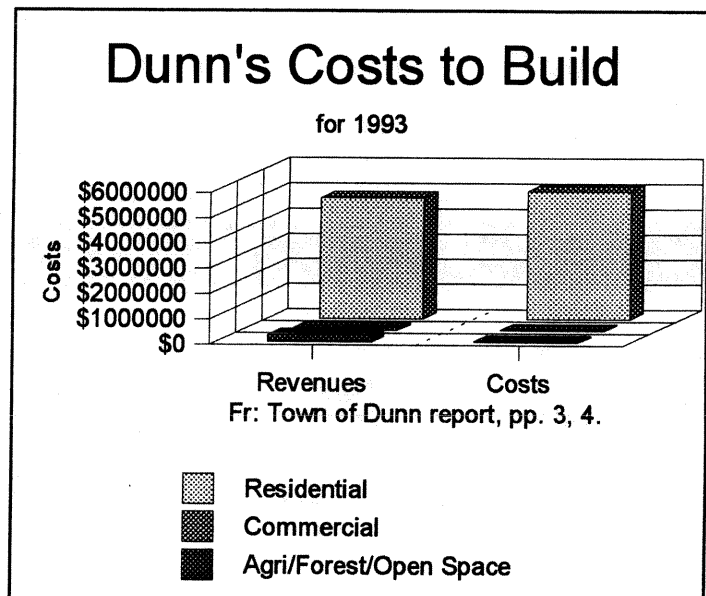
Applying the estimates Franklin used of \$10,607 per new home, Dane County taxpayers could pay up to \$190 million in new costs of schools and government services to handle the projected growth in the next 10 years, or \$19 million per year. If new residents pay their fair share for their own services and new housing is developed efficiently, these costs could be cut significantly.

While the state aid formulas and school costs differ for Franklin and Dane County communities, this \$10,607 estimate underscores the need to find out how much new building is costing Dane County taxpayers.

## Town of Dunn

The Town of Dunn, southeast of Madison, has done extensive analysis of costs of servicing various land uses. As the chart shows, the town estimates that public services cost 106% of taxes received from residential building. Public services only cost 29% of taxes received for commercial building and 18% for agricultural, forest, and open space.<sup>26</sup>

That means that it costs \$1060 to service a home that only pays \$1000 in taxes each year. Farm land and park land only cost \$180 to service for the same \$1,000 in revenue.



<sup>25</sup> Department of Administration estimates from Regional Planning Commission phone conversation, February 16, 1996.

<sup>26</sup> Town of Dunn Cost of Community Service by Land Use, July 25, 1994, page 1.

This is why Town of Dunn officials are considering paying farmers for their rights to develop their land, to keep the land in farming, and to keep the property tax growth down.<sup>27</sup> This may explain why the Town of Dunn has kept its taxes low. Its 1993 mill rate was only \$1.85 per \$1000 assessed value, compared to \$2.85 in Oregon and \$3.49 in Sun Prairie. The cost of providing inefficient services to sprawling subdivisions may lead to inflated property taxes for all residents.<sup>28</sup>

### Regional Perspective

The costs in the Town of Dunn are consistent with other studies of sprawl in the Midwest and Northeast conducted by the American Farmland Trust. The chart below shows the regional costs of development per \$1,000 of tax revenue by land use type.

### Cost of Servicing Different Land Uses per \$1,000 Tax Revenue

Location	Residential building cost	Commercial building cost	Farmland, parkland, and open space cost
<b>Town of Dunn, WI<sup>29</sup></b>	<b>\$1,060</b>	<b>\$290</b>	<b>\$180</b>
Lake Elmo, MN <sup>30</sup>	\$1,070	\$200	\$270
Independence, MN	\$1,030	\$190	\$470
Farmington, MN	\$1,020	\$790	\$770
Madison, OH	\$1,670	\$200	\$380
Madison Township, OH	\$1,140	\$250	\$300
<b>Midwest Average</b>	<b>\$1,165</b>	<b>\$320</b>	<b>\$395</b>
Connecticut Average	\$1,060	\$470	\$430
Massachusetts Average	\$1,120	\$417	\$327
New York State Average	\$1,240	\$235	\$345
Northeast Average	\$1,140	\$296	\$376

<sup>27</sup> Ness, Erik, "Dunn Deal," *Isthmus*, December 1, 1995, page 11.

<sup>28</sup> *Ibid*, page 11.

<sup>29</sup> Town of Dunn Cost of Community Service by Land Use, July 25, 1994, page 1.

<sup>30</sup> American Farmland Trust, *Farmland and the Taxbill: The Cost of Community Services in Three Minnesota Cities*, 1994, page 14.

## WISCONSIN LAND USE LAWS: WEAK...

The 1995 Wisconsin Strategic Growth Task Force recommended that state officials should take the lead in shaping growth and development and perhaps withhold money from communities that fail to plan land use. The report of the task force, *Land Use Issues Facing Wisconsin*, found the following shortcomings in the current land use decision making process. Wisconsin:<sup>31</sup>

- Lacks a common land use vision.
- Underutilizes and inadequately implements land use planning techniques.
- Makes infrastructure decisions without adequate consideration of land use impacts.
- Allows tax and fiscal policy to drive land use in ways that conflict with land use goals.
- Lacks financial and technical resources to plan and regulate land use.

This shows that Wisconsin has a long way to go to get control over property taxes and sprawl. The Wisconsin State Journal compared Wisconsin's laws with those of Oregon, a more progressive land protection state. As the table below shows, Wisconsin has none of the six key land use measures needed for successful land protection and balanced development.

<b>Wisconsin and Oregon Comparison of States Land-use Regulations</b>		
<b>Do state regulations require:</b>	<b>Oregon</b>	<b>Wisconsin</b>
Statewide land-use planning?	Yes	No
Land-use plans of all cities and counties?	Yes	No
Consistency between statewide goals and local plans?	Yes	No
Consistency between local zoning decisions and local land-use plans?	Yes	No
Coordination between city plans and county plans?	Yes	No
Consistency between state goals and state agency programs?	Yes	No
Source: Donald Last, UW-Stevens Point, member of Wisconsin Strategic Growth Task Force (WSJ graphic from July 23, 1995.)		

Unfortunately, the Wisconsin Legislature seems to be heading in the wrong direction by making it more difficult to assess the cost of development and plan land use effectively.

### **Impact Fee Bill**

In 1993, the legislature passed the Wisconsin Impact Fee Act 305, with the support of the real estate industry. This measure will "significantly challenge local governments' ability to pay the costs of roads, sewers and parks associated with more or expanded development," according to Harvey Temkin and Wayne Hanewicz of the real estate department of Foley and Lardner.<sup>32</sup>

<sup>31</sup> Land Use Issues Facing Wisconsin, Report from the Wisconsin Strategic Growth Task Force, Vol. I, December 1995, p. 11.

<sup>32</sup> Temkin, Harvey L. And Wayne O. Hanewicz, "New Impact Fees Act may give local governments big headache," Wisconsin State Journal, June 8, 1995, page 2F.

This law limits local governments' right to charge impact fees to cover the cost of new schools. The act requires local governments to:

1. Conduct a Public Facilities Needs Assessment,
2. Conduct a public hearing,
3. Include only the proportionate share of costs, not the added costs, in impact fees,
4. Adhere to strict accounting and paperwork requirements .

According to Foley and Lardner's legal experts, the bills practical effect "could be painful for all involved."

## **...AND GETTING WEAKER: PROPOSED LAND USE LEGISLATION**

### **The "Take Your Taxes" Bill, AB 521**

This bill would force local governments to go to court to defend local zoning decisions that protect the local communities and taxpayers. If the alleged action lowers the potential property value by more than 20%, a court would require the local government to pay the developer.<sup>33</sup>

This bill would strip local governments' ability to protect themselves from incompatible developments, like liquor stores and strip bars near schools. It also reduces control on property taxes by putting the value of the developers' property before the overall costs of the development to communities and local governments. This measure would significantly increase taxes.

### **The "Town Sprawl" Bill, AB 893**

This bill would give towns exclusive zoning rights and make them exempt from extraterritorial zoning of adjacent communities.<sup>34</sup> They would not have to coordinate land use decisions with the county, cities, or neighboring communities. It would mean, for instance, that a town could site a landfill or quarry next to neighborhoods or schools in a neighboring village or city.

AB 893 would increase sprawl and lower counties' abilities to control property tax growth and protect neighborhoods from incompatible development, like landfills and quarries. One of the key recommendations of the Wisconsin Strategic Growth Task Force was to increase the coordination of land use plans between all levels of government. AB 893 is contrary to this recommendation.

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<sup>33</sup> Legislative Reference Bureau, Analysis of 1995 Assembly Bill 521, August 21, 1995.

<sup>34</sup> Legislative Reference Bureau, Analysis of 1995 Assembly Bill 893, January, 1996.

## **The Agriculture Sprawl Exemption Bill, AB 669**

AB 669 makes it easier for developers to get land out of agriculture exclusive zoning if the owner is not eligible for the farmland preservation credit or the landowner makes less than \$6,000 in gross farm profits each year.<sup>35</sup> This will increase the expansion of sprawl development on farmland that had been zoned solely for agricultural use.

### **Summary**

The measures listed above will loosen the public's control over land use decisions that lead to sprawl and higher taxes. They underscore the need to put more information and power in the hands of the taxpayers so that taxpayers can realistically assess the impacts of sprawl development.

## **PROPERTY TAX IMPACT STATEMENTS**

Taxpayers need concrete information to protect their families and neighborhoods from soaring taxes and the other destructive effects of sprawl. The Property Tax Impact Statement will allow citizens to get a handle on the real costs of unchecked development in our Dane County and Wisconsin communities and to estimate how much new development will cost taxpayers for annual services.

The Property Tax Impact Statement will estimate the additional costs of providing and servicing schools, roads, fire, police, water, sewer, and other public services that will be required for each new development. With the

Property Tax Impact Statement, we will know up front what we will be paying for and we will be able to decide if this development is beneficial or detrimental to the community. Towns, cities, and counties can perform these estimates without passing new laws. Citizens can go to their plan commission and city council meetings and ask that these estimates be done before approval of new developments.

**We need to balance the rights of the taxpaying community with the desire of the property developer to make a buck.**

Some may say the Property Tax Impact Statement is unneeded regulation, but citizens have the right to know where their tax money is going and how much new sprawl will cost them. The statement will allow citizens to weigh the costs and benefits of new construction. If we do environmental impact statements, why can't we do Property Tax Impact Statements?

Property rights advocates claim they have the right to do whatever they wish with their land, regardless of the consequences to their neighbors, communities, taxpayers, or the environment. They argue that the U. S. Constitution's Fifth Amendment gives them the right to maximize the economic return from their land.

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<sup>35</sup> Legislative Reference Bureau, Analysis of 1995 Assembly Bill 669, November 9, 1995.

Property Tax Impact Statements also claim that any restraint that keeps landowners from making the most money possible, such as zoning, land use planning, or environmental protections, "takes" their private property. Proposals in the Wisconsin and federal legislatures would require the government to pay developers for potential losses in value. This could cost taxpayers billions each year.

These claims ignore that poorly planned sprawl development already costs taxpayers billions in increased property taxes, schools, roads, sewers, water treatment, police, fire, and other direct costs, as Huddleston has shown. Few properties can be developed without the public assuming a property tax burden and other costs. The costs of sprawl appear to be far greater than the added tax base that most new building provides.

This report recommends practical, common sense solutions for reasonable development that includes assessing all of the costs, guiding building toward the least-costly areas, protecting farmland and park areas, and protecting citizens' quality of life -- and their wallets!

## **A VISION FOR DANE COUNTY AND WISCONSIN**

We live in a beautiful state and county, one of the finest places to live in the country. The rich farmland and culture come together here in "just about the right sized" communities. These communities are large enough to provide a wide range of cultural opportunities, but small enough to provide good neighborhoods for our families.

**Higher property taxes from sprawl development affect us each personally. The long-term erosion of the character and quality to our community from sprawl is the greater threat.**

**Once the village of Cross Plains becomes the Geography of Nowhere, property tax relief alone will not restore its character.**

Our vision for Dane County is to promote and protect:

- ◆ High wage, family-supporting jobs
- ◆ Affordable housing costs, including reasonable property taxes
- ◆ Safe, clean communities and neighborhoods
- ◆ Efficient, responsive government
- ◆ Farms and farm families of the county
- ◆ Efficient transportation with minimal traffic and congestion
- ◆ Clean air, water, and parks
- ◆ Good fishing, hunting, boating, biking, skiing, and other outdoor recreational opportunities

## OUR VALUES

Solutions to our community and land protection problems should be consistent with our values:

- ▶ **Honesty**; we should be honest about how our tax money is being spent.
- ▶ **Fairness**; those who benefit disproportionately should pay their fair share.
- ▶ **Responsibility**; how we treat the land today determines the health of our community tomorrow.
- ▶ **Community**; our responsibility to each other and the land.
- ▶ **Foresight**; we should plan for the future of our communities.
- ▶ **Efficiency**; we should build where it costs us all the least and is most beneficial to our communities.
- ▶ **Economy**; cost of housing, including property taxes, should be reasonable.

**Sprawl development may be incompatible with our values and, in fact, may undermine our vision for the Dane County community.**

## PRACTICAL SOLUTIONS: WHAT YOU CAN DO

1. **Ask for Property Tax Impact Statements** on all new development projects to help weigh the costs and benefits of new development. Ask your city, town, village plan commission, and county board to perform a Property Tax Impact Statement before each new development is considered for approval to determine what new development will cost in schools, roads, fire, police, water, sewer, parks, and other tax costs.
2. **Support good planning and land-use decisions** to guide building where it costs the least and is most efficient and beneficial to our communities. Citizens can support and live in cost-effective compact developments in existing cities and villages where possible, like Marshall Erdman's Middleton Hills project, rather than scattered sprawl projects.
3. **Support purchasing parks, conservation lands, trails, and green space** to protect these areas from development.
4. **Acquire development rights from farmers** on key threatened lands, such as those near Verona and Sun Prairie, and also in the towns of Westport, Middleton and Oregon to keep productive farms a viable part of the county's economy.
5. **Support county board members' and executives decisions'** to control expensive, scattered, and unsewered development.



## **CONCLUSION**

Property taxes continue to rise despite efforts to lower them. If our land use decisions continue without a long-range vision or concrete plans to achieve that vision, the situation will only get worse. It appears that each new home may cost you \$5,000 to 10,000 in increased property taxes.

Property developers do not pay the full cost of building, servicing, and maintaining homes. Therefore, they should not have exclusive rights to do whatever they want with the land.

Property taxpayers and citizens who want to protect their communities should work with their local units of government to assess the full costs of sprawl in economic and other terms.

The community has the right to know how much sprawl costs, and to direct development to where it costs the community the least and provides the greatest benefits. It is only fair to ask those who benefit from new home building to pay their share of the new taxes. If we are going to keep home ownership affordable in Dane County and Wisconsin, we must assess all the costs of new developments. These assessments must be conducted before the new developments are built and the taxpayers become committed to the long-term costs of servicing them. We must assess the home and tax costs and do the best to balance each.

If we do this, there is some hope of controlling taxes and protecting our communities.

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# commonground

Dedicated to public involvement in the development of rational land-use policy

Volume 2, Number 2 Winter 1998



## IN THIS ISSUE

Strong opinions —  
but interactive priorities ...  
what the people want in their  
communities.

You can get there from here,  
but it won't be easy ...  
DOT's Chuck Thompson,  
Kenosha's John Antaramian  
and SEWRPC's Phil Evenson  
look at transportation  
planning.

Annexation, COM 83, sewers  
... planners and local officials  
have a full plate.



# Common Ground

## A Welcome To Our Readers

Reader response to the first issue of *On Common Ground* was enthusiastic and gratifying. We appreciate and thank all of you who took the time to e-mail, write and call us with your comments about the magazine and about zoning in Wisconsin.

Our second issue takes a closer look at planning. In the process of compiling and editing the articles for this edition of *On Common Ground*, it became apparent that Wisconsinites want more planning. It is also apparent, however, that there are significant differences of opinion about planning itself — e.g., who ought to be involved in the process, what values ought to drive the process,

what goals are appropriate, how should the results be implemented, and what should be done with regard to appeals and exceptions. The Wisconsin dialogue about planning was going on long before we got there. It is a mature, healthy and often heated discussion. We enjoyed listening in and learning. We hope you will too.

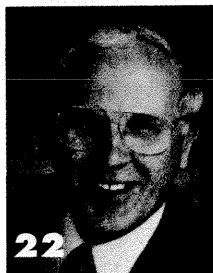
We covered a lot of ground. We know there's a lot more out there and we're hoping that you will help us do an even better job by continuing to share your thoughts, concerns and ideas with us. Thank you.

## CONTRIBUTORS



**Philip Evenson**, executive director of the Southeastern Wisconsin Regional Planning Commission (SWRPC) and an active member of the American Institute of Certified Planners, opens the first portion of our regular "Talking Across the Fence" forum with a look at the role of regional planning commissions in transportation planning in Wisconsin. Prior to joining SWRPC in 1967, Mr. Evenson worked for a Madison-based private consulting firm, providing a wide variety of planning

services to Wisconsin communities. He held several commission positions, focusing both on comprehensive regional planning and the provision of planning services to local communities, before becoming executive director in 1997.



**Charles Thompson**, appointed in January 1992 by Governor Tommy Thompson to serve as secretary for the Wisconsin Department of Transportation (WisDOT), provides insight into the state's role in the issue of transportation planning in the second of three articles in our "Talking Across the Fence" feature. Secretary Thompson is active in many national and state organizations, including, but not limited to, a position in the American Association of State Highway and Transportation Officials and a member of the

Wisconsin Land Use Task Force. His expertise, interests and experience in the public and private sectors bring a diverse perspective to the WisDOT.



**John Antaramian**, mayor of Kenosha, rounds out our "Talking Across the Fence" segment with his views on the role of municipalities in transportation planning. Mayor Antaramian earned bachelor of science degrees in economics and business management at the University of Wisconsin-Parkside. He is the 34th mayor for the city of Kenosha and the seventh since a mayoral form of government was reinstated in Kenosha in 1958. His career in politics began in 1982 when he was elected state

representative for Kenosha's 65th Assembly District and continued to serve that position for ten years.

### Brian Ohm and Mary Edwards

discuss the fiscal implications of annexation for cities, villages and towns in our regular "What's New" department. Mary Edwards, recent graduate of the Ph.D. program in



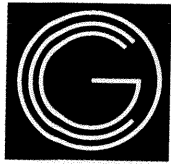
the Dept. of Urban and Regional Planning at UW-Madison, is program manager for the Wisconsin Land Use Research Program which focuses on the impacts of development on the urban fringe. Brian Ohm, assistant professor in the Department of Urban and Regional Planning at UW-Madison, is a specialist in land-use law with UW Extension.

**Paul Kent**, chair of the Environment and Land Use Practice Group at the Madison law firm of DeWitt Ross & Stevens, discusses with readers the convergence of environmental law and land use law in the issue of storm water management. Mr. Kent's practice focuses on environmental regulatory matters including water, wetlands, site remediation, mining and tribal law. In addition to teaching the environmental law course at the University of Wisconsin Law School, Mr. Kent was recently elected president of the Dane County Bar Association.



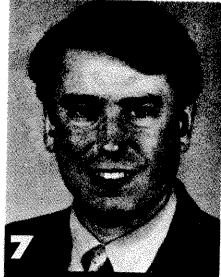
**Charles Kell**, president of the Wisconsin Chapter of the American Planning Association (WAPA), shares his views on the strengths and weaknesses of planning in our state in our "In My Opinion" column. Mr. Kell is director of the Portage County Planning and Zoning Department in Stevens Point and is serving his third elected term as president of WAPA.





February 1998

# CONTENTS



7



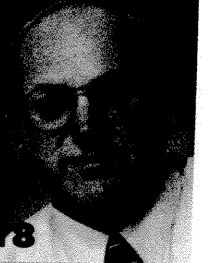
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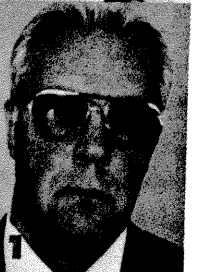
11



14



18



19

A Welcome to Our Readers • 2

## Voice of the People

"I'd Like It All But, If I Really Had To Choose . . . • 4

It Ain't Easy Being Them

. . . And Planning Is One Reason Why! • 7

A Tale of Two Cities • 9

## Front and Center: Planning

That Was Then . . . This Is Now • 11

Boundary Agreements: An Alternative to Annexation? • 13

TDRs Getting Attention

in Farmland Preservation Efforts • 15

Cooperation Driving Force in Sewer District Win • 18

COM 83 Pandora's Box or Panacea? • 20

## Regular Features

Talking Across the Fence • 22

What's New • 29

## The Policy Arena

Capitol Watch • 31

Surveying the Land • 32

In My Opinion • 33

**Editor's Note** — Due to the expanded "Front and Center" and "Talking Across the Fence" columns in this edition, the "Washington Perspective" feature does not appear in this magazine. This column will resume next quarter.

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# "I'd Like It All But, If I REALLY Had To Choose . . ."

In its ongoing effort to give citizens a voice in the debate about land-use issues that so profoundly affect the quality of life in their communities, the On Common Ground Foundation conducted the second in a regular series of surveys. *On Common Ground* invited citizens to rate their local area on its ability to deliver on the basic necessities and amenities that make a difference. Respondents were also asked to balance the qualities they want against some of the costs that those choices might entail.

The citizens of Wisconsin don't make decisions about the quality of life in their communities in a vacuum. They don't look at one issue at a time, and they don't make static choices. Residents have fundamental priorities, including educational and economic opportunities and affordable shelter, but they want aesthetic and environmental benefits, convenience and personal choice, too.

## If it's not broke, don't fix it?

Planners, policy makers and elected officials may wish to note that large majorities of Wisconsin residents are happy with the quality of life in their communities. Respondents were asked to describe how satisfied they were with each of 12 key aspects of life, including access to quality education, access to secure, good paying jobs, affordable housing to buy, affordable housing to rent, open/green space, low density housing, lack of traffic problems, availability of larger homes, preserving agricultural land, access to shopping and entertainment and access to public transportation.

Respondents express very high levels of satisfaction with these important aspects of life in the communities where they live. For example, nine out of 10 people are satisfied with the quality of the public education in their areas — two out of three are very satisfied. Similarly, Wisconsin communities receive an 87 percent positive rating on their ability to provide access to shopping and entertainment and prevent traffic problems.

Citizens say that important matters like access to secure, good paying jobs (80 percent), affordable housing to buy (83 percent), preserving agricultural land (77 percent) and maintaining open spaces and green spaces (85 percent) are being successfully managed by Wisconsin communities. Communities receive their lowest satisfaction ratings for affordability of rental housing (66 percent) and public transportation (58 percent), although it is important to note that they are also lower on the priority scale, overall.

These high levels of satisfaction represent a vote of confidence for the job being done by local and state officials. They may also help to explain why most public hearings do not attract a large number of citizens. At a minimum, they suggest that planners and/or local officials contemplating changes that affect any of these community defining elements will have their work cut out for them in helping the public understand the need for, and benefits of, the changes being proposed.

## Priorities

Levels of satisfaction do not always shed light on public priorities. Some people may, for example, be satisfied with the availability of rental housing simply because they do not believe the availability of affordable rental housing is very important.

Wisconsin respondents prioritize on the basis of first things first. The most important issues of concern are the basics of economic opportunity and security — they value quality public education, secure, good paying jobs and affordable housing. Eight out of 10 respondents say that public education and secure, good paying jobs are important aspects of where they live (82 percent and 80 percent respectively). More than three fourths (78 percent) say that affordable housing to buy is an important quality for them. While affordable rental housing is a relatively low priority for those who already own their own homes (a majority of Wisconsin residents), it is important to almost nine out of 10 renters.

**economic opportunity and affordable shelter are fundamental priorities for citizens of Wisconsin, but quality of life is also defined by aesthetic and environmental values and personal choice. Land-use choices are likely to be viewed in light of how they affect all of these issues.**

After education and economics, Wisconsin residents want access and convenience. Eight out of 10 respondents say that preventing traffic problems is an important issue for them personally. Almost two out of three people (62 percent) report that access to shopping and entertainment are important.

Environmental issues are important, too. Preserving agricultural space (78 percent), maintaining open spaces and green space (74 percent) and low density housing (69 percent) are features that the

public values. Lower in the rankings are public transportation (43 percent) and availability of larger homes (27 percent).

## Making choices

Once again, however, it is important to note that citizens view land use as an interactive process. Their priorities and choices change depending upon the circumstances. All of these issues are relative in importance, depending on how much people believe they must sacrifice to secure each one. And the public's assessment of land-use policies are profoundly influenced by their shifting and interactive priorities.

From the public's point of view, factors most likely to affect opinions about land-use options are:

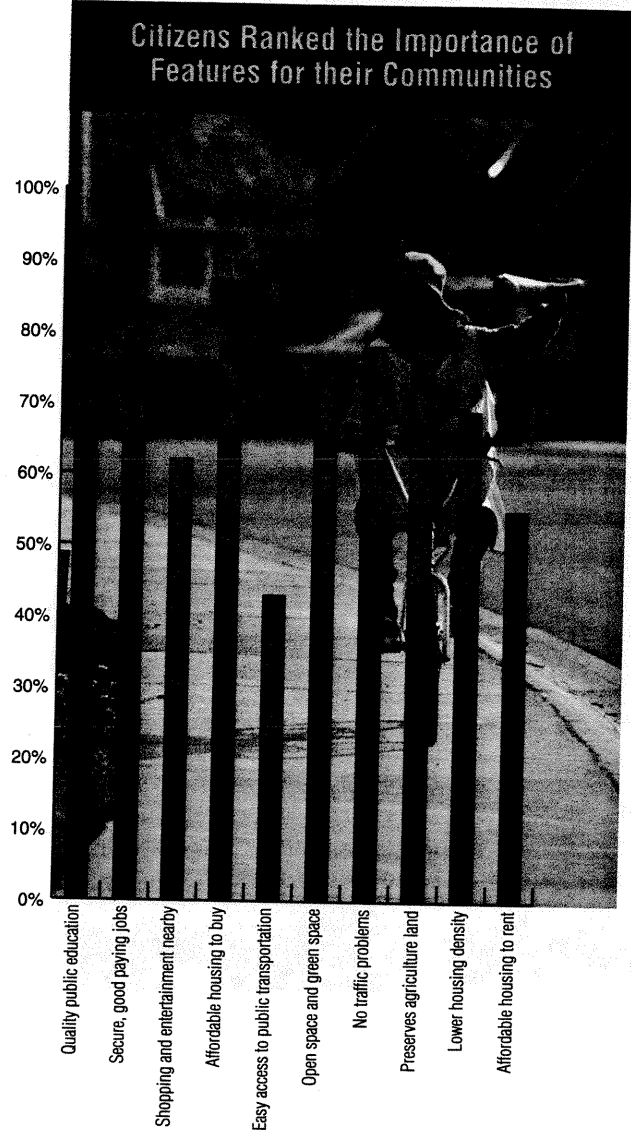
- How a planning decision will affect their access to quality education and jobs;
- Whether or not that decision is likely to increase costs to residents, that is, higher taxes, higher mortgages, higher rents; and
- How that decision affects their personal environment, that is, the aesthetics, the physical environment, safety, access to shopping and entertainment, traffic congestion and individual property rights.

To be able to maximize their economic situation, secure good jobs and gain access to quality education, people are willing, within limits, to accept mixed housing and business development and longer commutes. Once they have secured the basics they will seek to address other issues of importance to the quality of their lives.

## Accepting trade-offs

Wisconsin residents adjust their priorities to maximize their ability to secure the most important qualities they look for in a community. Nothing is so important that it will not be compromised if the price gets high enough. Education, economic security and opportunity and access to affordable housing are the public's most important concerns. People are willing to accept some aesthetic and convenience trade-offs to obtain these basic quality of life benefits. Yet, aesthetics, environmental quality, conveniences and personal choice remain important, and citizens will continue to seek them. The public assessment of land-use policies is profoundly influenced by this set of shifting and interactive priorities.

For example, 78 percent of people participating in this study report say that it is important to them personally to have access to affordable housing to buy. Because this is an important enough goal for most people, they will compromise other desirable qualities to obtain it. A majority of respondents who place affordable housing on the priority list are willing to live in an area of mixed housing — apartments, condominiums and single-family housing (57 percent). Many are willing to accept less green space



(52 percent) and some compromises in environmental protection (57 percent). On the other hand, when affordability requires compromises in the quality of education, almost two out of three people (63 percent) are unwilling to pay the price.

Similarly, eight in 10 people think that access to secure, good paying jobs is important. But 38 percent of these people are not willing to live in closer, denser packed housing to obtain that benefit. More than half (53 percent) are unwilling to forego green space or parks and two people in five (41 percent) reject longer commutes and traffic congestion. This is one of the most vivid examples of the tension between economics and aesthetics or convenience in public choices and clear evidence that people's choices are interactive.

Access to quality education is of premier importance to the citizens of Wisconsin, and people report that they are more willing to sacrifice other priorities to secure it. Two-thirds of those who list it

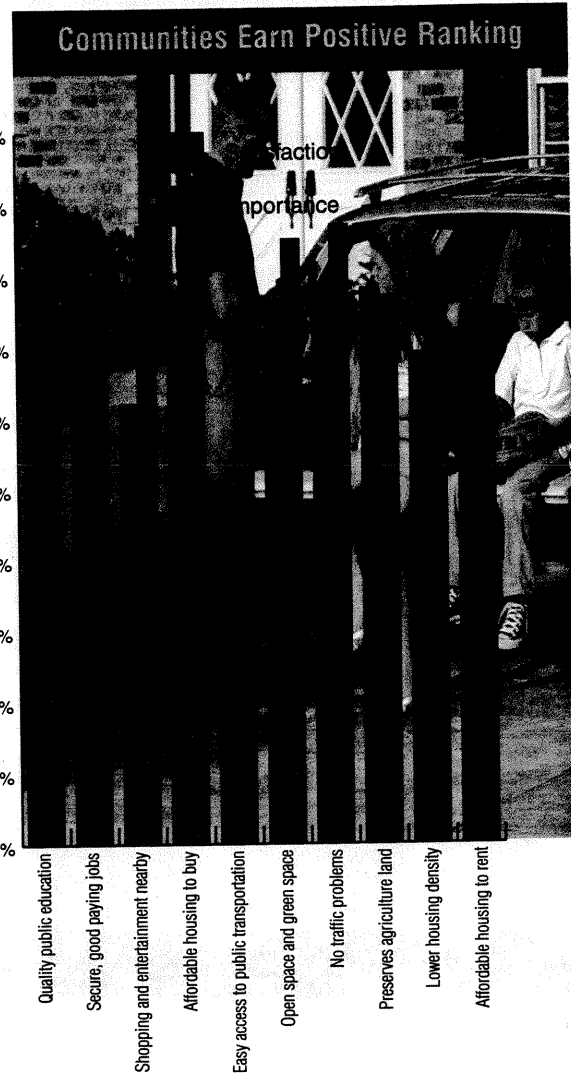


among their priorities, are willing to pay significantly higher property taxes, higher mortgages and higher rent. Nevertheless planners may wish to note that almost one-third of Wisconsin residents are prepared to sacrifice some access to educational opportunities on economic grounds.

Green space and open space is important to 74 percent of survey respondents. But when they are asked to accept restrictions on how they can use their land, more than half (55 percent) of the people say that open space is not worth the price. Likewise, two-thirds report that they don't want open spaces enough to accept reduced shopping and other convenience options.

On the other hand, access to shopping is not immune to erosion when the trade-offs are increased traffic congestion, or mixed residential and commercial development. Fifty-five percent of people who want access to shopping say it is not important enough to them to accept increased traffic congestion, and 44 percent say it is not important enough that they would be willing to live in mixed residential-commercial developments.

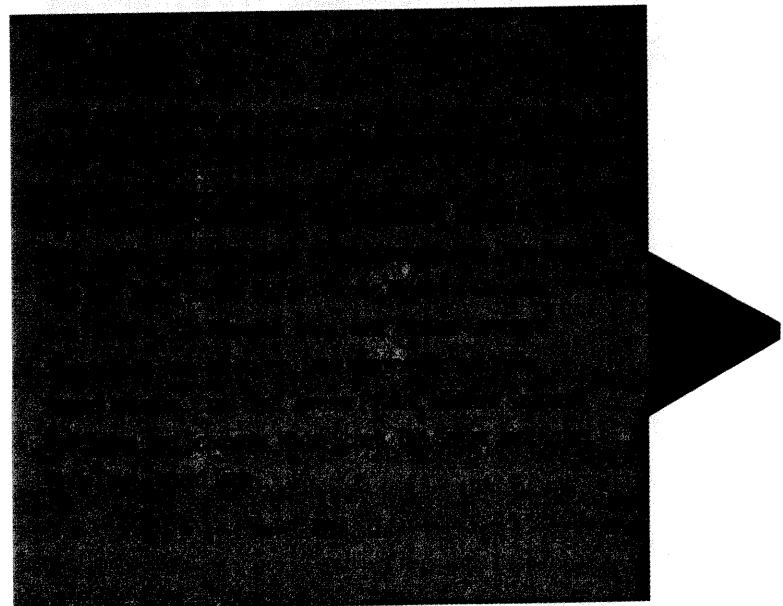
In short, while respondents in this study have expectations and priorities, their priorities tend to be situational rather than fixed. And it is this reality — this world where priorities shift according to circumstances — that necessarily complicates the planning process in a democracy.

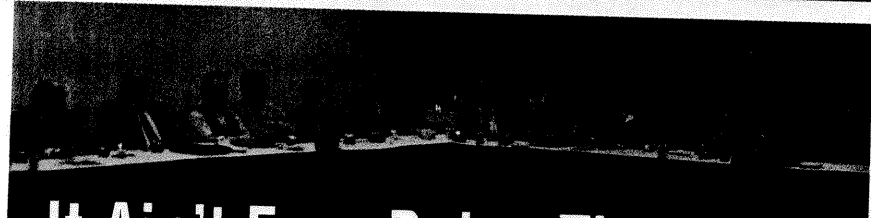


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We would like to remind our readers that the all information in *On Common Ground* is available on the internet for viewing, downloading and reprinting.





# It Ain't Easy Being Them

# ... and Planning is One Reason Why!

by Tom Still

OCONOMOWOC — Chinese patriot Sun Yat-Sen observed nearly a century ago that when building a nation, "it is not the practical workers but the idealists and planners that are difficult to find."

Difficult to find, even harder to sustain.

More than 30 of Wisconsin's front-line idealists and planners came together in Oconomowoc last month to talk about the challenges inherent in balancing a community's need for strategic planning with the often-competing realities of public values, intergovernmental rivalries and policies or laws that may have outlived their usefulness.

Some of the idealists who gathered in Oconomowoc on that chilly January morning were planners by trade, but the rest answered to titles such as "Madame Mayor," "Mr. Supervisor" or "Mr. Chairman." They were local officials drawn to the On Common Ground roundtable to hear the results of a statewide poll on what people hope to see in the community where they live — and to talk about how that public "wish list" can be fulfilled by planners and decision-makers.

Here are the highlights of the On Common Ground roundtable, the second in a statewide series that began last fall in Stevens Point:

### 1. Good planning must take place in a world driven by situational ethics.

The poll showed that most people in Wisconsin have a clear vision of what they would like to see in their community — but they are willing to juggle their philosophical pecking order to meet practical demands. For example, most people will accept mixed housing and some traffic problems if they think the trade-off is affordable housing, access to



good jobs and public schools, and a generally high-quality environment.

The facilitator told the group, "You get shifts in the (philosophical goals) based on circumstances. People run their personal concerns and assessments against their own philosophies."

People may be happy about some characteristics of their community — but not see those characteristics as all that important in the grand scheme of things. Conversely, if people are unhappy about other aspects that they value more

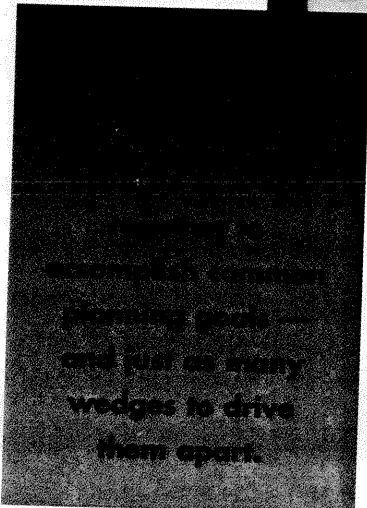
highly, they may fault policy-makers for not doing the right thing.

"By and large, communities will make the right decisions — so long as there's not an economic disadvantage to their residents," observed Mayor Kate Bloomberg of Brookfield.

### 2. The unofficial motto of Wisconsin cities: Grow or die.

Some of the mayors said they feel as if their planning options are limited by the overarching need to expand their tax bases — preferably by adding expensive homes in areas that won't require many services, and at the expense of mixed housing and heavier densities.

"There is no incentive to look at low-income housing" because cities are "punished" by state policies or their neighbors for doing so, said Mayor John Antaramian of Kenosha. "Cities will continue to expand as best they can," usually through annexation if they are not landlocked. "Those that don't will die."



Mayor Carol Opel of Waukesha agreed and added: "Unless you have the vision and the ability to do the long-term strategic planning that supports mixed-use development, the municipality will be in trouble. Unless you provide all those kinds of choices, you're hurting the future."

**3. Be careful what you ask for — you might get it.**

Some roundtable participants said they believe the state Legislature should change Wisconsin's 19th century annexation laws as well as statutes governing how towns relate to municipalities and counties. Others said there should be two classifications of towns — urban and rural — to legally acknowledge the different challenges facing towns that exist in the shadow of municipalities.

But still others cautioned that until cities, counties and towns are clear on what they want to accomplish, they're better off not asking the Legislature to do anything.

"I would rather trust the towns and counties," said Kenosha's Antaramian.

"The state is inconsistent," added Waukesha's Opel. "The state sends out mixed messages all the time" in the form of conflicting tax, annexation, land use, development and environmental policies.

When the group was asked at the end of the day if it had a message for the Legislature, one participant responded, "Leave us alone." Another answered, "Be consistent." And a lot of heads nodded.

**4. State government should provide guidance and tools, but not mandates.**

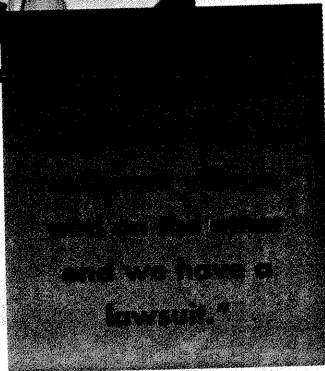
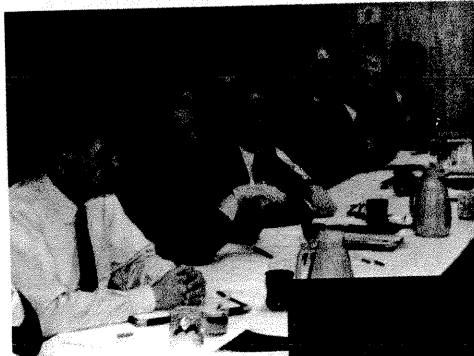
Some local officials said they think Madison could help them come to grips with planning decisions by providing assistance that falls short of more laws dictating intergovernmental relationships.

In Port Washington, for example, a state policy allowing cooperative boundary agreements had led to some planning success between the city, the school district and towns.

"We're trying to find some common ground for planning," said Mary Kay Buratti, director of planning and development for Port Washington. "I wish we had more of these kinds of tools ..."

Roland Tonn, a planner from Oconomowoc, said he would like to see the state develop an "urban ethic" — a set of guidelines that would give cities a basic sense of direction without binding those municipalities to follow a particular course.

Another suggestion: Some communities, especially towns, don't have the resources to conduct effective planning. The state could lend a hand or become a clearinghouse for technical information.



**5. Cooperative local planning is like a family reunion — it only works if everyone agrees to behave.**

There are plenty of reasons for cities, villages, towns and counties to work together to accomplish common planning goals — and just as many wedges to drive them apart. For example, roundtable participants from urban areas expressed their deep-seated belief that cities subsidize town services; towns officials expressed just as much disbelief.

"On one end of town we have an agreement with an adjacent village," remarked Sharon Lear of the town of Genesee in southern Wisconsin, "and on the other end we have a lawsuit."

Phil Salkin of Verona, who is a member of the Dane County Board, drew laughter when he wisecracked, "I come from a county of 400,000 professional planners." But other participants also knew instinctively the point Salkin was making: There are citizens who view local plans as guidelines that evolve naturally over time, and just as many who see them as rigid, unyielding documents. Local officials cannot make both camps happy.

**6. Try to achieve the small victories and the big victories will follow.**

Sweeping changes in state law will not happen overnight, but communities can learn from other communities by modeling effective strategies and finding common ground, even if it's only a toehold.

Planners offered advice to elected officials:

"We need to remember that planning is cost effective and planning is all about consensus-building," said Brad Contrell, director of planning for the city of Janesville. "If you have a good plan, you're put in the position of reacting to events a lot less often."

And elected officials counseled the planners:

"You have to advocate for good planning principles, and don't be discouraged by the ambivalence of human experience," said Brookfield's Bloomberg.

Finally, everyone agreed to continue the conversation.

Roundtable participants agreed that more communication is needed between organizations representing various local governments, such as the Alliance of Cities, League of Municipalities, Wisconsin Counties Association and Wisconsin Towns Association. More talk doesn't necessarily make for a happier "family," but it's a start.



Tom Still is the associate editor of the Wisconsin State Journal in Madison.



# A TALE of Two Cities

by Genie Campbell



## Richland Center, even the hills are at stake

Jeanne Hynek, a lifelong resident of Richland Center who owns and operates a local print shop with her husband, Jean, hadn't thought too much about land-use planning until she read about a proposal that would alter forever a hill on the east side of town, visible from Highway 14.

The property owner intended to carve out a section of the hill before erecting an office building. The area had already been commercially zoned. Nearby are two fast-food restaurants. But the tree-lined hills surrounding Richland Center are sacred to a growing number of people living in that scenic southwest portion of the state deemed the Driftless Region, land untouched by glaciers that swept across most of the state during the Ice Age.

"We have such a beautiful area around here, but we won't if we don't do something to preserve it," says Hynek, who describes herself as a "low-key" person who, for most of her nearly 50 years, "sat back without saying anything" when she saw things she didn't like happening in the community.

Not this time.

Hynek started a petition to save the hill. Realizing rhetoric would drive the discussion but not solve the issue, she did some computing, too. For a one-time "tax shot" of \$40 per family, the city of a little more than 5,000 people could buy the hill.

As it turned out, nobody was assessed, but Richland Center did recently close on the 30-acre vertical parcel, using contingency funds for half the purchase price of \$50,000. The remaining money came from a state grant filtered through the Department of Natural Resources.

Mayor Tom McCarthy, a barber by trade, admits that a city the size of Richland Center can't go out every day and purchase a hill.

"There were a whole range of feelings whether it should or shouldn't be done and certainly there are other places where that money could have been used. But that was a real pertinent issue," he says. "We had to take the money out of funds set aside and luckily a 50-percent grant from the state helped quite a bit."

Whether the city had bought the hill or not, that debate along with other recent controversial land issues, has made McCarthy and other public officials here realize that "updating land-use plans" is imperative for Richland Center.

"We are on the cutting edge of some serious decisions that are going to affect us for forever," says Sue Leyda, executive director of Richland Center's Chamber Main Street Partnership. Because our topography changes so much from the southeast corner to the northwest corner, we can't do one-size fits all zoning."

When "housing" was placed at the top of the city's priority list during a recent economic development meeting, Leyda spoke up: "I said to them, 'no, it's not housing; it's land use. That tells you where to site the houses and if you don't do it right you're in trouble.'"

Like many small communities, Richland Center realizes some growth and development is inevitable.

People have this idyllic scene of moving to the country so "realistically, some of these valleys are going to be developed," says Richland Center resident Joe Koelsch, 74, who worked in radio for most of his adult life and now operates a small business with his son.

"But I don't believe protecting green space and family farms requires significantly higher property taxes. I think it's obtainable with good planning and the cooperation of a lot of people, not only on the local level, but county and state, too."

Koelsch believes maintaining affordable housing is very important to a community. And he believes everyone has the right to own a home. On the other hand, he questions the practicality and tastefulness of allowing huge homes to carve up the countryside.

"This may sound snobbish, but I think some of those houses are a terrible waste of resources," comments Koelsch.

"Talking about personal property rights is a very ticklish subject because you're stepping on other people's toes,"

**"It's not housing; it's land use. That tells you where to site the houses and if you don't do it right, you're in trouble."**

says Hynek. "People think they should be able to do what they want with their land." But to preserve green space, "guidelines have to be set."

### La Crosse, trade-offs surface over new highway

The city of La Crosse has more than 10 times the population of Richland Center. Yet the growing pains of the two municipalities are more alike than they are different. Like Richland Center, La Crosse has a bustling downtown and a scenic, rolling topography of bluffs and valleys, both of which are considered vital to the well being of the community.

And like its neighbor 75 miles to the southeast, La Crosse is busy drawing up its first comprehensive land-use plan, which is expected to be completed March 1.

Though it will address the city's need to nurture a thriving urban setting within a unique landscape, the horse is already out of the barn, so to speak. No plan will lessen the swirling controversy surrounding a proposal for a new artery through the downtown district.

In recent years, no building project has a greater propensity to pit neighbor against neighbor than the suggestion a new highway be built.

While an improved north/south corridor through La Crosse has been talked about for decades, city officials deemed it imperative after the widening of U.S. Highway 53, from the city limits north to Holmen, about eight years ago.

"This area (greater metropolitan La Crosse) has grown by about 1,000 people a year and while the infrastructure, housing and water/sewer systems have been able to keep pace with that growth, the road system was never designed to handle the volume of traffic," says Tim Tracy, president of the La Crosse Area Chamber of Commerce. Today, there are 6,000 more cars registered in the county than there were in 1990.

But of even greater concern than the growing number of vehicles on the roads is the skyrocketing increase in the rate of accidents as people, trying to get to the north end of town, where a large mall is located, take shortcuts through neighborhoods that aren't designed to handle heavy traffic, says Tracy. Safety is a big issue, not only for drivers, but also for pedestrians and bicyclists.

But so is destroying marsh land to build a road.

Twenty-six-year-old Chad Hess, a University of Wisconsin-Eau Claire graduate, who rents half a house on the south side of La Crosse and works downtown, is sympathetic to both sides of the controversy.

Keeping downtown La Crosse vibrant and alive is very important, he believes. Though he chooses to live on the outskirts of the city where rent is cheaper and access to grocery stores more convenient, he enjoys working downtown and often takes advantage of entertainment offered there. While he doesn't



mind driving longer distances or in heavier traffic, he knows safety is a big concern.

But preserving the marsh land is also vital, he maintains. "It's like Central Park in New York. It sits in the middle of everything."

Is improved mass transit part of the solution?

That should be part of the equation, agrees Hess. However, he doubts he would use it unless it was every bit as convenient or more convenient than driving. "The only time I've ever taken the bus," says Hess, "is when my car broke down. A lot of us don't need our cars (during the day) and it would be nice not to have to pay for parking. But I'd only take the bus if it didn't alter my lifestyle." For Hess, that includes not having to get up an extra hour in the morning to catch it.

Hess wishes some of the land-use problems facing La Crosse today could have been anticipated 50 years ago so better planning could have been done. In fact, talk about a new highway conversion in the city dates back to the '40s.

There is no perfect solution, admits Tracy. The chamber is backing a plan in which "everyone gets something they want even if it's not everything they want." Compromise rules the day. For instance, in exchange for the 24 acres affected by the proposed two-and-a-half-mile stretch of highway, another 1,000 acres would be deeded in perpetuity to the Department of Natural Resources.

Adds Tracy: "I think that's a pretty good trade-off."

*There is no perfect solution, everyone gets something they want even if it's not everything they want."*



Free-lance writer Genie Campbell writes a weekly business column for the Wisconsin State Journal and is co-author of *The Insiders' Guide To Madison*.

# That Was THEN . . . This Is NOW

## A Historical Perspective on PLANNING and a Look at Some Current Changes

by Cliff Miller

In 1917 Wisconsin gave cities and villages zoning powers. In the 1950s the Legislature adopted laws for creating regional planning commissions.

It has been 30 years since Gov. Warren Knowles assigned Lawrence University President Curtis Tarr and an eager gaggle of citizens and public officials to study local government finance and operations.

They proposed improving laws on how municipalities expand their boundaries, make better use of regional planning and encourage area-wide municipal service systems.

Since the Tarr Task Force, governors and the Legislature have created a half dozen or more committees or commissions to study assorted planning and land-use issues. Some confronted them head-on, exploring local and regional planning, zoning and boundary law reforms. Others chipped at the edges in studies of mass transit, state-local relations, local intergovernmental cooperation and other issues.

Today some pundits and activists are predicting THE issue for the balance of the decade and the start of the next century will be land use.

They are a little late.

Land use has been an issue for decades. The difficulty has been not in recognizing its importance but doing anything about it.

But some veteran land-use specialists believe the time is or soon will be ripe for a breakthrough and that it will start at the grass roots rather than the state government level.

Harland Kiesow is director of the East Central Wisconsin Regional Planning Commission based in the Fox River Valley. The force that

is boosting public interest in planning is growth, he says. As more residential and other urban type development moves into the countryside, rural residents and government leaders grow increasingly interested in land-use issues, controls and planning, he says.

"In the past, the towns thought planning was a conspiracy. We had the Posse Comitatus at every meeting saying this is a Communist conspiracy." That has changed, he says. "There's a lot of interest from the local level now."

The planner's job is to anticipate the problems that come with population growth and urban expansion. "You try to minimize them through planning," says Kiesow. But unlike the 1970s when regional planning commissions were in their hey-day, pumped up with federal aid, today they tend to work on narrower issues such as transportation plans, sewer service plans, housing and the like.

Then something happens to draw the planners into the local limelight. "It takes a crisis situation to get anything to happen," he says. A town will show no interest in planning until a "factory" hog farm tries to move in. "All of a sudden there's a crisis and people say, 'Who let that in?'"

David Jelinski, state land and water resources coordinator in the Department of Agriculture, Trade and Consumer Protection, says he, too, sees development pressures building public interest. But he cautions that acting in crisis often is too emotion-laden for good results.

"Unless we are under pressure, under crisis, we don't sit down and talk about these things. And then in a moment of conflict we have to get through our emotions." The result often fails to meet the needs of the community, he says. "It becomes me versus you."

The truth is there has been plenty of "talk about these things" by state and local officials and citizens over the years.

Pieces of the 1960s Tarr report were introduced in the Senate in 1969 and the Assembly in 1971. The Senate passed the first bill, creating a state boundary review board. The Assembly killed that and then its own bill containing variations on the same theme.

Other task forces came and went during the 1970s. The Wisconsin Land Resources Committee or "Knowles Commission" and "Church Committee," named for their chairmen, wrote vast reports that the Legislature ignored. A 1972 governor's committee on mass transit recommended requiring local governments to adopt land-use plans to get state transit aid. The idea failed to get through the Legislature.

**Land use has been an issue for decades. The difficulty has been not in recognizing its importance but doing anything about it.**

Later in the 1970s, the Wallace Commission on State-Local Relations and Financing Policy took a shot at many of the same issues, with much the same result. Some of the Wallace Commission ideas were revived by a Legislative Council committee in 1982 but the legislative leaders who run the council couldn't muster enough votes to introduce the bill.

This litany of bold attempts leading mostly nowhere is recited in a report written for the most recent group to tackle land-use issues. Gov. Tommy Thompson's "Strategic Growth Task Force" was a committee of cabinet officials advised by a council of local government officials, professional planners and others.

The historical rundown and a summary of existing laws were written by the staff as the commission geared up in December, 1995, with this conclusion:

"Currently, planning and zoning are voluntary tools for local government land-use regulation, and some have opted not to employ these tools. There are no standards for land-use planning and no requirement that zoning follow planning.

"Although the need for land-use reforms and an update of statutes was strongly recommended several times in the past 40 years, a comprehensive revision of Wisconsin's land-use legislation has never occurred."

A little more than a year later the task force issued its own recommendations. Echoing conclusions dating at least to the Knowles Commission, the group declared the county is the level of government that should be at the center of land-use decisions. Counties would coordinate plans by municipal governments within their borders, with the state solely providing information and general guidance.

Unlike the previous commissions and committees whose ideas died of neglect or outright legislative hostility, Thompson's panel can boast of at least a little success.

The state budget adopted late last summer created a Wisconsin Land Council of state cabinet officers, local representatives, planners and others to supervise data collection and write uniform state policies.

Much of the job will be technical, as in creating a statewide mapping system showing present land uses as benchmarks for county and local planning.

Secretary of Administration Mark Bugher, who headed the task force in his previous role as Thompson's revenue secretary, says one of the council's jobs is "to assure that state government speaks with a single voice with respect to land use.

"We want to make sure the Department of Natural Resources and Department of Commerce are singing out of the same hymn book — and the Departments of Revenue and Transportation," he says.

Keeping them in their diverse roles from colliding won't be easy. But one thing they won't do is dictate to local government. The line between state and local functions is kept painstakingly sharp.

Bugher, a county board supervisor before joining the Thompson administration, says he and Thompson share a basic belief in local decision-making.

**The first failure we as professionals have is that we don't understand the strengths and opportunities that exist in present laws. "It is sort of frivolous to propose new laws until you understand what exists.**

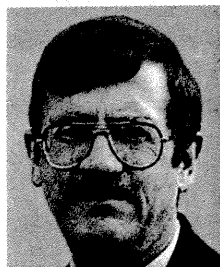
"People in Madison shouldn't be telling people out in the town of Acme someplace how to do land use."

Jelinski says a much unappreciated truth is that over the decades while the grand designs of task forces and commissions were stacking up on Capitol shelves, a host of laws on land use, planning, zoning and related matters have been written.

They are scattered throughout the statutes. The Thompson-Bugher task force staff discussed the massive job of drawing them together in some sort of "user's guide to land use" and Jelinski and others still believe that would be useful.

For example, he says counties long have had the power to draw comprehensive plans, but few have exercised it. "The first failure we as professionals have is that we don't understand the strengths and opportunities that exist in present laws.

"It is sort of frivolous to propose new laws until you understand what exists. I don't suggest there should be no new laws. I only suggest you need to understand what you've got first, then reform it as necessary."



*Cliff Miller has been a state capitol correspondent at the Post-Crescent of Appleton for 23 years as of February 2, 1998.*

# BOUNDARY AGREEMENTS:

## An Alternative to Annexation?

By Jeff Meyers

Wisconsin's annexation statute, formulated in the late 1950s, was enacted in an era when Wisconsin didn't have much scattered housing or rapidly developing towns. As demographic changes have swept over the state, the vagueness of the statute has led to frequent court fights over annexation and generated an incremental system of adjusting the boundaries of service areas. "The law has not been able to keep up," says George Hall, director of the Wisconsin Department of Administration's two-person Municipal Boundary Review section. "That's part of the friction between towns, cities and villages."

In 1992 the Wisconsin Legislature attempted to address the developing problem of annexation "wars" by adopting language providing for negotiated, or cooperative boundary agreements between adjacent jurisdictions. Thus far, the 1992 cooperative boundary agreement provision has resulted in only two pacts: one in Portage County between Stevens Point and the town of Plover; and one between the city of Janesville and the town of Rock in Rock County. The latter outlines public utility service to landowners affected by the proposed state Highway 11 bypass in Janesville and compensation to the town for declining tax revenues as town territory is attached to the city. Interesting lessons were learned in both cases, according to those involved.

The city of Stevens Point and its direct neighbor to the south, the town of Plover, for example, had been involved in their share of border wars. But in early 1994, annexation issues were being complicated by public health issues.

At that time, the owners and residents of parcels totaling 400 acres and containing 225 suburban homes began to consider whether

problems associated with inadequate septic systems outweighed the higher taxes that would come by being swallowed up by a city. And, to the west, those who relied on McDill Pond and the municipal well field of the nearby village of Whiting were worried about groundwater pollution moving from bad septic tanks to the west through the area's permeable, sandy soil.

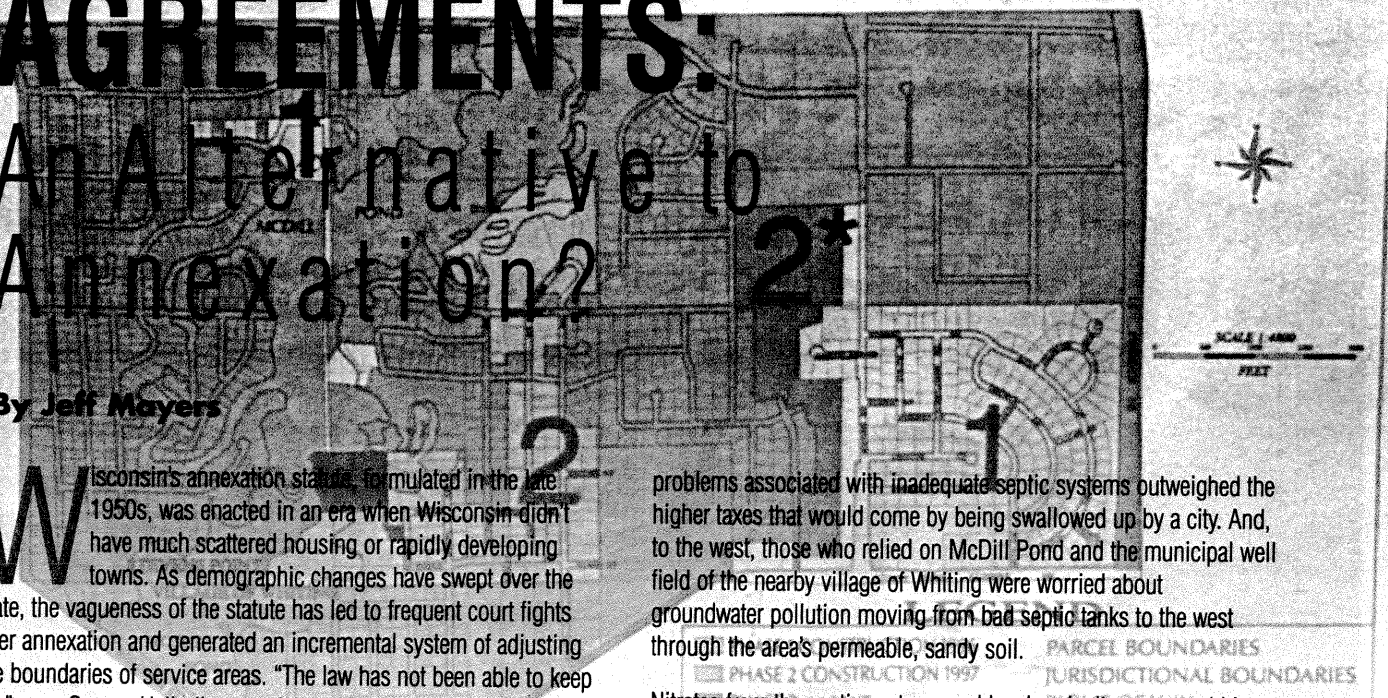
Nitrates from the septic systems and local agriculture were robbing some residents in the affected areas of the security of good, uncontaminated tap water. A review of private well water in the early 1990s showed that about 44 percent of the homes tested (25 percent of the 225 homes had their water tested) had nitrate levels exceeding the public health standard of 10 milligrams per liter. This is considered unsafe for infants less than 6 months old. Another 37 percent of the wells tested had nitrate levels between 5 and 10 milligrams per liter.

Then Stevens Point Mayor Scott Schultz, who was looking for a way to hook the homes to city water and sewer service without a protracted fight, decided that the 1992 modification of municipal law allowing for cooperative boundary agreements might provide the solution he was seeking. "He thought this might finally be the key to unlocking the door," recalls Daniel Mahoney, the Portage County senior planner who helped negotiate a complex agreement between the sides from June 1994, through December 1995.

The agreement, under which \$3.5 million in bonds went for the necessary infrastructure, went into effect early in 1996. Most of the 225 homes now are hooked up at an additional cost to each homeowner of about \$1,000 per year over the next 10 years, and in

**Many cities and villages are convinced of the need to expand their boundaries over time as the municipalities grow.**

SEWER AND WATER CONSTRUCTION PHASES FOR THE BOUNDARY ADJUSTMENT AREA



PARCEL BOUNDARIES JURISDICTIONAL BOUNDARIES PHASE 2 CONSTRUCTION 1997



a decade homeowners will be paying city of Stevens Point taxes. Mahoney says the commitment of Schultz and subsequent Stevens Point mayors and the Plover Town Board Chairman Robert Steinke — plus an open process that sought maximum public involvement and growing public sensitivity to the issue — helped turn the tide. “Enough people realized that the only thing that was going to happen was that the cost was going to go up (even higher),” says Mahoney in explaining the turning point, an October 1995, referendum that narrowly backed a negotiated agreement. After the advisory vote, an agreement came together by the end of 1995.

The Portage County experience seems to say common ground can be found in even the most perplexing situations, but cooperative

not right for a negotiated agreement,” he says. “Annexation will always be with us.”

Recognition of that fact is why municipal officials and state legislators are searching for ways to ease the surface tension associated with hostile annexations. Both Hall and Mahoney, the Portage County senior planner, note that some municipalities are seeking a safety valve without going the complicated route of the state-regulated boundary agreement. In effect, they are avoiding the use of the boundary agreement statute, 66.023, and taking advantage of the less demanding 66.30 section of the law governing general agreements. The latter is typically used for putting into effect joint police, fire and other municipal services, but using it for boundary agreements has yet to be tested in the courts. Hall, whose office doesn't review these agreements, says the general agreement section could be challenged.

While the cooperative boundary agreement process is a good option, Hall also is looking to state policy makers for “different strategies ... some training wheels” to foster more cooperation. Hall, a former consultant to towns, says towns “have come into their own” with the help of an effective state association. He says they have effectively made the case that they “are more than areas up for grabs.”

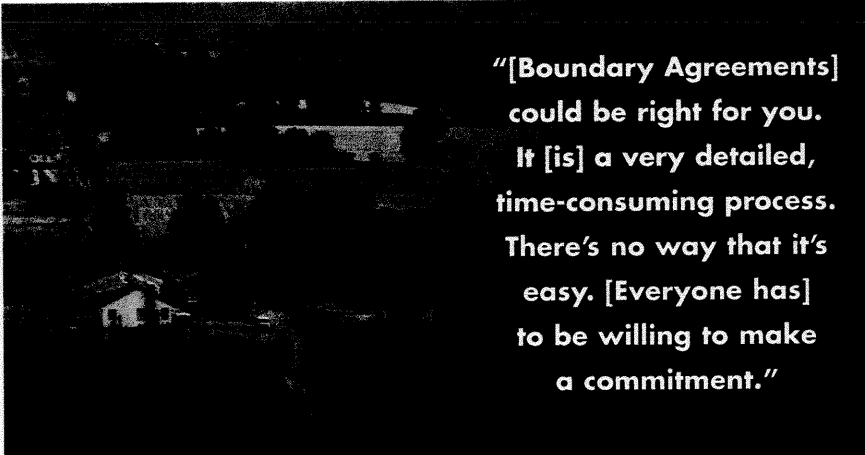
One reflection of town government's itch for respect is an effort by towns to carve out a new type of

local government called “urban towns.” Such entities, with populations of at least 7,500 and land values of at least \$360 million, could exercise village powers to address urban problems. Assembly Bill 114, sponsored by state Rep. Bonnie Ladwig, R-Caledonia, “deserves everyone's support because it will free our most urban towns from the distractions and uncertainties inherent in our state's current annexation laws,” David Holtze, chair of the Wisconsin Towns Association's Urban Towns Executive Committee, said in fall 1997 testimony to the Assembly Committee on Rural Affairs. “It is far more difficult for an urban town to plan, finance and manage municipal services if a huge chunk of its tax base can be lost at any time.”

But opponents felt just as strongly. Warren Utecht, a planner with the city of Appleton, says the proposed legislation would have “devastating consequences on the health and vitality of incorporated communities ... unless the state is prepared to heavily subsidize cities and villages for past infrastructure investments and future loss of tax revenues.”

Adds Utecht: “I recognize the dilemma that urban towns have regarding uncertainty of future growth and planning. Urban towns can remedy this, however, by incorporating. AB 114 is going too far to protect the interest of urban towns and could result in substantial

**continued on page 17**



**“[Boundary Agreements] could be right for you. It [is] a very detailed, time-consuming process. There's no way that it's easy. [Everyone has] to be willing to make a commitment.”**

boundary agreements haven't been widely used because of their complexity. While they eliminate individual landowner challenges, they must: be in effect for at least 10 years; raise state agency issues up front (state natural resources, transportation and agriculture agencies all may be involved); and involve intensive, comprehensive planning and delicate negotiations. But all of that is often better than court fights and open hostility. “It could be right for you,” Mahoney advises other localities. “It was a very detailed, time-consuming process. There's no way that it's easy. They've got to be willing to make a commitment.”

Increasingly, George Hall sees the state's Municipal Boundary Review section doing more mediating of boundary disputes. “My sense of our role is one of providing technical assistance, helping people resolve their problems,” he says. “With cooperative agreements, we're not in an adversarial situation.” He sees the Portage County agreement as “a real example of how the cooperative agreement statute can work,” and says the law has the potential “to slowly extinguish the need for annexation.”

Hall points out that 14 other agreements are in progress or being seriously considered by towns, cities, and villages in Barron, Dane, Dodge, Fond du Lac, Iowa, Kenosha, La Crosse, Racine, Washington, Waukesha and Wood counties. But he concedes, “We haven't seen any material effect yet.” Annexations are running at the rate of about 350 a year. “There's a lot of situations where the time is

# TDRs Getting Attention in Farmland Preservation Efforts

By Jeff Mayers

The desire for farmland protection isn't new — and neither are some of the concepts to achieve the goal. In fact, farmland preservation tools have been kicking around planning circles for years and have been used with some success for a decade or more in California, Washington, Maryland, New York, Pennsylvania and New Jersey. And today, those attending land-use discussions around Wisconsin are likely to find a veritable alphabet soup of farmland protection plans and ideas being served up for their consideration and consumption.

The most popular items on the farmland preservation policy menu today are TDRs (transfer of development rights), PDRs (purchase of development rights), PACEs (purchase of agricultural conservation easements), and APZs (agricultural protection zoning).

Thus far, few Wisconsin communities have sampled the various "alphabet soups." Dane County's town of Dunn residents implemented a PACE when they voted to tax themselves to create a pool of money to protect farmland. Started in 1996, one farm of 174 acres had been protected using \$248,000 in public money. No Wisconsin community has yet to create and run a comprehensive TDR program. Similar programs, however, have been started or seriously considered in Eau Claire County, the town of Summit in Waukesha County, and the town of Dunn in Dane County. And, three options outlined by Dane County's advisory TDR panel envisioned using the current one lot per 35 acre development standard *a la* APZ on exclusively zoned farmland in conjunction with TDRs.

However, Wisconsin policy makers, searching for workable tools to preserve the best of the state's farm heritage in rapidly growing areas such as Madison, are seriously considering institution of programs like those tested on the coasts to balance development and farmland preservation. And, as they do so, TDRs have garnered most of the attention.

Those who favor TDRs see them as sort of a free-market solution similar to the one that provides for the buying and selling of "pollution" credits. Underlying the program is

TDRs can be crafted in many different ways, but often a property owner in a designated "sending area" sells development rights to somebody in a designated "receiving area" who is seeking to add new building to an area that can handle increased density. Development restrictions are written into the deed. The price theoretically is based on supply and demand, but government can help spur the market through various means, such as restrictive zoning. However, all programs are voluntary in the sense that landowners are never legally compelled to buy or sell development rights. Most TDR transactions are between private landowners and developers. Substantial government cost doesn't enter the picture unless a TDR "bank" is formed to facilitate the initial buying of development rights before a market develops.

PDRs and PACEs both preserve vital farmland by compensating landowners for permanently limiting non-agricultural land uses. Typically, landowners sell the conservation rights to a government agency or private conservation group. The landowner usually is paid the difference between the value of the land for agriculture and the value of the land for development.

APZs are used primarily to restrict development. They could, for example, "downzone" an area by restricting development to one house per 35 acres rather than one house per five acres. Landowners often oppose this because it can reduce the perceived value of their property. "APZ can benefit farmers by preventing urbanization, but it may also reduce the fair market value of their land," says the American Farmland Trust. "When downzoning is combined with a TDR program, however, landowners can retain their equity by selling development rights."

[Note: The definitions are drawn from two helpful publications, American Farmland Trust's "Saving American Farmland. What Works" (call 800-370-4879 for a copy) and the May 1, 1996 report of the Dane County Transfer of Development Rights Advisory Committee (contact the Dane County Board office at 608-266-5758).]



## Front and Center: Planning

the theory that a property owner holds a "bundle" of rights, each "stick" of which can be separated from the bundle and sold. They have been used to preserve sensitive environmental lands, such as in the pinelands of New Jersey, historic districts and productive farmland by redirecting development potential to more suitable areas.

By 1997, more than 40 local U.S. jurisdictions offered TDR as a farmland protection option, according to American Farmland Trust, the only private, nonprofit conservation group dedicated to farmland preservation. One of the more successful efforts has been in Maryland, where nine counties have started a program. The most successful is in Montgomery County, Maryland, the home to many of the rapidly expanding Washington, D.C. northwest suburbs.



Begun in 1980, use of TDRs, restrictive zoning and a bank have resulted in the protection of nearly 40,000 acres, according to the Washington, D.C.-based trust. Transactions began in 1983 at an average price of \$2,500 per development right. In 1997, the average price had risen to \$10,500 per right. But in reality, the trust says, few TDR programs elsewhere have protected a significant amount of farmland. The best chances lie in places like Wisconsin where large blocks of land remain in farm use, experts say.

Dane County is one such area in Wisconsin and the county's interest in farmland preservation is understandable. According to Dane County's Vision 2020, between 1970 and 1995, the number of housing units in the county rose 77 percent to 164,500. That number is expected to grow an additional 29 percent to 212,400 units by 2020. The county's population, at about 398,000 in 1996, is expected to rise an additional 23 percent to 488,500 by 2020. Those houses and people have to go somewhere, and most often they have located on the fringes of the city of Madison, gobbling up some of the state's richest farmland and changing the way of life in much of once-rural Dane County.

Responding to these pressures, the county created a TDR Advisory Committee of elected officials, planners, academics and representatives of the real estate business. In 1996, that committee concluded that TDRs were a viable

tool for preserving agricultural lands and directing growth to areas appropriate for development because they could accomplish those goals while preserving private property rights. But the committee said TDRs "should be used in conjunction with other tools and existing programs, such as zoning, acquisition, urban service areas, tax incentives and the Farmland Preservation Program to accomplish its goals."

Subsequently, the Dane County Board in September, 1997, called for presentation of a pilot TDR program design and a list of interested Dane County municipalities by the end of March. But the program's primary promoter, county Supervisor Terese Berceau, of Madison, concedes even a working pilot program is still a long way from operation. Berceau, also a graduate student in land use at the UW-Madison, says the key lies in the willingness of local officials and their constituents.

"It's going to be up to the locals to decide whether they're going to adopt it," she says. "To a large degree it's determined by the willingness of communities to participate." Several communities have expressed interest, but Berceau says she would rather not name the communities until they achieve internal consensus. "I think it's ripe in the sense that people are looking for something other than onerous regulation," she says. "This really is not an additional restriction. It's a strengthening of growth management philosophy."

She admits that the initial reception from builders and others in the development community has been "very mixed," but she owes that to a general suspicion of government-initiated solutions. "They're always going to be leery of anything that could mean ... more difficulty in doing development where they want it," she says.



That suspicion is evident. One builder, Bill Flanagan, a Madison area builder, sees trouble ahead if TDRs are laid atop of exclusive farmland zoning's restriction of one building lot per 35 acres of land. "There's not a lot of building sites if you take all the acreage in the county," Flanagan says. "As growth continues — and we are going to have growth — when we are out of TDRs, the government will step in and require more TDRs," he says. He also has concerns about the tracking of these rights and the stability of rules associated with such a program. "If I sell my development rights now, I'll never have them again? I don't believe that," he says flatly. "I think we're trying to solve a problem by creating another one." The Madison Builders Association, however, has yet to develop a formal policy on Berceau's TDR initiative. "We see more cons than pros," adds Nancy Caldwell, executive director of the association.

The Dane County TDR Advisory Committee said it would be easiest to implement a program that would allow transfer of development rights within a municipality or between adjacent jurisdictions. A county-wide program, which likely would require state consent, would be much more difficult in part because of the broad consensus that would have to be forged. "Most elements of this program option would be mandatory," the report said. "Its success would depend on full participation from all 60 municipalities. Development in agricultural preservation areas would be difficult to impossible, essentially requiring landowners to sell TDRs to achieve

any non-farming return. Landowners in planned development areas would use TDRs to increase densities to profitable levels, or to achieve any development density whatsoever. Because of its breadth and complexity, the county-wide option would require a significant educational component."

As long as consensus on land-use issues remains elusive, a county-wide TDR program remains more vision than reality. That is confirmed by the national experience. The American Farmland Trust notes that over the past two decades more than 490,000 acres of farmland have been protected through PACE, while only 55,000 acres have been so protected by TDRs. Gathering political support is one thing. Getting the market to cooperate is another.

"The central challenge of TDR programs is to create a market for development rights, so that farmers have an incentive to sell them and developers have a reason to buy," the trust's 1997 report concluded. "TDR programs thrive on growth. Their purpose is to move new construction to different areas of the community, not stop it. Implementing a TDR program thus requires residents, conservationists, planners and local government officials to support higher-density development in receiving areas and to work with developers to facilitate the purchase and use of development rights."



## Annexation Continued from page 14

damage to cities, which need to be able to plan and grow into portions of surrounding towns. A much better approach to this dilemma is to encourage cities/villages and urban towns to develop boundary agreements as is now provided in the state statutes. The Legislature should create incentives to both cities/villages and towns to encourage the use of boundary agreements."

A recent legislative committee on land use recognized the dilemma but offered no quick fix. "From the local governmental perspective, the location of a municipal boundary is an issue of control and tax base," said the draft report of the Joint Legislative Council's Special Committee on Land Use Policies issued December 1, 1997. "Although cooperation without boundary changes is possible under current state law, many municipalities prefer direct control of the territory. Also, many cities and villages are convinced of the need to expand their boundaries over time as the municipalities grow, while many towns are equally concerned about the loss of territory through annexation.

"A challenge for the Legislature is to fashion a land-use system in which the perceived needs of local governmental units can be satisfied and the appropriate concerns of local government units can be met, whether or not municipal boundaries are changed." But the same report pointed out the many challenges faced by lawmakers

who attempt to move comprehensive legislation regarding annexation or any land-use question.

Jim Schneider, growth coordinator at UW-Extension's local government center, says state policies on municipal borders fail to take a proactive or regional approach so municipalities are "dealing with problems after they've arisen."

"I think the problem is one of dealing with governments. We have a lot of jurisdictions involved. It's tricky to make them work together," Schneider says. "You need to somehow have planning done on an area-wide basis.

"It remains to be seen how we will deal with development in the next decade," he adds. "For some major change, it's going to take ... legislative leadership."



*Jeff Mayers has a master's degree in water resources management from the University of Wisconsin-Madison and covers the legislature for the Wisconsin State Journal.*

# Cooperation Driving Force in Sewer District **WIN**

By Stan Milam

MOSINEE — When Guy Fredel signed on as the attorney for the Town of Kronenwetter just south of Wausau, he had no idea the job would eventually put him in the middle of a firestorm over one of the most controversial land-use issues imaginable — sewers.

The town's struggle also presented a dilemma for Fredel. He owns two homes in Kronenwetter with functioning septic systems. But, he was convinced a sanitary district would eventually be needed, and it was more cost effective to put it in sooner than later.

Fredel, who maintains a private law practice in Marathon and Mosinee, helped plan the sewer district and create two equally controversial referenda.

"This issue has a lot of history," Fredel said. "As far back as the 1980s, the Department of Natural Resources was warning that, at some point in the not too distant future, private systems in the area would begin failing."

The dizzying layers of local governments in the Wausau area tests the intellect. For example, the Rib Mountain Metro Sewage District operates a treatment plant that serves the towns of Rib Mountain and Kronenwetter and the villages of Weston and Rothschild.

Residents of Weston have a Schofield mailing address and live in the D.C. Everest school district. They receive water from Weston, but their sewage is treated by the Rib Mountain Metro Sewage District.

The connected municipalities of Weston, Rothschild and Schofield have three governing boards, three police departments, three fire departments, two libraries and two post offices. Yet they share a school district and a sewer system.

"Toward the end of the 1980s, some Town of Kronenwetter residents started experiencing septic system failures," Fredel said. "The first thing we needed to know was whether the town residents would support the establishment of a sanitary district.

"That didn't mean we were going to put in sewer lines right away," Fredel said. "But, we believed we desperately needed a district to plan for the day when we knew we would have to make that move."

The well publicized controversy surrounding the Kronenwetter Sanitary District starts with its establishment. Its ultimate success is due, in large part, to initial cooperation and long range planning by Town of Kronenwetter and Weston officials.

"Town officials saw an opportunity to create a win-win situation," Fredel said. "Back in 1988, Weston and Kronenwetter reached an agreement to

share the cost of the construction of a major sewer interceptor line along Highway XX."

The line was a breakthrough for the Town of Kronenwetter, which had 45 percent of its population and land value in a small area called Evergreen. The new interceptor ran along the north boundary of Evergreen.

Kronenwetter is one of the largest towns in Wisconsin. While most towns have 36 640-acre sections, Kronenwetter takes up 72 sections. But the

concentration of the town's \$163 million property value and its 5,200 population is in the three sections that make up the Evergreen area.



"We knew there was a looming problem for the town," Fredel said. "If we didn't do something about the sewer situation in Evergreen, there was the likelihood those residents there would move to annex into

Rothschild. That would leave us not only with 45 percent less population and property value, but having to make a \$500,000 to \$600,000 payment to the village."

Town officials decided to plan for a sanitary district.

"We had to choose whether to decide the issue with 51 percent of the people by land area or number of land owners," Fredel said. "If you go by land area, you run the risk of having a few landowners making all the decisions, but if you go with the number of land owners, it's a very time consuming project to get 51 percent."

It took sanitary district organizers two years to persuade enough land owners to form the district.

"We finally prevailed in November, 1992, when it was understood that it would take four to seven years to install water and sewer," Fredel said. "A majority of the residents agreed that it was important to have the district in place making plans in case we needed to install the system. It just doesn't happen overnight."

"This was not an easy plan to sell," Fredel said. "People were willing to form the district to begin the planning process, but there was considerable resistance to approving the system in such a short time."

To get the \$13 million project moving, the town board offered to provide \$1.5 million for the wells and reservoir needed to operate the sewer system.

Fredel describes the ensuing discussions to proceed with construction as "hand to hand combat." Public uproar reached such a peak that the project was voted down in 1993 by a 2-1 margin.

"The board agreed not to bring the issue up in another binding referendum for three years unless there was a health problem," Fredel said. "But then we realized the town's roads were nearing the end of their life, and there would be a considerable savings if we could install water and sewer when we reconstructed the roads."

The board presented another referendum last year—this one only advisory. The referendum read that unless more than 60 percent of voters voted against the project, the commissioners could proceed with construction. Fifty-seven percent voted against it and 43 percent were in favor.

"It certainly wasn't a mandate, but it was clear there was not overwhelming opposition," Fredel said. Following the referendum, the board approved the project and it began functioning in November.

As of January 15, only four of the 730 homes in the district have not hooked up.

"Two owners say they will hook up in the spring when they can afford it, one said he was not aware of the project and one, well, I guess you could say he's just stubborn," Fredel said.

The district set an assessment cap of \$6,900 for a single family residence.

Fredel described the debate as civil — even among those who opposed the project.

"They were telling us this was something we needed as we look to the future," said Joe McCollough, a 72-year-old retired Wausau Insurance executive. "At my stage in life, I'm not sure I'll live long enough to see these future benefits."

McCollough owns a three bedroom ranch house on two half-acre lots. He says that by the time he pays his assessments and hookups, he'll have to spend about \$25,000.

"I'm paying \$25,000 for something I don't want and don't need," McCollough said. "I'm pleased with the new system and the quality of the water, but am I going to live long enough to ever break even on this deal? I don't think so."

The lack of raging opposition is the result of straightforward discussions, Fredel said.

"We sent a letter to all landowners telling them exactly what the costs would be and what we thought the long term benefits would be," he said. "We didn't convince everyone, but that letter went a long way toward softening the hard core opposition."

Fredel can't be blamed for not practicing what he preaches.

"I own two houses in the town that had functioning septic systems," he said. "They are now hooked up to the new district system and, in that sense, I'm also paying for something I didn't need at the time."

"But, there's no question that the private systems, mine included, would fail," Fredel said. "We know of some residents who were sneaking in bottled water in hopes that a sewer system with water would be approved before they had to either disclose the problem or drill a new well."

"We were also aware of the effect the situation was having on the real estate market," he said. "Some land owners will never accept the project and how it was approved, but it's hard to argue against its results."

Anxious homeowners in the Evergreen area who were worried about failing septic systems are breathing easier, and town officials don't have to fret about annexation.

"Before the system was approved we had two to five housing starts a year in the district," Fredel said. "In 1996, we had about a dozen new starts, and last year we had about 20 starts."

Property values, some of which were prohibitively low because of failing private systems, have improved dramatically. Values have increased 5 percent to 8 percent since the system was installed. Assessors said values could go up another 5 percent in the next six months to a year.

"We initially thought this would cost all town residents 62 cents per thousand dollars of assessed valuation," Fredel said. "Because of growth, it's down to about 31 cents, and that could go down further because another municipality may want to purchase water from Kronenwetter because of growth in the area."

The bottom line for town officials is the prospect of holding the line on taxes, maintaining services and enlarging the tax base, Fredel said.

"There are plenty of examples in which municipalities can't cooperate," he said. "This project shows what can be accomplished with cooperation and accurate information."

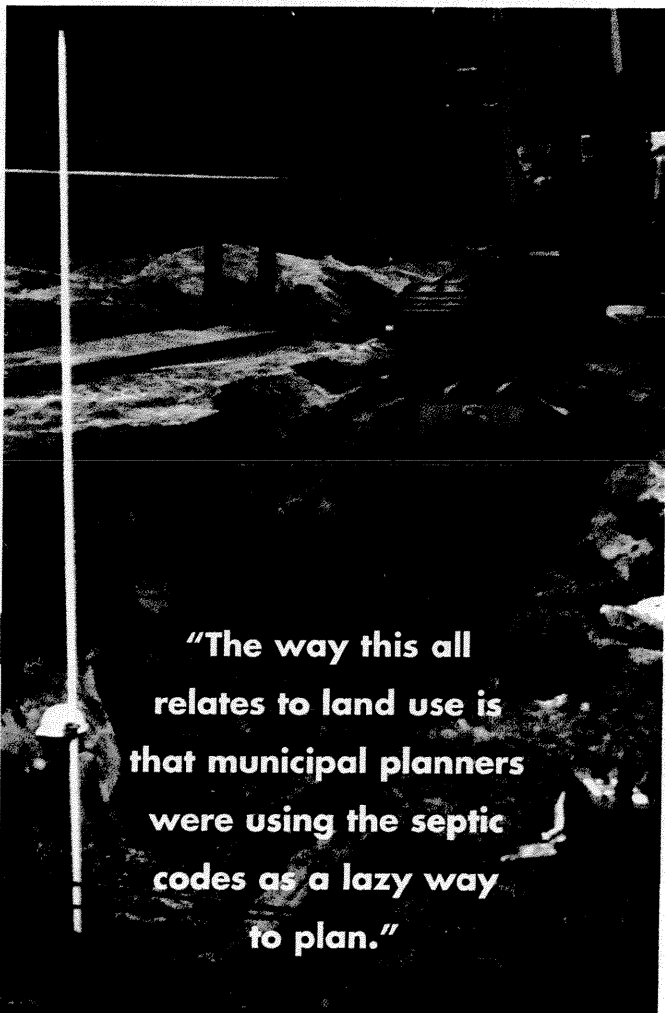
**"There are plenty of examples in which municipalities can't cooperate. This project shows what can be accomplished with cooperation and accurate information."**



# COM 83

## Pandora's Box or Panacea?

By Stan Milam



**"The way this all relates to land use is that municipal planners were using the septic codes as a lazy way to plan."**

Even its name is imposing and somewhat threatening — COM 83.

Critics of the state rule regulating private septic systems say its implementation will ravage the state's countryside and bring about the end of urban life as we now know it. Supporters of COM 83 say it will allow Wisconsin citizens to realize their American dream of owning a small piece of land on which they can build a home.

While the debate rages on, with both sides engaging in hyperbole, the issue is being decided in — well — the sewer trenches, if you will. While most of us only require that "it" all goes away when we flush the toilet, some state bureaucrats are developing careers dealing with sewage and its treatment.

If you want to know anything about private septic systems and how COM 83 will affect them, Mike Corry is the person to see. There may be a question on the subject he can't answer, but nobody has asked it.

"COM 83 is a Department of Commerce rule in the plumbing section regulating private septic systems," said Corry, the administrator of the Safety and Buildings Division of the Department of Commerce. "We're talking about POWTS — private on-site wastewater treatment systems."

Until the development of COM 83, Wisconsin developers and potential homeowners were limited to a few options regarding septic systems.

"With the exception of holding tanks, all on-site septic systems rely to one degree or another on native soils for the treatment at the site or dispersal of effluent away from the site," Corry said.

Conventional septic systems require about five feet of soil. The standard Wisconsin mound system's soil need is about two feet.

A relatively new system, the A Plus 4 mound needs only 6-10 inches.

"It costs between \$4,000 and \$6,000 to install a conventional system and about \$8,500 for a mound system," Corry said.

Holding tanks are almost always a last resort option. They require virtually no soil depth, and, at about \$3,000, are affordable compared to other systems.

"But a holding tank is the least desirable, because of the cost of operation," Corry said. "A standard 4,000-gallon tank needs to be pumped every three to four weeks during normal use.

"If you have teenagers in the house washing their hair and taking showers all the time, you could be pumping the tank every week or so at \$80 a pop."

So what does COM 83 have to do with land use and planning?

"The way this all relates to land use is that municipal planners were using the septic codes as a lazy way to plan," Corry said.

Instead of simply refusing to zone outlying areas non-residential, planners assume residential development would not take place in areas where there was not sufficient soil depths for septic systems in large enough areas for subdivisions, Corry said.

"But now with the A Plus 4 system, builders will be able to go into these areas where there is 6-10 inches of soil for the system's operation and request construction permits," Corry said. "The municipalities don't have much of a choice but to issue the permits because the soil perks and the zoning is residential."

Under current rules, A Plus 4 systems are permitted to replace an existing system, but not in new developments. The new COM 83 rule would approve the A Plus 4 systems for new housing.

COM 83 does not necessarily open up more land for development, but it gives builders more options.

"The same amount of land is still available, but in the past there was not enough soil to fully develop it," Corry said. "With the newer technologies and rules planned for the new COM 83, there's an opportunity for more septic systems to be located in that same amount of land.

"COM 83 opens up the field to such new technologies as sand filters and aerobic treatment plants that employ mechanical units to treat effluent instead of the conventional septic tanks," Corry said.

These new technologies will require less soil depths and, therefore, provide developers with more space to construct homes. That's a possibility that worries municipalities.

"The overall problem is that we're dealing with a state rule that opens up non-urban land for development without guidelines for land use and the impact on taxes," said Ed Huck, executive director of the Wisconsin Alliance of Cities.

"If [COM 83] is passed, we might as well throw everything we've tried to do with land use out the window."



Mike Corry

"It would take us three years to catch up," Huck said. "It [COM 83] will turn Wisconsin into another New Jersey."

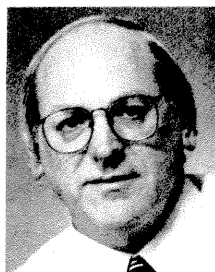
A state official said Com 83 is close to being finalized, but its future is uncertain.

"We are working closely with the Department of Natural Resources to get differences ironed out so we can move forward," said Bill McCoshen, secretary of the Department of Commerce. "We have been careful to try to work out as many concerns as possible."

The rule could be offered as soon as next spring if all goes well, Corry said.

"But, I can't imagine all going well," he said. "There is strong opposition to the rule, not only from municipalities, but from some environmental groups as well.

"This rule has far-reaching effects on development, land use and planning," said Corry. "I suspect it will be quite some time before COM 83, in some form, is finally adopted."



Stan Milam covered Rock County and the Wisconsin Capitol for 20 years. He is now president of the Capitol News Service.





**By  
Philip C. Evenson**

*executive director, Southeastern  
Wisconsin Regional Planning  
Commission*

## **Managing Land Use and Transportation Relationships Through Planning**

### **Introduction**

One of the controversial issues in growth management involves the extent to which decisions to provide — or withhold — transportation facility improvements affect development patterns. Questions related to this issue often are framed in such terms as the following: “Can improved transportation facilities be provided without causing unwanted development patterns?” “Why does urban sprawl occur with some transportation improvements but not others?” “How can local governments assure that unwanted development will not occur as a result of transportation improvements?”

Meaningful answers to these questions require definition of the terms “transportation improvements,” “unwanted development patterns,” and “urban sprawl.” The best way to define these terms and address the issue is found within the context of a well-conceived and well-executed planning process.

### **Historical development patterns in southeastern Wisconsin**

For nearly 40 years, the Southeastern Wisconsin Regional Planning Commission has studied the relationship of transportation facilities to land-use patterns within the largest urban region of the state. These studies have involved careful inventories of historical development patterns; of the configurations and capacities of the key transportation facilities — highway and transit; and of related infrastructure facilities, particularly public and private sanitary sewerage facilities.

What have these studies concluded? Importantly, the influence of transportation facility improvements on the urban settlement pattern in southeastern Wisconsin has been relatively weak. Steam-railway lines, which once provided commuter-railway service, did not appear to

**continued on page 24**

*On Common Ground's*  
**Talking Across the  
Fence** feature offers our  
readers the opportunity to  
“hear” different viewpoints  
on the same issue. As a  
starting point for their  
articles, we provided each  
of this month's authors with  
questions about transportation  
and planning in the state  
of Wisconsin.



**By  
Chuck Thompson**

*secretary, Wisconsin Department  
of Transportation*

## **Planning for State Transportation Clarity a Critical Component**

From the Wisconsin Department of Transportation's (WisDOT's) perspective, all of the recent research and debate about the land use-transportation connection has been informative and useful in our decision making at both the project and policy levels. At the project level, what we as a department have learned about this connection has led us to expand our analysis of land-use impacts in our environmental impact statement. At the policy

# TALKING ACROSS THE FENCE

level, it has led us to broaden our analysis of the land-use implications of long-range, statewide transportation plans.

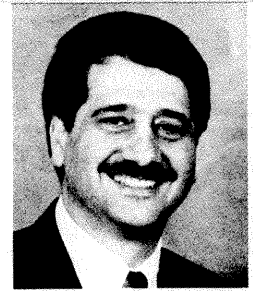
It also has led us to a broadened way of looking at transportation and what it means in terms of connections. Transportation provides connections. Our growing, expanding society expects and demands connections to jobs, schools, churches, and places of recreation. With connections comes freedom. Transportation allows people the freedom to choose where they will live and work; where they will shop and play. Mobility over the past 100 years has greatly influenced peoples' choices in these areas. And mobility and connections will continue to be crucial issues to the people of Wisconsin in the future.

One of the conclusions I have come to through my participation in many land-use discussions is that — particularly because land use is such a contentious issue — specificity is a key to productive discourse. For example, WisDOT has participated in

**continued on page 24**

**By  
John Antaramian**

*mayor of Kenosha*



## Land-Use Plans NEEDED to Direct and Manage Growth

My comments related to the relationship between transportation and planning have been prepared in response to the questions provided by the On Common Ground Foundation.

### **1. Can improved transportation facilities be provided without leading to unwanted development patterns?**

In a perfect world, transportation and land-use planning decisions would be coordinated so that improvements to transportation facilities would enhance adopted land-use plans and discourage unwanted uses. Most times, transportation funds are spent to improve highways that are needed to support land uses that have developed in the absence of sound plans or that are in conflict with the desired development patterns. The inability to control land uses often causes transportation planning to be reactive rather than proactive.

When sprawl developments are created, the expectation of developers is that the transportation system will expand to meet their need for more transportation capacity.

If unplanned development is not supported by widening streets, installing signals and other improvements, the level of service on the transportation system will deteriorate and pressure for further development may be curbed if traffic congestion is allowed to exist. This option may slow development, but will not be popular with affected individuals.

System capacity and access points can be controlled to facilitate desired development and to discourage unwanted growth. However, decisions on what transportation projects get built and which ones do not, need to be based on comprehensive, enforceable land-use plans.

### **2. Why does sprawl occur in some situations, but not others?**

**continued on page 24**

## Evenson Continued from page 22

significantly influence historical land-use development patterns in the greater Milwaukee area. Similarly, the construction in the East-West Corridor of a superb, largely grade-separated, high-speed rail rapid transit facility from downtown Milwaukee to Waukesha, with a branch to Hales Corners, failed to attract any significant urban development along its route.

The development of the highway system in the pre-freeway era, and the introduction of highway maintenance practices which facilitated reliable "all-weather" operation, did affect land-use development, but in a manner which made other determinants of the urban land-use pattern more significant than transportation facility improvements. The densely configured grid on which arterial street improvements were made — a grid created largely by farm-to-market roads — resulted in a ubiquitously high

level of accessibility throughout the urbanizing area. Consequently, natural resource amenities, particularly the Lake Michigan shoreline and the shorelines of the many inland lakes within southeastern Wisconsin, became major magnets for urban development.

Until the development of the mound-type, on-site sewage disposal system in recent years, the availability of public sanitary sewerage service was a far more powerful influence on the location of urban development within southeastern Wisconsin than were transportation facility improvements. The effect of the development of freeway facilities in the 1960s was less marked within the greater Milwaukee area than often assumed because of the dense nature and high quality of the regular highway network and because of the importance of the availability of sanitary sewer service. Indeed, urban decentralization in southeastern Wisconsin, with an accompanying major decline in transit use, began long before the first segment of freeway was open to traffic.

## Thompson Continued from page 22

very constructive discussions about the importance of land-use planning and concerns about the implications of unplanned development. When that development is referred to as unwanted, questions necessarily arise about what is really meant. I have found the same to be true of such terms as urban/suburban/rural sprawl, which are sometimes used to describe low-density development, new single-family housing on previously undeveloped land, or low-rise commercial districts on the outskirts of urban areas. These terms mean different things to different people and may not be specific enough to be useful.

It is with this goal of clarity that I will try to make my comments here as specific as possible. My comments are in response to four questions,

which have been adapted from questions provided by On Common Ground.

### 1. What is the relationship between transportation improvements and unplanned development?

Transportation is clearly a big factor in location decisions, especially for commercial and industrial development. Safe, well-maintained transportation facilities are critical to keeping businesses running. Access to and visibility from major transportation routes can play a significant role in location decisions. These factors are true for both planned development — development that is consistent with adopted local land-use plans — and unplanned development.

In locations where the development is called for in local plans, communities are better prepared to

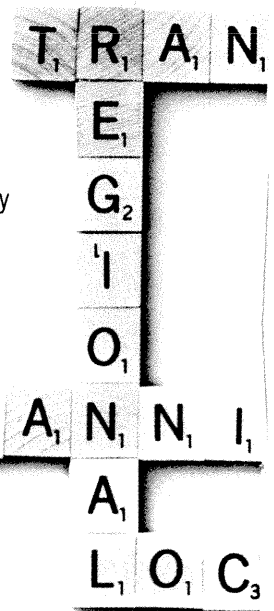
improvements have been made, much of the cost differential disappears. In some cases, the unavailability of utilities coupled with the inability to install well and septic systems, can slow or prevent unwanted development.

The cost to the community to maintain roads and provide services such as police, fire, transit and schools is normally higher on a per capita basis for sprawl development, but the costs are often shifted to other taxpayers and are not directly borne by the land owner in the sprawl development. In many cases, the lack of density will make transit service ineffective or

## Antaramian Continued from page 23

If desirable spaces for planned developments within the urban boundaries are available, the municipality may be able to manage growth and development in a systematic manner. The community must be able to predict what types of development may occur and have suitable places for the development. Industrial parks or planned residential subdivisions are examples of proactive solutions to provide for orderly physical and economic growth within a community.

Many times, it is perceived that developing within the urban boundaries is more expensive than developing new projects on the fringes of the city. Land on the edges may be less expensive than in the city and taxes may be lower initially. The lower property values are often related to the lack of installed infrastructure such as roads, sewer and water service. Once these



These findings led the Regional Planning Commission to the conclusion that, while certain transportation facilities (e.g., freeway interchanges and transit stations) may have localized land-use impacts, the leverage that can be exerted on areawide land-use development patterns by a decision to provide — or not to provide — transportation improvements was too weak to be effective.

Similarly, the leverage on land-use development patterns once provided by the availability of sanitary sewerage facilities, while stronger than that provided by transportation facilities, has been greatly weakened by the development of alternative on-site sewage disposal systems, and will be further weakened upon the enactment into law of the proposed state policies underlying the draft of the new plumbing code.

The influence of both of these types of infrastructure systems also has been weakened by the development of widespread electric power and

electronic communication systems, including powerful personal computers and the Internet. These factors have led the Commission to the conclusion that land-use development patterns can be effectively shaped in the public interest only through the exercise of public land-use controls, including zoning, land subdivision regulation, official mapping, and through public — or public-interest — acquisition of land or development interests in land.

### Historical locus of planning and growth management function

In Wisconsin, the exercise of land-use regulations has been primarily the responsibility of local government. In rural areas, the land-use regulation function typically has been exercised jointly by counties and towns. There also is limited joint state-local exercise of land-use regulation relating to floodlands, shorelands and wetlands.

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serve the development with necessary infrastructure. A region's transportation plan, which is factored into statewide transportation plans, is also better able to identify the transportation investments that will be needed to serve the development.

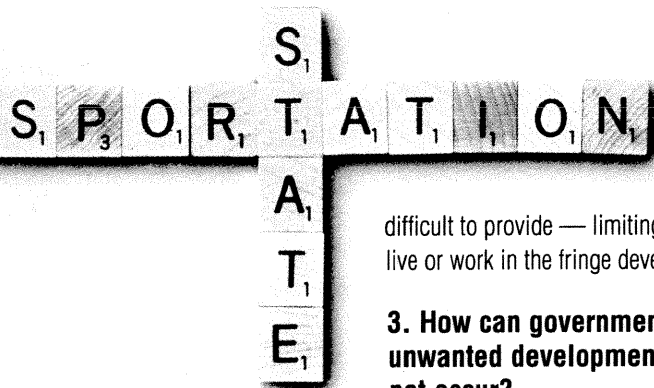
In cases where development occurs that is not consistent with local land-use plans (or where there is no land-use plan), local and state transportation plans may not call for adequate transportation investments. Retrofitting needed transportation facilities for enhanced mobility and access is a difficult challenge for local governments, business owners, and WisDOT. WisDOT's preference is for thorough local land-use planning that

identifies a community's desires for future development patterns. An equally important step is local implementation of land-use plans. Then WisDOT can factor those plans into our long-range, statewide transportation planning, making efficient investments that reflect local development plans.

### 2. Why does development (on undeveloped land) occur in some places but not others?

Land development occurs where there is some market demand for it to occur. The price of land, proximity to existing markets, whether the site is contaminated, transportation access, and local zoning and land development policies all play roles in determining where commercial and industrial development occur. Proximity to retail, quality schools, and public facilities and services are major factors in locating residential development.

**continued on page 26**



difficult to provide — limiting who can live or work in the fringe developments.

### 3. How can government assure unwanted development will not occur?

Effective land-use planning coordinated with transportation planning is the best tool available to direct and manage growth. A good master plan can guide controlled development and will facilitate desired developments. Community development projects such as the creation of industrial parks, enterprise zones and redevelopment districts may be needed to support the implementation of the master plan.

Redevelopment of industrial sites within the urbanized area is desired, but the municipality must be willing to assist developers to develop action plans for mitigating environmental concerns. Good planning will allow brownfield locations acceptable for redevelopment. Some of the greatest opportunities and challenges for cities are the once prime industrial sites that are currently underutilized. They are in areas with utilities and transportation infrastructures in place. They are within convenient commuting distance for many of the residents of the existing city. The efficiency of reusing these sites is incredible, but assistance from the state and federal government may be required for pilot projects to demonstrate how this potential can be fully realized.

Communities, such as Portland, Oregon, have instituted an urban boundary with strict development guidelines. By doing so, they have been able to

**continued on page 28**

## **Evenson** Continued from page 25

Although these arrangements have worked relatively well historically, a number of factors lead to a conclusion that a new conceptual framework for public land-use planning and regulation in Wisconsin should be put in place. These factors include the following: 1) the growing size and complexity of the metropolitan areas of the state; 2) the nearly universal availability of automobiles and trucks (880 personal-use vehicles for every 1,000 persons of driving age in southeastern Wisconsin); 3) the decreasing cost per mile driven for motor fuel and related taxes (5.5 cents per mile today, compared to 15.5 cents per mile in 1980, taking into account the effects of inflation and efficiency of the motor vehicle fleet); 4) an almost ubiquitously high level of highway transportation service; 5) the effects of electronic communication networks and computer facilities; and 6) the development of on-site sewage disposal facilities which largely overcome the limitations once imposed by soils and water tables.

### **Proposed conceptual framework for comprehensive land-use planning and growth management**

Good public planning practice has always recognized that land-use regulations should be based upon adopted comprehensive plans. Prepared in a sound manner, such plans provide the basis for defining "wanted" and "unwanted" development. Comprehensive plans should include land-use and transportation system elements, among others. Historically, comprehensive plans were developed by individual communities acting

largely in isolation. Such a fragmented approach to planning is no longer viable, if indeed it ever was.

A proper conceptual framework for comprehensive land-use planning and growth management must recognize that the problems of land-use development, and of related potential environmental deterioration, transcend the geographic limits of county and local units of government. Consequently, the resolution of these problems requires the cooperation of all concerned units, agencies, and levels of government, and of private interests as well. Even in the more rural portions of the state, an areawide basis is necessary to provide a meaningful technical — as well as cost-effective — approach to the proper planning and design of such systems of public works as highways, transit, sewerage, water supply, drainage and flood control, and park and open space facilities. Planning on an areawide basis is essential to any sound approach to such environmental problems as flooding, air and water pollution, natural resource base deterioration, and changing land use.

Given the foregoing, the Southeastern Wisconsin Regional Planning Commission staff has proposed the following conceptual framework for effective land-use planning and growth management in Wisconsin:

### **State-level responsibilities**

The state level of government should formulate a set of land-use policies for adoption by the State Legislature. Such policies should relate to the following: 1) the protection of the natural resource base, including floodlands, wetlands, woodlands, wildlife habitat, prime agricultural lands,

## **Thompson** Continued from page 25

The market conditions certainly need to be in place to make development happen, but the greatest tools for directing development still lie in the hands of local governments. Many of these tools have a greater ability to shape development than transportation investments do.

In reality, development often precedes transportation improvements, particularly in the areas surrounding Wisconsin's metropolitan regions. Frequently, WisDOT is asked to make transportation improvements after development is in place. Improvements are then made not only to serve through trips but also to help relieve congestion caused by growth in local trips.

### **3. What is the state's role in the land-use planning and development process?**

WisDOT has been working with other state agencies for several years to define an appropriate state role in land use. These discussions will resume with the formation of the Wisconsin Land Council. Views vary widely about the appropriate state role in both land-use planning and the land development approval process, but there appears to be some consensus

for a state-defined land-use vision for Wisconsin and a consistent framework for local land-use planning.

WisDOT is involved in land-use planning through the regional planning efforts of metropolitan planning organizations and regional planning commissions. At this level, regional land-use planning is increasingly being done in conjunction with transportation planning. WisDOT participates in, but does not lead, these planning efforts. Regional land-use planning is a very important component of transportation planning because regional land-use plans are used as the basis for transportation forecasts and plans for future transportation investments in the state's metropolitan areas.

Local governments in Wisconsin have a long tradition of home-rule authority that I think seems to be widely supported throughout the state. What is lacking for local governments are adequate tools to plan, zone, undertake intergovernmental cooperation efforts, and implement adopted plans. Local governments need better tools to effectively deal with land use, including tools to better link local land-use plans with transportation plans. But more importantly, local governments need better tools to help ensure that land development decisions are consistent with adopted land-use and transportation plans. It is my hope that the Wisconsin Land Council can identify some new tools to help strengthen local land-use planning and plan implementation throughout Wisconsin.

and mineral resources; 2) the differentiation of urban and rural development and the establishment of criteria for the spatial location and density of these forms of development; and 3) the provision of needed infrastructure in support of both rural and urban development, including transportation, sanitation, drainage, and water supply facilities. The state also should develop effective means for coordinating the activities of state departments, including the establishment of administrative rules, to ensure that the actions of individual departments and the effects of administrative rule changes are consistent with adopted state land-use policies.

### **Preparation of framework plans**

The state should require — and financially support — the preparation of a set of framework plans at the multi-county, regional level that would serve to make the adopted state policies operational. This would include the preparation of areawide land-use, transportation, sewerage, water supply, drainage and flood control, and park and open space plans. For example, a state policy to protect floodlands requires the determination of peak flood flows and stages and the accurate mapping of flood hazard areas. That work effort can only be properly accomplished within the context of a watershed plan that in turn reflects the urban and rural development patterns set forth in a multi-county land-use plan.

The necessary framework plans should be prepared by regional planning commissions and be subject to certification by the state as meeting the adopted state policies. The regional planning commissions should be directly linked to the county boards by membership and funding. The

regional framework plans should be prepared in sufficient depth and detail to permit their adoption as county plans.

### **More detailed local planning**

The state should require that the regional framework plans, after adoption at the county level, be carried into greater detail at the city, village, and town levels. Each of these local governments should be required to prepare plans that are consistent with the regional framework plans. The local plans should include a land-use element, as well as elements for those other functions for which the particular unit of government concerned is responsible. The city, village, and town plans should be submitted to regional planning commissions for certification of consistency with the framework plans that implement the adopted state policies.

### **Plan implementation**

Upon completion and adoption of the required plans, cities and villages individually, and counties and towns individually or jointly, as the law may require, should then exercise zoning, land subdivision control, and official mapping powers in a manner consistent with the adopted plans.

### **Land information systems**

The planning process should be facilitated by the creation of parcel-based land information systems at the county level. The creation of such systems is well under way in many counties of the state, and this effort should be continued. State-level efforts should be focused on the collation of data from the county-level systems.

**continued on page 28**

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## **4. What is the state's role in providing highway capacity that can facilitate development in urban and/or urbanizing areas?**

One of WisDOT's key roles is providing transportation facilities in all parts of the state to serve inter-regional trips. This alone necessitates improvements in our urban and urbanizing areas in order to facilitate regional and interstate travel. However, another important role is providing assistance to local governments and transit operators to maintain and improve local transportation facilities and services. Many of these investments are made to maintain safety on our state's highways and to help relieve congestion. These issues are important throughout the state. In places where there is a market demand, these investments can also help facilitate economic development.

The state's role is to serve all citizens and regions of the state. This should be accomplished in a way that distributes resources where they are most needed and where they can do the most good. This means that at any given time there are highway maintenance and improvement activities going on in urban, urbanizing, and rural areas. All of these areas are in need of such investments.

The land-use challenge Wisconsin faces is continuing to make our existing urban areas attractive to development while also recognizing the needs of growing areas elsewhere in the state. All of these areas depend on

transportation investments to help their residents make needed trips and to help their economies grow.

In conclusion, transportation's role in our state is to provide connections — between businesses, between people and their daily activities, between Wisconsin and the rest of the world. The relationship between transportation investments and land use can be a positive one when these things occur:

- Local governments work with citizens to define their vision of the future and have the tools necessary to make that vision a reality.
- All levels and units of government work cooperatively with one another to take a regional view of land use.

I want to commend Governor Thompson for his recognition of the importance of addressing land-use issues in Wisconsin. With the creation of the Wisconsin Land Council, we now have an excellent opportunity to move forward on these very important issues.

## **Evenson** Continued from page 27

### **Conclusion**

Experience in southeastern Wisconsin indicates that transportation facility improvements cannot be relied upon to significantly influence areawide land-use development patterns in metropolitan areas. Rather, land-use development patterns can be effectively shaped in the public interest only through the exercise of public land-use controls and through public, or public-interest, acquisition of land or development interests in land. Land-use regulation and land acquisition efforts should be based upon cooperatively prepared, technically sound, comprehensive plans. The preparation of such plans today requires a new approach to public planning in Wisconsin.

The approach outlined would provide a framework for the proper integration of land-use, environmental protection, and transportation system planning and development; and for the proper integration of state, regional, county, and local planning and plan implementation efforts. Application of the conceptual framework would lead to land-use and supporting infrastructure development that would be cost-effective, and that would serve to shape development in accordance with clearly defined objectives. It would render moot the question of whether or not the provision of transportation facility improvements affects development. Importantly, it would permit the elected officials in Wisconsin, and the citizens they represent, to manage growth in a technically sound, as well as politically responsible, manner.

The On Common Ground Foundation has received numerous requests for additional copies of the magazine. If you or someone you know would like to be added to the On Common Ground mailing list, please write to us at:

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The On Common Ground Foundation would like to thank all of the individuals who provided us with feedback on our inaugural edition of On Common Ground. Comments ranged from "I have been a member of the city of Sun Prairie Planning and Zoning Commission for over 20 years but have never had access to a nonpartisan viewpoint, or at least both sides of an issue, on these important issues" to "a publication of this sort is long over due for those of us who want to be a part of a rational approach to land use issues, decisions and solutions." We would like to continue to encourage readers to tell us what we did right, what we did wrong, what we should do more of, what we should do less of, what we didn't think of, and where we should look next.

## **Antaramian** Continued from page 25

curb sprawl while creating a more efficient, higher density urban environment. Quality services are provided within this urbanized area.

### **4. Since land-use decisions are made in Wisconsin at the municipal level, how can transportation planners develop systems that work if adjacent local plans are not followed or conflict?**

Implementation of a comprehensive land-use plan by one unit of government will not be effective or comprehensive, if the neighboring villages and towns do not share the vision established by the plan. A development that is viewed as unwanted sprawl by a central city may be the development the neighboring town is soliciting. The vision created in the master plan must fit the entire community and not be limited to an individual municipal entity.

Many times, the only factor that can functionally control growth is sanitary sewer service boundaries. Sewer boundary agreements are not the best way to deal with transportation planning issues, but can be a starting point for the negotiation of intergovernmental boundary adjustment agreements, where a land-use plan is created and reduced to a contract between the municipalities. These agreements require that the municipalities involved put aside parochial interests and work to create the best plan for the larger community.

At the present time, transportation planning and land-use planning take place concurrently, but with different rules. The effects are similar to playing a football game and a soccer match on the same field at the same time. The underlying land is the same, but the conflicts and confusion created can be insurmountable. A rational structure to accomplish the integration of transportation and land-use planning needs to be created in Wisconsin while respecting the local governments' desire to retain control over local issues.

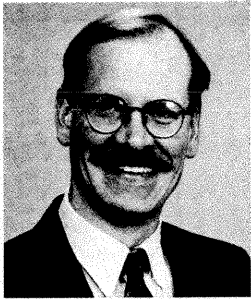
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# ANNEXATION

## Fiscal Implications for Cities, Villages and Towns

by Mary Edwards and Brian Ohm



**T**he implications of annexation for cities, towns and villages are significant, but not well understood. Mary Edwards, program manager in the Wisconsin Land Use Research Program, and Brian Ohm, professor with the University of Wisconsin Department of Urban and Regional Planning, report on methods for assessing the long-term effects of annexation on municipalities.



Annexation, the process which transfers parcels of land from towns to cities and villages is often an intensely volatile local issue in Wisconsin. The primary reasons for this contentiousness are based

on the common perception that annexation results in a net fiscal loss to the town and a gain to the city. In spite of the long history of annexation in Wisconsin, the fiscal effects of annexation are not well understood. Few local governments have the time and resources to undertake comprehensive fiscal analysis of annexation activities. Yet, understanding the implications of annexation is important and useful in that it can assist decision makers in better planning for the future of their communities.

This research analyzed the fiscal impacts of annexation on cities, villages and towns five years after annexation took place and explored the motivations to annexation and its consequences as reported by affected local officials. The purpose of fiscal impact analysis is to estimate the impact of a development or a land-use change on the costs and revenues of governmental units serving the development.

The research identified ten annexations in Wisconsin that occurred during 1990, which included a mix of land use types. Five of the annexations were eventually developed as residential subdivisions,

four as commercial establishments or industrial parks, and one was annexed as agricultural land and remained agricultural five years after annexation.

There are a number of different approaches or methodologies to analyze fiscal impacts. These methods look at the economic characteristics of communities — e.g., revenues, expenditures and land values — and the character of the development or land-use change — e.g., type of land use, population associated with land area. This study used three distinct approaches to estimate the fiscal impacts of annexation.

### Each of these methods has both advantages and weakness.

- The per capita multiplier method calculates the per person estimates of municipal revenues and expenditures and applies them to the population associated with the annexation. The weakness of this method is that it attributes costs according to average cost per unit of service and applies these costs to the number of units the growth is estimated to require, leaving out any consideration of the capacity — either excess or deficient — at the municipal level. Thus, if a municipality has excess capacity in its sewer system, the analysis, using averages, will over estimate the cost of providing services, whereas, if it is at or near capacity, this analysis will underestimate costs.
- The proportional valuation method requires a calculation of per acre costs and revenues by type of land use applying these estimates to the land annexed. Since proportional valuation also relies on average costs, not accounting for capacity, this method, too, can vary in its reliability.
- The case-study method relies on interviews with local officials and staff to estimate the impacts associated with annexation. While this approach does account for capacity, its weakness is that it relies exclusively on subjective calculations and reporting of both costs and revenues.

**In spite of the long history of annexation in Wisconsin, the fiscal effects of annexation are not well understood.**

Under all three approaches, the fiscal effects of annexation are measured by the tax rate for both the city and town involved in the annexation. Tax rates are calculated as if the annexation did not occur, and this rate is compared to the actual rate to determine the effect of the annexation five years after the annexation.

The following main conclusions result from this research:

### Method matters

Overall, results were consistent across methods in only six of the twenty municipalities, including two towns and four cities and



villages. In just 30 percent of the cases were all three methods in agreement about the fiscal outcome of annexation.

Comparing only the proportional valuation method and the per capita method produced significantly more consistency in assessment of fiscal impact. In 14 out of 20 cases, these methods produced consistent fiscal outcomes for either the city/village or the town.

It is worthy of note that by using either the proportional valuation analysis or the per capita analysis, cities/villages experience a net fiscal loss in the majority of cases. Using both of these methods, towns win in half or more of all situations.

Using the case study method, however, resulted in a reported fiscal loss to towns in every instance. Case study analysis also produces the highest incidence of financial gain for cities and villages.

**This illustrates how the assumptions utilized in each method can ultimately affect the results of the research.**

Utilizing different methods of analysis strongly influences the results because the assumptions inherent in each method influence the results of the analysis. A series of critical assumptions underlie each of the fiscal impact methods. The case study approach assumes that local staff and officials are able to provide the most accurate estimates of costs and revenues due to annexation. The per capita method is based on the premise that expenditures and revenues increase proportionately with population. Current service levels are also assumed to continue on the same scale and a constant level of service is expected to be maintained over time. The proportional valuation method assumes that costs increase proportionately with the intensity of land use or as land is more developed.

**Annexation is not always a winner-take-all proposition**

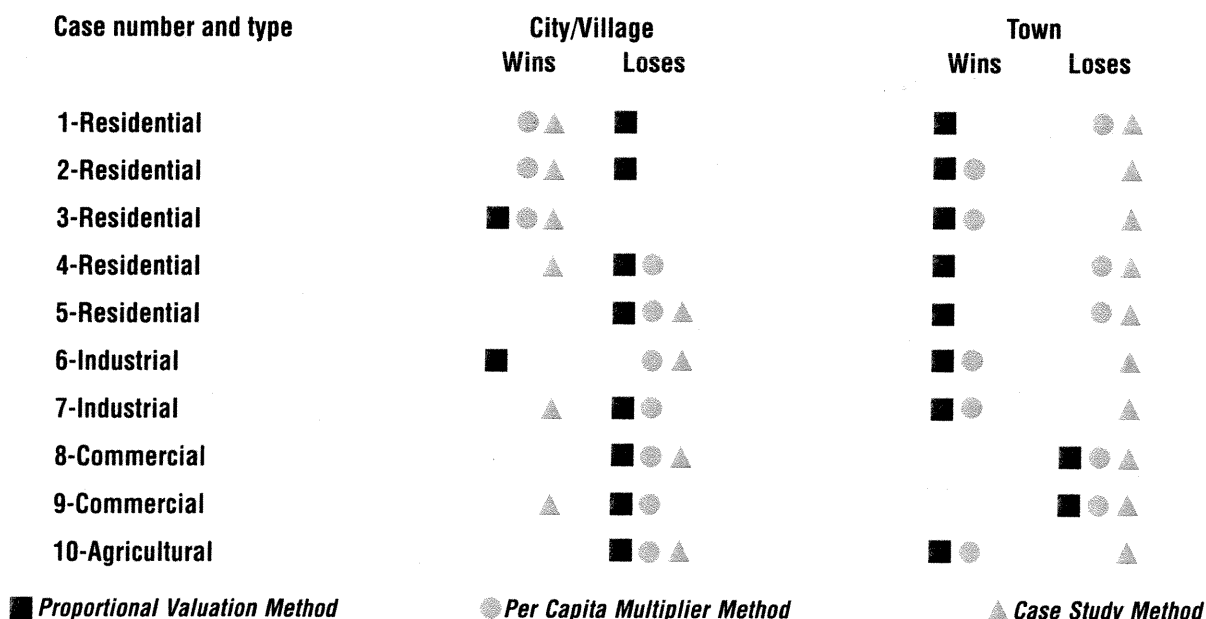
Under all three fiscal impact approaches, clear winners and losers in the same annexation do not emerge as the predominant pattern, as conventional wisdom suggests. Two methods produced win/win situations (2 instances in the proportional valuation analysis and 2 instances in the per capita multiplier method) and all three produced lose/lose scenarios (2 instances in the proportional valuation method and 4 instances in the per capita analysis and 4 cases under the case study method).

**The hierarchy of land uses is not a reliable predictor of results**

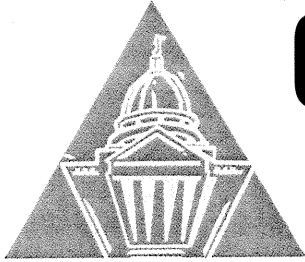
Different types of land uses are often associated with certain fiscal impacts. In previous studies, for example, residential uses have been found to be fiscally undesirable to a municipality. Under the case study method, however, residential annexations do not uniformly match this conclusion. In this study, four of the five cities and villages that annexed land and developed it residentially reported a decrease in the mill rate due to annexation, representing a net fiscal benefit to the city. Another common perception is that commercial and industrial uses generate more revenue than they require in public expenditures to serve. According to this study, however, two of the four annexations that resulted in commercial or industrial uses resulted in tax rate increases to residents of the city.

**Intergovernmental aid affects fiscal outcome**

In a typical fiscal impact analysis, intergovernmental revenue is estimated in the same manner as are other revenues, through proportional valuation techniques or on a per capita basis, for example. This research departs from the typical analysis in that, for all three methods, the actual Wisconsin shared revenue formula is simulated for the city and town as if annexation did not occur. This results in



continued on page 35



# CAPITOL WATCH



By  
**Dick  
Wheeler**

## CONSTRUCTION OF LAND-USE "TOOLBOX" BIG CHALLENGE FOR WISCONSIN LAND COUNCIL

State Administration Secretary Mark Bugher calls "IT" a "work in progress" that, when completed, will become a "toolbox" for state land users, planners and managers.

"IT" is the task before the Wisconsin Land Council, a 16-member panel created via state statute and charged with cataloging the state's diverse land uses, creating a guide to future uses and keeping everyone happy.

Bugher calls the job one of developing a "consistent responsibility" for moving the current patchwork quilt of responsibility into a single, attainable goal to seek as the state completes its first 150 years and moves into the 21st Century.

The council is the second step of the process started by Gov. Tommy Thompson when he created the State Interagency Land Use Council in Executive Order 236 issued September 15, 1994, and directed it to inventory state land-use plans. That council was chaired by Bugher.

In December, 1995, the council issued its report to Thompson, which found among other things that "poor communication at all levels of government" resulted in conflicting goals, "nonstandard" data collection and, indeed, "local tax base competition."

The report said current land-use regulations foster isolation and competitive land-use decisions rather than encouraging cooperation among all levels of government and types of users.

The council expired in 1996, but was revived in the 1997 state budget bill as the Wisconsin Land Council, composed of the secretaries of Administration, Agriculture, Commerce, Natural Resources, Revenue, Transportation, the state cartographer and nine members representing cities, counties, towns, local government, the University of Wisconsin system and the public.

Originally, this report was to detail the diverse membership of the council and update the panel's work since last July, when the budget bill was to have become law.

But some strange things happened in the hallowed Legislative halls last year and the budget didn't get done until October, which means the nine non-state agency members have not yet been appointed and the council hasn't met yet.

The governor's Chief of Staff, John Matthews, says potential appointees to the council are still being evaluated and it shouldn't be much longer before we know who will be the architects of the state's future land-use policies.

However, there's work being done right now in the Department of Administration, where former Dane County Board Chair Mike Blaska is on the payroll putting together the beginnings of a state land-use database and organizing the future workload in conjunction with the State Land Information Board.

Bugher calls the forthcoming effort an attempt to get all land-use planners and regulators to read and work from the same book.

The statutory charge calls for identifying state land-use goals and priorities to further those goals and recommending legislation to implement them. It also directs a study of areas of cooperation and coordination in state land statutes and suggestions to resolve conflicting statutes at both the state and local levels.

In addition, a technical working group of the council is to study development of a computer-based Wisconsin land information system, while a state agency resource group is to "discuss, analyze and address" land use and related policy issues.

The council has until September 1, 2002, to submit its report(s) to the Legislature, including a recommendation on whether it should continue work beyond the August 31, 2003, sunset date of the panel.

The council's charge is a big one. Just getting the participants to the table to discuss something as controversial as redefining individual levels of government authority over land use will be a major achievement. Getting them to agree to share power will be something else.

Possibly the council should adopt the Navy Seabee motto: "The difficult we do now, the impossible takes a little longer."



**By Paul G. Kent**  
*chair, Environment and  
Land Use Practice Group,  
DeWitt Ross & Stevens*

# SURVEYING THE LAND

## Storm Water Management:

### The C o n v e r g e n c e of Environmental Law and Land Use Law

Consider three recent, seemingly unrelated stories:

- A city in the Fox River Valley area pays a judgment in excess of \$200,000 to downstream property owners for damages caused by inadequate storm water management.
- A developer of a residential and commercial development is sued by the state for inadequate erosion control plans.
- A provision in the most recent budget bill requires agricultural sources to control water runoff from their operations by limiting certain practices.

The common issue in all these stories is how do we effectively manage storm water runoff. But these stories also illustrate a far more significant trend, the convergence of environmental law and land-use law.

#### The evolution of environmental regulations

Historically, environmental legislation such as the Clean Water Act involved federal programs administered by states. Typically, these programs focused on large direct sources of pollutants, usually industrial sources. This focus made sense because:

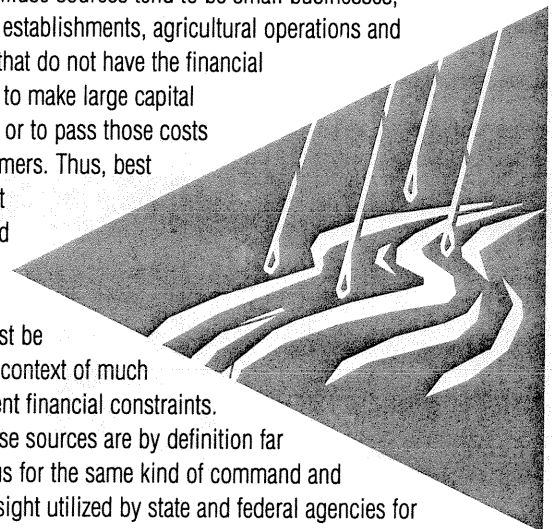
- Major sources that discharge pollutants through discreet points such as pipes can be controlled by utilizing pollution control technology,
- Major industrial sources are usually large enough that they can either bear or pass on the capital costs of such equipment, and
- Command and control regulations by the state and federal government could work because of the relatively limited number of major sources.

Now that these sources have been regulated, environmental law is focusing on more diffuse sources of water contaminants which collectively remain significant. For example, one recent study on the Fox River indicated that even if all direct dischargers reduced their discharge to zero, the river would still not meet water quality standards.

However, addressing more diffuse sources involves new players, requires new types of control strategies and new regulatory approaches. For starters, "end of the pipe" pollution control devices are not applicable to diffuse sources such as storm water. Instead, pollutants must be controlled through best management practices and changes in operations.

Moreover, diffuse sources tend to be small businesses, commercial establishments, agricultural operations and individuals that do not have the financial wherewithal to make large capital investments or to pass those costs on to consumers. Thus, best management practices and

operational changes must be made in the context of much more stringent financial constraints. Finally, diffuse sources are by definition far too numerous for the same kind of command and control oversight utilized by state and federal agencies for major sources.



#### Local storm water regulation

While some of the largest municipalities are required to regulate storm water under new Clean Water Act provisions, many local governments have begun to regulate storm water for their own reasons. Increasingly, local governments are realizing that the failure to adequately manage storm water as urban areas expand can create downstream flooding. This can result in lawsuits by property owners and can interfere with their own land-use planning. Moreover, the failure to control sediment and other pollutants can impact local water bodies. As a result, more local governments are enacting their own storm water and erosion control ordinances.

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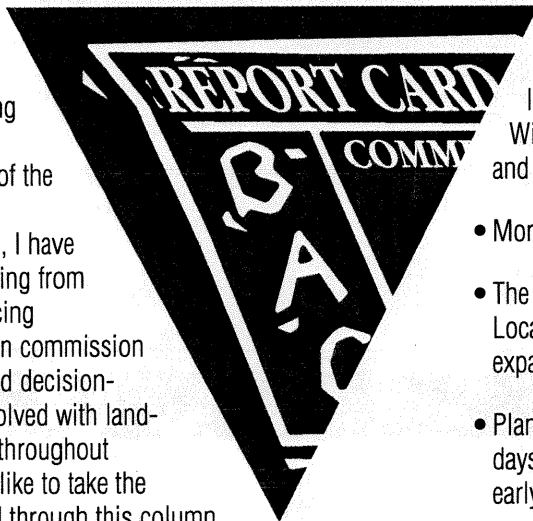
# IN MY OPINION



**By Charles P. Kell**  
*president, Wisconsin Chapter of the  
American Planning Association*

## PLANNING IN WISCONSIN: THE PLANNER'S REPORT CARD

As a member of the state's professional planning organization, the Wisconsin Chapter of the American Planning Association (WAPA), I have the privilege of hearing from professional, practicing planners, citizen plan commission members and elected decision-makers who are involved with land-use decisions from throughout Wisconsin. I would like to take the opportunity afforded through this column to share these views with *On Common Ground* readers.



This article does not necessarily represent the opinions or policies of WAPA or its board of directors, but it presents significant views, which I and other members of the board feel exist among the planning community in Wisconsin. I will focus the article around several key questions dealing with planning in our state.

### **What are the strengths of planning in Wisconsin?**

The values promoted by planners are increasingly being accepted and shared by the people who serve on local plan commissions and who lead local government. After years of bickering and backbiting, an increasing number of local officials are now working toward area-wide planning approaches through intergovernmental boundary planning and through watershed approaches to resource management.

The current strengths of planning in Wisconsin include the identification of environmental issues and the enforcement of preservation policies, i.e., environmental corridor identification, preservation of wetlands, farmland, and other natural amenities. There also appears to be agreement that the regional planning commissions in Wisconsin, particularly SEWRPC, have provided positive assistance with local planning efforts. The planning principles of neighborhood, mixed use and pedestrian oriented development seem to be gaining some favor with local planning boards. In many respects, planning in Wisconsin appears to be thriving, growing in acceptance and support as evidenced by:

- More local governments investing in staff planners.
- The private practices of consultant planners are thriving. Local firms and branches of national and regional firms are expanding their practices.
- Plan making, it appears, is at a peak not seen since the days of federally funded "701" local plans in the 1960s and early 1970s.

### **What have been the weaknesses of planning in Wisconsin?**

The overwhelming response to this question is the lack of direction at the state level. Both planners and local officials are indicating the need for a defined process and a state framework which establishes standards for planning. Although there appears to be growing support for the state to mandate that local units of government plan, there also is strong consensus that most do not want the state to administer the plan. Local control is a critical issue to both planners and local officials. Most planners agree that a regional approach needs to be established, which incorporates local plans.

Communication among all levels of government needs to be improved in order to move forward and most feel the state should provide this direction. In addition to communication, most planners and local officials see the need to revise the

**continued on page 34**

## Opinion **Continued from page 33**

current annexation process and planning laws to be fair to all parties (i.e., cities and towns) and to prevent boundary wars and protect natural resources. Planners continually emphasize the need for a vision at the state level and express concern over the lack of funding available to implement land-use plans. The resistance to change by local residents, lack of communication between state and local officials, and the fact that many existing land-use plans actually encourage sprawl patterns of development are problems frequently cited about Wisconsin's current land-use system.

### **Suggested state level improvements to enhance planning in Wisconsin**

The state should clarify jurisdictional roles and responsibilities of each level of government according to both planners and local officials. The most frequently suggested improvement is that the state needs to reform the government structure in Wisconsin regarding cities, villages and towns.

Professional planners view consensus on the elements of good planning and the creation of a planning framework as changes to planning enabling laws that are needed and that the state has an important, if narrow, role in improving planning. Keeping in mind that area-wide issues should be handled by area-wide government, and local issues by local government.

### **Suggested local government improvements to enhance planning in Wisconsin**

There appears to be a growing interest among planners and local officials in involving citizens more heavily in the planning process. Most cite the need for a collective vision to make planning truly effective. Communication between elected officials and the public, and between units of government, is the key to making local government planning work. There is consensus as well, that both citizens and local officials need to be educated in the ways of good planning, including the importance of implementation through integration of planning with other local government processes. This education process should begin in the schools during early childhood education and continue through high school graduation.

### **Concluding comments**

For all the weaknesses and dilemmas we face to improve our land-use system in Wisconsin, there is clearly a need for more and better planning. Real estate development, and for that matter all land uses, require support by government in the form of services, facilities, land records systems, licensing of professionals involved in development and real

estate, and zoning. Some land uses and developments require more intensive governmental involvement, such as tax incentives, TIFs, covenant enforcement, judicial protection through nuisance laws, etc.

Government needs to apply abstract policies to the geography of the land, to know where roads, sewers, schools and public facilities need to be and at what capacities. Private real estate interests need to know whether and when their lands will be served by public facilities. Private development, once built, needs the stabilizing and economic protection of zoning. Government needs the creative, value creating energy and investment of the private sector.

These "sectors" or players are all in the land-use process together. The development community, government, people who speak for the nonhuman natural environment, people who speak for people (including the poor, minorities, and disabled) have interests that are intertwined and that relate to land use. Planning is the process by which all these stakeholders come together to seek agreement on a vision for the community and plans for coordinating public and private activities.

The planning profession in Wisconsin and its leadership organization (WAPA) welcomes the renewed interest in land-use planning as reflected in the prominent position given to planning in the Governor's Interagency Land Use Council Report, the report of the Legislative Council Committee on Land Use Policy and the statutory charge given to the new Wisconsin Land Council. The present legal and governmental structures within which planning is attempted in Wisconsin have serious problems and shortcomings, leading planners in Wisconsin to conclude that the system may not meet public expectations without significant and meaningful reform.

In closing, I would like to specifically acknowledge Richard Lehmann, Charlie Causier, Pat Vaile, and all other WAPA members who contributed their insights and ideas for development of this article.

*The Wisconsin Chapter of the American Planning Association (WAPA) is the professional organization that represents over 500 professional practicing planners and citizen plan commission members that are involved in planning in the state of Wisconsin.*

# Annexation

Continued from page 30

estimates that are, in some cases, significant to the analysis. A number of cities experienced significant changes in shared revenues due to annexation and the final results depend on these estimates.

## For planning purposes, fiscal impact analysis tells only part of the story

The results of this research illustrate the significance of the particular fiscal impact analysis method to the results of the analysis. The interview results also suggest that the perceived "costs" of annexation go beyond fiscal costs. There is no single fiscal impact analysis method that has been determined to be better than the others. The use of one method to the exclusion of others may provide decision makers with misleading information as to the fiscal implications of annexation. It may also be misleading to leave the many other "costs" associated with development unaccounted for, which the standard fiscal models do.

All local officials interviewed noted that the issues surrounding annexation go beyond the fiscal impacts. Local officials expressed concern that annexation may discourage orderly growth and undermine the planning process. A model that assesses the comprehensive costs and benefits of development and accounts for environmental and social factors as well as economic ones would better assist decision-makers in making wise land-use decisions.

## These findings yield four conclusions that have important implications for land-use planning.

1. First, fiscal impact analysis, while useful, cannot provide all of the answers, nor is it a reliable indicator of fiscal gains or losses in all cases.
2. Secondly, we need to develop a single, widely agreed-upon method of analysis that can more reliably predict the fiscal and other impacts of annexation decisions.
3. Annexation is not always a win/lose proposition. In many instances, there is a significant potential for benefits to all parties to the decision. There is also the chance that both cities/villages and towns will suffer a net loss.
4. The implications of annexation are not only fiscal. Prudent planning decisions should incorporate a more comprehensive set of factors, including environmental, social and the potential impact on orderly growth.

*[NOTE: The Wisconsin Land Use Research Program is a cooperative research effort by the UW-Stevens Point, UW-River Falls, UW-Platteville, UW-Extension and the UW-Madison to identify and document the costs of development on the urban fringe. The program's objective is to inform decision-makers as to the comprehensive costs of development and to produce tools, models, and informational and educational materials for use in making wise land-use decisions.]*

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## Surveying the Land

Continued from page 32

### Implications for land-use planning

This trend in environmental law has several impacts for local land-use planning. First, unlike control of direct discharges which was largely a state responsibility, there is a need to ensure coordination between state and local efforts in administering a storm water program. For example, a developer often may face state and local construction site erosion controls. Conflicting or duplicative requirements between these bodies simply adds cost and creates confusion.

Second, land-use planning is a critical component in the success of any storm water management effort; it can either facilitate or frustrate effective storm water management. Unlike control of direct discharges which relied on technological solutions, the control of storm water necessarily relies on planning and management solutions. Such solutions include consideration of density, set back, amount of allowable impervious surfaces, on-site storm water dedication and other issues. Moreover, implementation of best management practices by individuals cannot be effectively implemented independent of area-wide land-use decisions. For example, on-site measures to protect a stream from agricultural runoff is of little value if upstream municipal development results in flooding of that farmland.

Third, because the number of diffuse sources is too numerous for a command and control permit program, alternative regulatory strategies must be developed. Educational efforts, local oversight and enforcement options, certification by professional consultants and other means need to be implemented. These efforts necessarily require local involvement.

Finally, state and local governments must look to new and creative ways to address cost allocation issues. Unlike the Clean Water Act, regulation of direct industrial dischargers who were simply expected to bear the costs of treatment, payment of storm water management costs is far more complex. Sometimes it may mean municipal funding. Sometimes it may mean the recovery of waste through assessment of impact fees on developers. Sometimes it may involve cost sharing between state and/or local governments and the property owner, such as in the budget bill provisions for agricultural operations. Various options must take into account the financial limitations of the regulated sources.

The common thread in all of these areas is that as environmental law moves into regulation of diffuse sources such as storm water, the need for coordination and integration with local land-use planning becomes increasingly essential. Local and state government programs need to be integrated to ensure cost effective regulatory solutions.

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