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80TH ASSEMBLY DISTRICT

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Thank You,

Vince Williams  
Research Asst.

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 STATE ASSEMBLY  
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 12/31/99

# BARABOO

Vol. 1 No. 46

Thursday, February 19, 1998

Seventy-five cents

## LP dealer Vernon Hohl tires of the city hall runaround

# “Who’s in charge here?”

**Big Four say Yes, Plan Commission No to LP tank permit; showdown hearing set for Tuesday**

by Mike O’Connell  
 Baraboo Sun

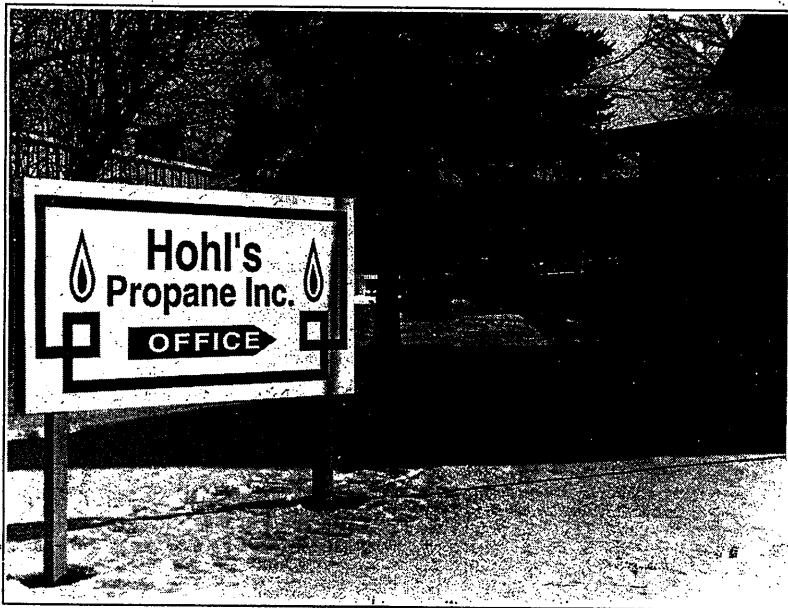
If you didn’t see or hear much to write home about in last week’s 19-minute televised city council meeting, wait until next time.

Tuesday’s 7 p.m. show should be a lot better. It will include a public hearing on the Vernon Hohl request for a conditional use permit for liquid propane tanks at his new business location at 707 South Boulevard.

Hohl will be represented by a lawyer, an engineer, an LP installer and an appraiser in an effort to overturn a city Plan Commission recommendation to deny him the permit, and more importantly, he says, to find out who really calls the shots at city hall.

Hohl told the Sun he had been given assurances last summer by the mayor, the city administrator, the city engineer and the city building inspector that he could do what he wanted on the former Pate orchard property, zoned B-3. His packet of correspondence with city officials bears this out.

“If these guys don’t have the decision-making power, they shouldn’t be signing letters,” said Hohl. “Maybe this thing can at



least solve the question, ‘Who the hell do you talk to to get something done in city government?’”

Hohl said he first picked out a parcel in the Devils Lake Industrial Park, only to be told afterward that LP tanks would not be an allowed use there. Then he says a city official gave him the name and phone number of the party who sold him the ten acres zoned B-3 on South Boulevard, and Terry

Kramer wrote Hohl on June 27 of last year that “I have also talked with Bill Bance, the city zoning administrator, and he has indicated that your business would be an allowable use in the B-3 district.”

Hohl bought the land, cleared five acres of old orchard, and set up offices in a converted house on the property. But somewhere along the line someone decided he would have to get a conditional use permit.

“They tell you what you should do, where you should go, and then they change the rules,” said Hohl.

The conditional use question fell into the hands of the city Plan Commission, a quasi-governmental assemblage consisting of the Mayor Dean Steinhorst, city council member Harold Platt, and citizens Gretchen Viney, John Exo, Leo Grill, and Al Follendorf.

“You give them everything they want, and then Viney sits there and says she doesn’t like it,” said Hohl.

On January 20 the committee voted unanimously for the second time to deny the permit, citing reasons of safety, aesthetics, incompatible land use, potential decline in neighborhood property values and proximity to another LP establishment, Redigas.

Prior to Jan. 20 the commission received letters in opposition to Hohl from William Wiese of the Carpet Shoppe and James Weickgenant of Weickgenant Accounting.

The permit is also opposed by Lee Hoppe of Glacier Valley Ford.

Should the council overturn the Plan Commission recommendation — stranger things have happened — Hohl would still have to go through the regular state L.P. permit process, which he says is really the best-test of the fitness of his proposal.

In our Sunday night conversation, Hohl’s tone of voice was more one of bewilderment than anger.

“Do you know how things work?” in city government, he asked.

“No, I don’t,” I replied.

## Hohl’s Propane, Inc. Brief history and plan for reorganization and relocation

In 1979 Vernon Hohl and Francis Hohl began a grain business which was their first retail endeavor. Semis were purchased, and Hohl Trucking was incorporated.

Shortly thereafter, they built a warehouse on Highway 33 between Portage and Baraboo. This grew over the next few years to include a feed mill, fertilizer plant and inventories of various other farm supplies. In 1984 propane gas was added to the list of products and services available from Hohl’s Farm Supply, Inc.

In 1996, Vernon and Francis decided to divide the ownership of the company, Hohl’s Farm Supply, Inc., now owned by Francis Hohl, continues to sell the feed, fertilizer, hardware and other farm supplies. Hohl’s Propane was incorporated by Vernon Hohl and now controls the propane portion of the business and assets, servicing customers in Adams, Sauk, Columbia, Marquette, Dane and Juneau Counties.

Vernon is looking for a five-acre parcel to relocate the propane business. His plan is to build an office building and a garage/shop building. Within the five-acre parcel there will also be areas for the bulk storage tanks, small tanks, a fill station, and parking for the delivery bobtail, service trucks, and cars.

The small fill station for 20# grill tanks and cylinders will generate some walk-in retail sales, and Vernon is considering a small showroom of gas appliances within the office building as many propane customers inquire about and expect this service.

The relocation must be completed this summer, and Vernon is anxious to break ground as soon as possible as there is much to do.

Hohl’s Propane currently employs four people full-time and two to three more are seasonal.

## Yamriska to leave Health Care Center

by Jeff Seering  
 Sauk County News Service

Amy Yamriska, administrator at the Sauk County Health Care Center for the past three years, will be resigning in March to take a new job as administrator of the Columbia County Health Care Center. That announcement was made when the Sauk County board met Tuesday in Baraboo.

Speaking to the board, Yamriska said the decision to leave was hard. A primary reason she is making the move is that she is expecting another child and would like to work closer to her home.

During her tenure several major improvements have been made at the Health Care Center, including the starting of a new Alzheimer’s unit. The Health Care Center has also received “no citation” inspections the past two years. The annual operating deficit at SCHCC is a topic of frequent county board discussion.

While Yamriska is leaving, another new county department head was introduced. Patrick Glynn, formerly the Marquette County administrator-coordinator, was introduced to the board, which unanimously approved his hiring as the new county Human Resources director. He replaces Mike Wolfe, who resigned late last year.

## County shop property worth only \$1.7 million?

by Jeff Seering  
 Sauk County News Service

An appraisal has been completed on Sauk County’s West Baraboo highway shop property, county administrator-coordinator Gene Wiegand told the Sauk County board on Tuesday morning.

The appraisal for the 55-acre property, which has been the subject of much speculation concerning its future commercial development potential in recent years, came in at a little under \$1.7 million, Wiegand said.

At that price, he said the cost of relocating the highway shop, sheriff’s garage and other county facilities at the site to a new location would be cost prohibitive, unless the county got an extremely generous offer. “My feeling is it would not generate enough revenue to replace the structures that are there,” Wiegand said of a possible sale of the property.

The property has also been mentioned as a potential county jail site as well as the future home of Sauk County Animal Shelter.

## City blocks propane facility

JULIA LAMBERT  
NEWS REPUBLIC

BARABOO — Plans by Hohl's Propane Inc. to build a propane facility are on hold after the city planning commission Tuesday cited public safety in denying a conditional use permit.

Plans include a large propane tank and about 30 smaller tanks on 10 acres of land west of Glacier Valley Ford-Mercury and behind Casey's General Store on South Boulevard.

This is the second time a permit was denied. In November, after a public hearing, a permit was denied on the advice of the city attorney, according to Jeff Clark, Hohl's attorney.

"The primary concerns of the fire department and neighbors were safety-related, and we have addressed those concerns and worked with the fire department and Mid-State Associates," Clark said.

Clark said an accident from propane, "in a well-designed facility, is less likely than being injured by riding in a car, flying in a plane or being struck by lightning."

MSA engineer Gil Hantzsch presented updated plans showing improvements suggested by residents and the fire department and which abide by state and local law.

"There's supposed to be a minimum of 50 feet separation from houses, and tanks are located 100 feet from one neighbor and 150-175 feet from another neighbor," Hantzsch said. "There will be a six-foot high fence around the valves of the large tank, which can be locked."

Current plans allow for the storage of 30 smaller tanks, but more could be stored on other parts of the land, he said.

Hantzsch said there would be two roads to ensure emergency equipment access, one from South Boulevard and one from Pate Street. A 40-foot turnaround for emergency vehicles is no problem because semi-tractor trailers using the facility need more room than that.

## PROPANE

From Page 1

A fire hydrant would be located within 350 feet of the tanks, Hantzsch said, but flow requirements of 1,500 gallons per minute can't be met because the city can provide only 1,327 g.p.m.

The fire department said the reduced flow shouldn't be a problem in an emergency situation. The water department said upping the flow would be fairly expensive unless further development warranted it in the future.

Lee Hoppe of Glacier Valley said children from a nearby trailer park would not be deterred by a six-foot fence, even if it's lockable.

"They would climb right over the fence," Hoppe said, adding a leak from tampering or another reason would flow down to his property and to Teel Plastics. "Extensive leaks or kids tampering with the valves could cause a real catastrophe."

Hoppe suggested a locking mechanism for the valve on the large tank in addition to the fence.

"I'm not opposed to the facility, but in a high population area, it needs more safeguards," Hoppe said.

Two other businesses — a carpet store and an accountant — also registered opposition to the facility by letter.

Hantzsch said government regulations now favor letting propane gas disperse to a less dangerous concentration instead of trying to keep it contained by building a

facility in a depression or putting a berm up.

Clark said the Hohl company "has made a concerted effort" to meet the requirements of neighbors and the fire department and to "accommodate state and local restrictions. The safety concerns may have common sense behind them, but the facility will be safe, and there's no proof of devaluation of property."

Accidents happen in many types of businesses, Clark said.

"Industrial or other businesses have tanks, and in Madison recently, a forklift started a fire. You can't plan against everything," he said.

Extensive discussion continued among commission members, fire department and the city attorney about water hydrants, access roads able to handle emergency equipment, allocation of costs for water main extensions and requiring a lock on tank valves, all of which Clark agreed to.

Commissioner John Exo said he appreciated the Hohl company's presentation but said the facility is still "a threat to public health."

Then, a motion was made to deny the conditional use permit. The motion cited the facility would not be compatible with adjacent neighbors, would impede orderly development because the parcel is so large and presents various safety problems.

The vote to deny the permit was unanimous.

The company has the option to appeal the decision to the Baraboo Common Council.

## OUR OPINION

## Leave land use in local hands

T-Day in Washington and Madison, and the "T" doesn't stand for Thanksgiving.

In Congress as well as the Wisconsin Legislature today, bills dealing with property rights and the so-called "takings" clause of the U.S. Constitution will come under scrutiny by federal and state committees.

The federal bill should be stopped in its tracks and five state bills should be laid aside until the public has a fair chance to comment.

■ In the case of the federal bill (HR 1534), members of the Senate Judiciary Committee should reverse the House of Representatives and leave most land-use and zoning decisions at the local level. Fortunately, both Wisconsin senators, Herb Kohl and Russ Feingold, sit on Judiciary and have indicated their disapproval of HR 1534's reverse federalism.

The bill is designed to allow landowners and developers involved in disputes over local restrictions on land — principally zoning regulations — to leapfrog their local appeals processes and sue immediately in federal court.

Promoters of this legislation see it as a way for landowners to protect their constitutional rights to property, which are within the purview of federal courts. The foundation for their belief lies in the Constitution's Fifth Amendment, which forbids the taking of private property for public use without "just compensation."

That constitutional right is far from clear-cut. For example, the courts have ruled that if a restriction is placed on the land to carry out a public purpose, there is not necessarily a "taking," and compensation is not necessarily required. It depends on the public purpose and how much the value of the land is reduced.

Quite naturally, federal courts have traditionally deferred to local and state authorities so that problems may be negotiated among neighbors and appealed to local agencies and courts, which can best evaluate the community's interests. If an agreement cannot be reached through local government or the circuit courts, then a federal appeal is always available. But rarely is that the proper place to start.

The existing system is tilted toward solving property rights' problems locally whenever possible. That's the way it should stay.

■ State Rep. Sheryl Albers, R-North Freedom, is sponsoring five bills that, collectively, would have a dramatic effect on how local governments go about making land-use and zoning decisions. This package of bills deserves a long, hard look, not a hurry-up hearing followed by a committee rubber stamping.

The Albers package was introduced Feb. 19, and public hearings will be held today. That is not enough time for people to carefully assess the bills, although both the Wisconsin Alliance of Cities and the League of Wisconsin Municipalities have voiced concerns.

Behind the bills is a belief that local governments — mainly cities — are somehow abusing their planning and zoning powers and infringing upon the rights of property owners.

**Whenever possible, property rights problems should be solved at the local level, not in federal courtrooms.**

That may be true in some cases, but the bills proposed by Albers are akin to killing a fly with a sledgehammer. One bill (AB 806) would require local governments to contract with two certified appraisers every time a proposed government action might affect the value of a property. That's more bureaucracy and more costs for taxpayers, who would be paying more than \$500 for every set of appraisals.

Another bill (AB 809) would eliminate compliance with any local "master plan" as a requirement for plat approval. This would overturn 40 years of practice and a 1997 ruling by the Wisconsin Supreme Court. Local plans are not sacrosanct, but neither should they be ignored.

■  
Everyone has a stake in solid land-use planning and zoning. Across Wisconsin, there are signs that cooperative approaches to development challenges can work. Congress can help by adhering to federalist principles and letting local and state governments decide. The state can help by ensuring a level playing field. That requires careful legislation, not bills that attempt to fly under the public radar.

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## OUR OPINION

# When it comes to zoning, locals know best

Today could turn out to be a bad day at Black Rock — and Black Earth, Black River Falls, Hartland, Ashippun, Madison and any other municipality that has zoning laws, which means pretty much every community in the state.

Today the U.S. Senate Judiciary Committee is scheduled to consider legislation designed to shift more power from local control over land use to federal control. And — coincidentally? — it's the same day that the state Assembly's Land Use Committee will hold hearings on four bills also aimed at reducing local governments' control over land use.

The specific bills under consideration are complex, but the issue isn't. Billed as a property rights matter by proponents, the so-called "takings" movement gets its main support from homebuilders' associations and developers who resent local governments telling them where and how they can build their 5-acre lot subdivisions and strip malls.

Those developers have convinced conservative Republicans that it would be better to take disputes over zoning out of the local appeals process and state courts for adjudication and move them directly to federal court.

That's right, the same Republicans who love to hate the federal courts and the federal bu-

reaucracy, and who constantly beat the local-control-is-best drum, are now arguing that the federal courts should decide local zoning disputes.

How does that make sense? Well, there is the \$295,250 the National Association of Homebuilders contributed to the campaign coffers of Democrats and Republicans between Jan. 1 and June 30 last year. Money carries its own logic.

Homebuilders and developers *do* have some legitimate beefs with local regulations. But the current system to resolve those disputes works fine and keeps matters in the hands of citizens who are trying to shape a sensible and sane future for their communities.

cebo, she said Wednesday. After that part is over, there probably be preliminary results, but the study runs for a full year. Participants are receiving 2.7 mg of about four pills of CLA daily, she said.

**Explained mystery**

Red Lobster Restaurant on Gammon Road ran out of lobster Friday. Wednesday, a manager confirmed the event but lined to explain. Lobster was apparently back at Red Lobster next day.

**Stone**

Ess Marlatt, administrative assistant and surrogate mother to Madison City Council, will be resigning March 6 after 29 years of service.

Party alert on Marlatt's last party alert on Marlatt's last 2:30 to 4:30 p.m. in Room 300 of the Madison Municipal Building.

**Band in town today**

The VFW Band and Jim Larson are performing at 7 p.m. at Oakwood Village Auditorium, Mineral Point Road. The event is free and open to the public.

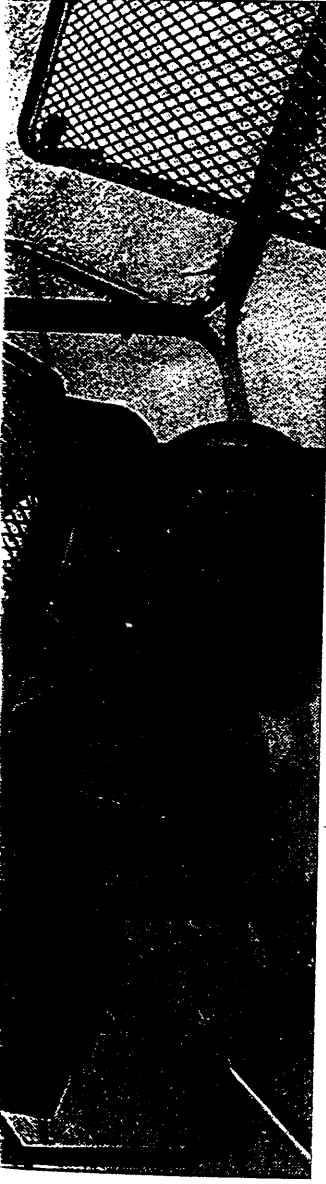
Phone: (608) 252-6126; E-mail: p@statejournal.madison.com

**Day in state history**

Feb. 26, 1838: The Territorial Legislature met in Madison for the first time, convening at the American



day in Wisconsin. History items are from "Wisconsin History Day by Day," edited by Tom Larson available at many bookstores and our Newsstores at West and East Towne.



State Journal photo/JOSEPH W. JACKSON III

Nonia Bednarz of Port Clinton, Ohio, and Sue Deneen of Stoughton enjoy lunch Wednesday outside of the Main Street Kitchen in Stoughton. Another day of temperatures in the 50s made it desirable to be outside. In Madison, the high reached 52, short of the record high of 58, set in 1932. Today, expect highs in the 50s again, with a chance of rain in the afternoon. Friday, it should cool off, with highs in the mid-40s and a 50 percent chance of rain.

**Developer gets a reprieve in quest**

**A judge orders Madison to allow Glenn Hovde another hearing for his River Ridge Run project.**

By Scott Mifred Wisconsin State Journal

Nine years and four lawsuits later, developer Glenn Hovde is still fighting to build 101 homes near Cherokee Marsh north of Lake Mendota.

The city of Madison has rejected Hovde's proposal four times, in part because of environmental concerns.

The city also has fended off Hovde's legal challenges — until now.

Citing "definite bias" on the part of a key city official, a Dane County judge ordered the city to give Hovde another public hearing and vote on his 70-acre proposal called River Ridge Run.

No date has been set, but the city has agreed to abide by the judge's order.

It's Hovde and his attorney, Bruce Kaufmann, who don't want to go through city channels again.

"What good would it do us to go back there?" Kaufmann asked Wednesday. "They're the same people."

Please see PROPOSAL, Page 4B

...the memorable ads was the 1986 commercial called "Toll Bridges of Madison County," which used a frustrated driver (one of the Farley brothers) running out of coins to pay the toll to enter Madison. Klug blamed Madison's high taxes

**Lawmaker opposes purchase for Ice Age Trail**

By Mike Flaherty Legislative reporter

A lawmaker who sits on the Legislature's powerful taxing and spending committee said Wednesday she's blocking the use of \$2.5 million in state funds for Dane County's purchase of land for the Ice Age Trail between Madison and Verona.

Rep. Sheryl Albers, R-North Freedom, said the price is too high for land zoned for agriculture, and she will oppose granting of state Stewardship Fund money to the county for the purchase of 117 acres for the trail.

"It's just not a good value for taxpayers' money," said Albers, who sits on the Legislature's Joint Finance Committee, a panel of eight senators and eight representatives who oversee state spending

**Monkeys on the move: Officials agree relocation**

By Jennifer A. Galloway Wisconsin State Journal

Public officials say the problem is money. Animal advocates say the issue is compassion. Either way, it appears the Vilas Zoo monkeys must relocate as they have been unable to garner the support needed to spend retirement in Madison.

UW-Madison Graduate School Dean Virginia Hinshaw has not publicly rejected Dane County Executive Kathleen Falk's proposal that the county

share the cost of caring for the monkeys. But it appears the university won't help pay to preserve the 150 monkeys that have become useless as research subjects.

Joe Kennitz, interim director of the Wisconsin Regional Primate Center, said Wednesday that Falk's offer didn't "come close at all to representing commitment that is necessary from the county" to keep the monkeys in Madison.

Falk proposed that the county

university's share would amount to at least twice that, plus \$60,000 to repair the monkey house. Kennitz said the university already has stated its position that the county would need to assume full support for the colony at the end of the year.

UW-Madison is no longer conducting behavioral studies on the 50 stump-tailed macaques and 100 rhesus monkeys housed at the county-run zoo. An agreement with the city prevents the university

the zoo monkeys and it now plans to ship the rhesus colony to a Louisiana research center and the macaques to a sanctuary in Thailand. It has given the county a March 2 deadline to offer full support.

"The university can show no compassion for these monkeys," said Rick Bogle, a member of the Alliance for Animals. "There are all sorts of options if the university would be interested in doing something humane." A Texas animal sanctuary has

LOCAL

4B

Former WERC Chairman

Morris Slavney, a longtimeconsin Employment Relations Commission chairman, died in Madison after a short illness. Slavney, 83, spent 33 years with WERC, serving as chairman from 1959 until he retired in 1983. Between 1983 and 1993, Slavney served as the director of the Wisconsin Employment Relations Commission.

ardship Fund law, said Albers is wrong.

"This is one of the most important purchases you can make — it's another arboretum in Dane County," he said. Zoning will not protect that land forever.

"If you want to protect this land, you have to buy it — and the price of that land is only going to go up," Black said. "Only 20 years ago, most of my district was farmland."

While \$21,000 an acre is a lot of money, he added, the price for the natural areas bordering the UW-Arboretum being sold to a developer is selling for \$80,000 an acre.

City officials said they had not yet seen the letter.

— Reporter Vince Filak contributed to this article.

Ice

Continued from Page 1B

view will look at this and that they will approve it," he said.

Albers sent letters Wednesday to Dane County Executive Kathleen Falk and to Madison Mayor Sue Bauman explaining that the land's actual assessed value is \$326,000. Appraisers who have looked at the land valued it as though it would someday become residential property — despite its agricultural zoning, she said.

"I cannot accept a \$2.5 million price tag for a piece of property that has never been — nor does it appear ever will be — development property," she said in her letter.

This year, Dane County allocated \$1.2 million for the county's conservation fund, to help acquire key properties for the Ice Age Trail junction area between Madison and Verona and the E-way south of Madison.

Rep. Spencer Black, D-Madison, the author of the Stewardship Fund law, said he will look at this and that they will approve it.

Hesselberg gets to the bottom of things.

WISCONSIN STATE JOURNAL  
http://www.madison.com

(b) The family court commissioner shall provide a party for inspection or purchase, with a copy of the statutory provisions in this chapter generally pertinent to the action. You are further hereby notified that, in compliance with Title II of the Americans with Disabilities Act, no qualified individual with a disability...

Pekowsky ordered a new hearing without Terrell's participation.

City Attorney Eunice Gibson said Wednesday she doesn't agree with the judge's findings but accepts his decision.

"This is a caution for us and for all our agencies," Gibson said. "We need to look at the kinds of things that can raise (bias) issues."

Terrell said Wednesday she still feels she did nothing wrong. "I disqualified myself as soon as I heard Mr. Howde wanted me to step down," she said.

Terrell called her actions a technicality that Howde hoped would give him automatic approval for River Ridge Run.

The project is proposed for land just west of the Yahara River in the town of Westport. The town has approved it. But the city reviews and can stop projects within three miles of its boundaries.

Kaufmann worried that, if another public hearing and vote took place, Terrell might do more harm to his client's project behind the scenes than she did before in public.

"There's nothing to stop her from feeding the same people," he said. "By now, it's so ingrained in them, they'll do the same thing as last time. And I don't think that measures out to a fair hearing."

Kaufmann and Howde have 20 days from the judge's order last week to file a motion asking him to reconsider. They could have up to 90 days to appeal.

The following meeting agenda is proposed: 10:00 a.m. I. Call to Order/Roll Call II. Review of Minutes III. Review of Fiscal Procedures IV. Director Expense Review V. Other

Proposal

Continued from Page 1B

He's (the judge) already voided their decision because of impermissible high risk of prejudice."

Kaufmann wanted the judge to give Howde a green light to start building. Kaufmann said his client will either ask the judge to reconsider or appeal the judge's decision to the Court of Appeals or the Supreme Court.

"We're not going to drop this," Kaufmann said. "We're pleased with the judge's findings. We're not happy with his remedy."

Judge Robert Pekowsky states in court documents that city Plan Commission Chairwoman Caryl Terrell showed "definite bias" during a public hearing in 1995 that tainted the city's eventual rejection.

Terrell, who works for the Sierra Club, which opposes Howde's project, didn't vote on the plan after Howde charged it would be a conflict of interest. Terrell did, however, taint the city's decision by dominating a public hearing and helping an environmentalist write letters to City Council members urging rejection, Pekowsky ruled.

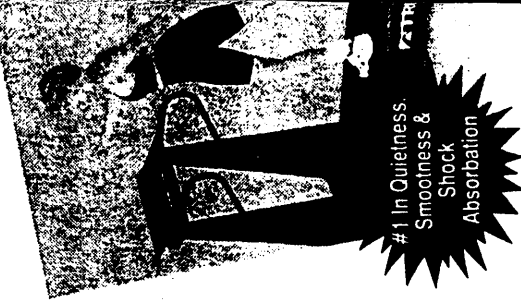
"These actions show definite bias on the part of Ms. Terrell" that "created an impermissibly high risk of bias in the proceedings," the judge stated.

LEGAL NOTICES

DANE COUNTY LEGAL NOTICES



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