

☞ **05hr\_JC-Au\_Misc\_pt44c**



☞ Details: Audit requests, 2006

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Joint

(Assembly, Senate or Joint)

### Committee on Audit...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

VILLAGE OF CAMBRIDGE

16. State statute, s. 66.1001, requires that the following actions and programs must be consistent with an adopted comprehensive plan. Please check applicable boxes where these programs or actions may apply to your community.

- Municipal incorporation procedures under s. 66.012, 66.013 or 66.014.
- Annexation procedures under s. 66.021, 66.024 or 66.025.
- Cooperative boundary agreements entered into under s. 66.023.
- Consolidation of territory under s. 66.02.
- Detachment of territory under s. 66.022.
- Municipal boundary agreements fixed by judgment under s. 66.027.
- Official mapping established or amended under s. 62.23 (6).
- Local subdivision regulation under s. 236.45 or 236.46.
- Extraterritorial plat review within a city's or village's extraterritorial plat approval jurisdiction, as defined in s.236.02(5).
- County zoning ordinances enacted or amended under s. 59.69.
- City or village zoning ordinances enacted or amended under s. 62.23 (7).
- Town zoning ordinances enacted or amended under s. 60.61 or 60.62.
- An improvement of a transportation facility that is undertaken under s. 84.185.
- Agricultural preservation plans that are prepared or revised under subch. IV of chapter 91.
- Impact fee ordinances that are enacted or amended under s. 66.55.
- Land acquisition for recreational lands and parks under s. 23.09 (20).
- Zoning of shorelands or wetlands in shorelands under s. 59.692, 61.351 or 62.231.
- Construction site erosion control and storm water management zoning under s. 59.693, 61.354 or 62.234.
- Any other ordinance, plan or regulation of a local governmental unit that relates to land use.

For multi-jurisdictional plans, please list separately:

17. Please list all groups which the applicant will coordinate the development of the comprehensive plan including but not limited to: neighboring jurisdictions; county(ies) of jurisdiction; school, utility and other special districts; other groups and organizations, and where applicable, the Regional Planning Commission of jurisdiction; and the Metropolitan Planning Organization (MPO).

- Town of Oakland
- Town of Christiana
- Village of Cambridge
- Village of Rockdale

Existing Plans: Please answer all questions. Indicate N/A where necessary.

VILLAGE OF DEERFIELD

11. Is this project part of an *update* of an existing plan (master plan, development plan, land use plan, etc.)?

X Yes. Please identify plan(s) below.  No. Please go to question 12.

a. Title of existing plan (or plans if multi-jurisdictional effort) and plan prepared by:

Village of Deerfield Comprehensive Master Plan - Vandewalle

Village of Deerfield Smart Growth Planning Program, Addendum to the 1992 Comprehensive Master Plan - Vierbicher

b. Was the existing plan(s) adopted by the community's elected officials:

X Yes.  No. Date of Adoption: 9/92, 4/01

c. What was the approximate cost for developing the plan:

over \$10,000 - Vandewalle

over \$13,000 - Vierbicher

d. Please list existing plans separately, if multi-jurisdictional project:

worked with Town of Deerfield on Smart Growth Planning Program. Village of Deerfield - Addendum to the 1992 Comprehensive Master Plan Adopted 9/92 Has Issues & Opportunities Element, Land Use Element, Intergovernmental Cooperation.

12. Have other components of a comprehensive plan been developed such as Agriculture Preservation Plan, Comprehensive Outdoor Recreation Plan, etc. ? Working on Agricultural, Natural & Cultural Resource Element, beginning December 2001

X Yes.  No.

If Yes, please list:

Just finished the Smart Growth components of Issues and Opportunities, Land Use, Intergovernmental Cooperation

13. Please list other existing plans and dates that also cover and/or govern land use in this community? (Examples: County Development Plan, Regional Transportation Plan, etc...)

Environmental Corridors, Wetlands from Co., DNR

Implementation Efforts: Please answer all questions. Indicate N/A where necessary.

14. Has the community adopted the following planning implementation tools? Please indicate the adoption year and, if applicable, the year of the most recent update. (For multi-jurisdictional efforts, please list by community in space below under question 14.)

Zoning Ordinances	X Yes <input type="checkbox"/> No	Year adopted:	Last update:	Administered by: Admin Clk-Treas
Exclusive Ag Zoning	<input type="checkbox"/> Yes X No	Year adopted:	Last update:	Administered by:
Land Division Ordinances	X Yes <input type="checkbox"/> No	Year adopted: 1988	Last update:	Administered by: Admin Clk-Treas & Engineer
Building Code	X Yes <input type="checkbox"/> No	Year adopted:	Last update:	Administered by: Admin Clk-Treas & Bldg Inspect
Highway Access Control	<input type="checkbox"/> Yes X No	Year adopted:	Last update:	Administered by:
Official Map	X Yes <input type="checkbox"/> No	Year adopted:	Last update:	Administered by: Admin Clk-Treas, Attorney
Site Plan Review	<input type="checkbox"/> Yes <input type="checkbox"/> No			

15. Please indicate other implementation tools not listed above:

VILLAGE OF DEERFIELD

State statute, s. 66.1001, requires that the following actions and programs must be consistent with an adopted comprehensive plan. Please check applicable boxes where these programs or actions may apply to your community.

- Municipal incorporation procedures under s. 66.012, 66.013 or 66.014.
- Annexation procedures under s. 66.021, 66.024 or 66.025.
- Cooperative boundary agreements entered into under s. 66.023.
- Consolidation of territory under s. 66.02.
- Detachment of territory under s. 66.022.
- Municipal boundary agreements fixed by judgment under s. 66.027.
- Official mapping established or amended under s. 62.23 (6).
- Local subdivision regulation under s. 236.45 or 236.46.
- Extraterritorial plat review within a city's or village's extraterritorial plat approval jurisdiction, as defined in s.236.02(5).
- County zoning ordinances enacted or amended under s. 59.69.
- City or village zoning ordinances enacted or amended under s. 62.23 (7).
- Town zoning ordinances enacted or amended under s. 60.61 or 60.62.
- An improvement of a transportation facility that is undertaken under s. 84.185.
- Agricultural preservation plans that are prepared or revised under subch. IV of chapter 91.
- Impact fee ordinances that are enacted or amended under s. 66.55.
- Land acquisition for recreational lands and parks under s. 23.09 (20).
- Zoning of shorelands or wetlands in shorelands under s. 59.692, 61.351 or 62.231.
- Construction site erosion control and storm water management zoning under s. 59.693, 61.354 or 62.234.
- Any other ordinance, plan or regulation of a local governmental unit that relates to land use.

multi-jurisdictional plans, please list separately:

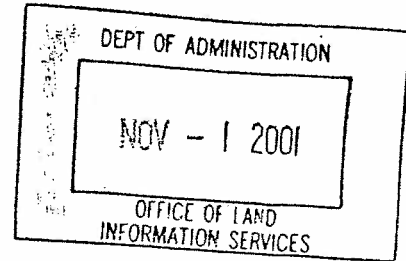
Please list all groups which the applicant will coordinate the development of the comprehensive plan including but not limited to: neighboring jurisdictions; county(ies) of jurisdiction; school, utility and other special districts; other groups and organizations, and where applicable, the Regional Planning Commission of jurisdiction; and the Metropolitan Planning Organization (MPO).

- wn of Deerfield
- rfield Volunteer Fire Dept.
- 3
- community Center
- rfield Chamber of Commerce
- e County



November 1, 2001

Office of Land Information Services, DOA  
17 South Fairchild Street, 7<sup>th</sup> Floor  
Madison, WI 53703  
Attention: Sarah Kemp



RE: Dane County Comprehensive Planning Grant application

Dear Ms. Kemp:

I am pleased to submit this multi-jurisdictional application on behalf of Dane County. At present 6 towns and 6 villages have approved resolutions joining Dane County in this application. Interest has been expressed by 3 other towns who will vote on this issue next week. Dane County has included these three towns in this application. Should they decide not to join this effort we will submit revised documents. We will inform you of their decisions and submit any additional resolutions by November 8, 2001.

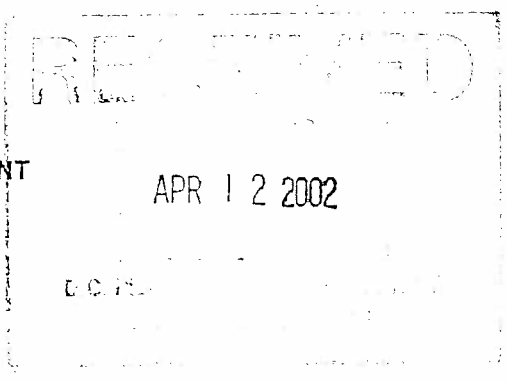
Please do not hesitate to call if you have any further questions or documentation needs. I look forward to your favorable review of this application. Thank you for your attention and consideration in this matter.

Sincerely,

Jeanie Sieling  
Director of Planning and Development

5749

State Copy:   
Grantee Copy:   
Award Amount: \$116,800  
Contract Number: 82220



FY 2002 COMPREHENSIVE PLANNING GRANT

GRANT CONTRACT  
Between  
THE STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
And  
Dane County

THIS CONTRACT is made and entered into by and between the State of Wisconsin ("State"), Department of Administration ("Department") and the Dane County ("Grantee"). This Contract is complete and effective after the signature of all parties.

WHEREAS, the Department administers the Comprehensive Planning Grant ("Grant") through the Office of Land Information Services ("Office") to provide funds for eligible activities; and

WHEREAS, it is the intention of the parties to this Contract that all activities described herein shall be for their mutual benefit; and

WHEREAS, the Grantee has submitted an Application for the Grant to the Department and the Department, on reliance upon the representations set forth in the Application, approved an award to the Grantee in the amounts of \$116,800; and

WHEREAS, the amounts of \$116,800 of the total award are for eligible transportation planning activities as described in Attachment A; and

WHEREAS, the terms and conditions herein shall survive the performance period and shall continue in full force and effect until the Grantee has completed and is in compliance with all the requirements of this Contract; and

WHEREAS, the said communities found in Attachment B have agreed to the terms and conditions herein; and

WHEREAS, the Grantee is eligible for one comprehensive planning grant every ten years for developing a new or updated plan; and

WHEREAS, this Contract is a mutually exclusive Contract and is distinguished from all previous contracts between the Grantee and the Department and contains the entire understanding between the parties;

NOW, THEREFORE, in consideration of the mutual promises and dependent documents, the parties hereto agree as set forth in Articles 1 through 12 which are annexed and made a part hereof.

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
Division of Housing and  
Intergovernmental Relations

Dane County

BY: *Linda Seemeyer*  
Linda Seemeyer, Deputy Secretary

BY: *Karen Pae*  
[Name and Title of Official]

DATE: *7/24/02*

DATE: *4-11-02*

BY: *J. Michael Blaska*  
J. Michael Blaska, Director  
Office of Land Information Services

FEIN NUMBER: \_\_\_\_\_

DATE: *April 30, 2002*

State Copy: \_\_\_\_\_  
Grantee Copy: \_\_\_\_\_  
Award Amount: \$116,800  
Contract Number: 82220

## GENERAL TERMS AND CONDITIONS

### ARTICLE 1. APPLICABLE LAW

This Contract shall be governed under the laws of the State of Wisconsin. The monies issued under this Grant shall not be used to supplant existing funding otherwise budgeted or planned for projects outside of this program whether under local, state or federal law, without the consent of the State.

### ARTICLE 2. LEGAL RELATIONS AND INDEMNIFICATION

The Grantee shall at all times comply with and observe all federal and state laws and published circulars, local laws, ordinances, and regulations which are in effect during the performance period of this Contract and which in any manner affect the work or its conduct.

The Grantee shall indemnify and hold harmless the State and all of its officers, agents and employees from all suits, actions or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the Grantee, or of any of its contractor(s), in performing work under this Contract; brought for or on account of any obligations arising out of contracts between Grantee and its contractor(s) to perform services or otherwise supply products or services; or as a result of plan implementation.

The Grantee shall also hold the State harmless for any audit disallowances related to the allocation of administrative costs under this Contract, irrespective of whether the audit is ordered by federal or state agencies or by the courts. If federal law requires an audit and if the Grantee is also the recipient of state funds under the same or a separate grant program, then the state funded programs shall also be included in the scope of the federally required audit. Not more than fifty percent (50%) of the local match identified by the application may be funded through federal grants and the remaining local match shall be financed by in-kind services or other grants. The Grantee shall comply with any requirements related to funding sources.

### ARTICLE 3. STANDARDS FOR PERFORMANCE

The Grantee shall perform the projects and activities as set forth in the Grant Application and pursuant to the standards established by state and federal statute and administrative rules, and any other applicable professional standards. The Grantee, within a Metropolitan Planning Organization (MPO) area, agrees to work with the MPO, include the MPO in the planning process; and request MPO to review the transportation element for consistency with federal, state and regional plans. The Grantee agrees to coordinate planning efforts with the Department of Transportation districts.

### ARTICLE 4. PUBLICATIONS:

All materials produced under this Contract shall become the property of the Grantee and may be copyrighted in its name, but shall be subject to the Open Records Laws, Wis. Stat. 19.21 et seq. The Department reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, otherwise use, and to authorize others to use the work for government purposes. A notation indicating the participation of and partial funding by the Department shall be carried on all reports, materials, data and/or other information produced as a result of this Contract.

### ARTICLE 5. EXAMINATION OF RECORDS

The Department shall have access at any time and the right to examine, audit, excerpt, transcribe and copy on the Grantee's premises any directly pertinent records and computer files of the Grantee involving transactions relating to this Contract. Similarly, the Department shall have access at any time to examine, audit, test and analyze any and all physical projects subject to this Contract. If the material is held in an automated format, the Grantee shall provide copies of these materials in the automated format or such computer file as may be requested by the Department. The Grantee shall submit information, as requested, monitoring the progress of the comprehensive plan implementation after its adoption. All material shall be retained for three years by the Grantee following final payment under this Contract. This provision shall also apply in the event of termination of this Contract. The Grantee shall notify the Department in writing of any planned conversion or destruction of these materials at least 90 days prior to such action.

The minimum acceptable financial records to be maintained for the project consist of: 1) Documentation of all equipment, materials, supplies and travel expenses; 2) Inventory records and supporting documentation for allowable equipment purchased to carry out the project scope; 3) Rationale supporting allocation of space

charges; 4) Documentation of contract services and materials; and 5) Any other records which support charges to project funds. The Grantee shall maintain sufficient segregation of project accounting records from other projects and/or programs.

**ARTICLE 6. PERFORMANCE REPORTS**

The Grantee shall submit performance reports not less than one and no more than four times within the Department's fiscal year, beginning on July 1, 2002 and at three month intervals thereafter until the completion of the comprehensive plan, including a detailed scope of services, products and/or equipment that was purchased or completed, a detailed expenditure report of the actual expenses including copies of vendor invoicing, and a summary of the successes and failures of the project. No eligible costs shall be incurred prior to the execution of this agreement. The performance report shall identify the status of progress of tasks as provided in the Grant Application. The final performance report shall be submitted no later than sixty (60) days following the adoption of the comprehensive plan.

**ARTICLE 7. FAILURE TO PERFORM**

The Department reserves the right to suspend payments or request refund of funds if required reports are not provided to the Department on a timely basis or if performance of contracted activities is not evidenced. The Department further reserves the right to suspend payment of funds under this Contract if deficiencies related to the required reports are discovered.

**ARTICLE 8. TERMINATION OF AGREEMENT & CANCELLATION FOR CAUSE**

The Department may terminate this Contract at any time at its discretion by delivering written notice to the Grantee by Certified Mail, Return Receipt Requested, not less than thirty (30) days prior to the effective date of termination. Date of receipt as indicated on the Return Receipt shall be the effective date of the notice of termination. Upon termination, the Department's liability shall be limited to the actual costs incurred in carrying out the project as of the date of termination plus any termination expenses having prior written approval of the Department. The Grantee may terminate this Contract, by delivering written notice to that effect to the Department by Certified Mail, Return Receipt Requested, not less than thirty (30) days prior to termination. Date of receipt as indicated on the Return Receipt shall be the effective date of the notice of termination. In the event the Contract is terminated by Grantee, for any reason whatsoever, the Grantee shall refund to the Department within forty-five (45) days of the effective date of notice of termination any payment made by the Department to the Grantee.

The Department reserves the right to cancel any Contract in whole or in part without penalty effective upon mailing of notice of cancellation for failure of the Grantee to comply with the any terms and conditions of this Contract.

**ARTICLE 9. NON-APPROPRIATION OF FUNDS**

This grant shall be terminated without penalty upon failure of the Legislature to appropriate the funds necessary to carry out its terms.

**FISCAL TERMS AND CONDITIONS**

**ARTICLE 10. ELIGIBLE COSTS**

Eligible Costs are auditable costs that are directly attributable to Grant activities and identified and approved in the Grant Application. No Eligible Costs subject to reimbursement by this Grant may be incurred prior to the execution of this Agreement. Costs only as identified in the Budget and described in the Grant Application are allowed.

**ARTICLE 11. METHOD OF PAYMENT**

Payments shall be used exclusively for expenses incurred during the performance period. Payments for the Award may occur on a quarterly basis. Upon adoption of the comprehensive plan by the local government and submission of vendor invoices, any other financial records and performance report on project status, payment of the remaining twenty-five percent (25%) shall be disbursed.

Request for final payment of any and all funds awarded by this Contract shall be received by the Office within sixty (60) days of the end of the performance period. The performance period is forty-eight (48) months. For reimbursement of funds, all performance reports shall be submitted to the following address:



Ms. Sarah Kemp  
Grant Program Administrator  
Office of Land Information Services  
P.O. Box 1645  
Madison, Wisconsin 53701-1645

**ARTICLE 12. PROJECT COMPLETION**

The comprehensive plan shall be completed within forty-eight (48) months of the Effective Date of the Contract. The Effective Date of the Contract shall be the date the Contract is executed by the State of Wisconsin, Department of Administration representative.

**ASSURANCES**

**ARTICLE 13. NONDISCRIMINATION IN EMPLOYMENT**

The Grantee shall comply with s. 16.765, Wis. Stats., as follows:

"In connection with the performance of work under this Contract, Grantee shall not discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01 (5), sexual orientation or national origin.

This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee shall take affirmative action to ensure equal employment opportunities. The Grantee agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non discrimination clause."

**ARTICLE 13. DISCLOSURE**

The Grantee shall not engage the service of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to this Contract without the written consent of the employer of such person or persons and of the Department.

"Resolution 70"

RES. 69, 04-05

AMENDING THE DANE COUNTY FARMLAND PRESERVATION PLAN BY ADOPTING AMENDMENTS TO  
THE TOWN OF SUN PRAIRIE LAND USE PLAN

On September 29, 2003, the Town Board of the Town of Sun Prairie adopted the *Town of Sun Prairie Comprehensive Plan 2003-2023*. The town received a Wisconsin Smart Growth planning grant and developed a plan with the assistance of a planning consultant. Previous to the adoption of this plan, the Town amended its 2002 Land Use Plan, (County Board Resolution #201, 1997-1998), to designate a ten-acre area as planned for single-family residential development. The County approved the previous amendment as part of the Farmland Preservation Plan on December 18, 1997.

Dane County has adopted a farmland preservation plan under the authority of Chapter 91 of the Wisconsin Statutes. The *Dane County Farmland Preservation Plan* includes town land use plans as central components. Therefore, amendments to town land use plans must be adopted by the County Board of Supervisors to also be considered amendments to the *Farmland Preservation Plan*.

The Town plan was comprehensively rewritten to meet the requirements of section 66.1001(3) of the Wisconsin State Statutes (Comprehensive Planning). The Land Use Element of the plan describes land use policies that aim to "Preserve and protect farmland for present and future generations; preserve and protect rural resources and the environment; limit growth within the town; maintain and protect the town's rural character"; and to "Maintain a balance between the best interest of the community and the property rights of the individual." To accomplish these goals, the most significant policy is to limit residential development to 1.2% per acre. In addition, in effort to accomplish effective farmland preservation, the town will use the Land Evaluation Assessment (LESA) process for evaluating development proposals.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors adopts the town approved amendment to the *Town of Sun Prairie Comprehensive Plan 2003-2023* as an amendment to the *Dane County Farmland Preservation Plan*.

Submitted by Supervisors Gau and Wiganowsky, July 8, 2004 (p. 73, 04-05).

Referred to ENVIRONMENT/AGRICULTURE/NATURAL RESOURCES & ZONING/LAND REGULATION.

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RES. 70, 04-05

RECONSTITUTION OF DANE COUNTY'S COMPREHENSIVE PLANNING PROCESS

Dane County is blessed with vibrant communities, beautiful and productive lands, and a rich watershed. It is also one of the fastest growing counties in Wisconsin. As the human population grows – and more housing, roads, and infrastructure are created to serve that population – it is important that Dane County plan properly in order to protect for future generations its great physical, cultural, and economic gifts.

The Comprehensive Planning process begun by Dane County in 2002 is an extremely important tool in ensuring such protection for the County's residents and resources. However, the administration of that process has been left unfortunately ambiguous and consequently now is threatened by time-consuming gridlock and arbitrary action. It is imperative that the Comprehensive Plan process, soon to provide a blueprint for Dane County's future, be carried out in a timely, inclusive, objective manner that serves all County residents.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors hereby officially designates its Environment, Agriculture & Natural Resources Committee as a county agency responsible for planning, as stipulated in Chapter 7 of County ordinance and provided for in Wisconsin statute 59.69(6); and

BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby establishes its Environment, Agriculture & Natural Resources Committee as the standing committee of the County Board charged with oversight of the Comprehensive Planning process, including appointment, formation, and administration of supervisory committees, subcommittees, and work groups; and

BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby directs that the Chair of the Environment, Agriculture & Natural Resources Committee shall make appointments to supervisory committees, subcommittees, and work groups in consultation with the County Board Chair and First Vice Chair, or their (2) designees from the Zoning & Land Regulation Committee and Public Works & Transportation Committee; and

BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby dissolves the Comprehensive Planning Steering Committee previously formed during the 2002-2004 session by joint-motion of two defunct committees of the Board; and

BE IT FINALLY RESOLVED that the Dane County Board of Supervisors hereby requests that the County Board Chair, First Vice Chair (or their fore-mentioned two designees) and Chair of the Environment, Agriculture & Natural Resources Committee act promptly to fully constitute all Comprehensive Planning supervisory committees, subcommittees, and work groups so that process may proceed.

Submitted by Supervisors McDonell and Pertzborn, July 8, 2004 (p. 74, 04-05).  
Referred to EXECUTIVE and ENVIRONMENT/AGRICULTURE/NATURAL RESOURCES.

RES. 71, 04-05

#### COUNTY EXECUTIVE APPOINTMENTS

The County Executive has appointed the following persons to the designated commissions, committees, and boards. These appointments require confirmation by the County Board.

NOW, THEREFORE, BE IT RESOLVED that the appointments set forth below are confirmed.

#### Elections Commission

Robert Booth Fowler, 5713 Tolman Terrace, Madison 53711 (288-5496-H), to be reappointed. This term will expire 6/30/07.

#### Ethics Board

Adam Plotkin, 202 North Pinckney Street, #301, Madison 53703 (310-9186-H, 266-2500-W), to fill a citizen seat. Mr. Plotkin is a Legislative Assistant for Senator Spencer Coggs. Prior to that, he was the office manager for the Assembly Sergeant at Arms. He volunteers/participates in fund raisers for breast cancer research and treatment. He has a B.S. degree in Political Science from the University of Wisconsin-Madison. This term will expire 1/18/06.

## Mark Hazelbaker

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**From:** Mark Hazelbaker [mhazel@tds.net]  
**Sent:** Tuesday, November 23, 2004 5:15 PM  
**To:** 'Schumann, Joanna'  
**Cc:** 'Kent Disch'; 'Kris Hampton'; 'Vern Wendt'; 'Bob Bowman'; 'Bill Hitzemann'; 'Jim Campbell'; 'Jerry Jensen'; 'Derr, Jerry'; 'Duane Gau'; 'Eileen Bruskevitz'; 'Todd Violante'; 'Wells, Topf'; 'Kevin Kesterson'; 'MacKenzie, Marcia'; 'john.rothschild@doa.state.wi.us'; 'Phil Salkin'; 'Andy Olsen'  
**Subject:** RE: Dane County Comprehensive Planning Grant



schumann.ltr.dSUB3res70.doc  
oc (46 KB) (34 KB)

The attached documents are a letter and attachment related to the Dane County planning grant. A hard copy will follow, but this email initiates the request made in the letter.

Mark Hazelbaker

Mark Hazelbaker

From: Mark Hazelbaker [mhazel@tds.net]  
Sent: Thursday, October 21, 2004 11:35 AM  
To: 'Schumann, Joanna'  
Subject: RE: Dane County Comprehensive Planning Grant

Thank you for your response. I regret issuing a demand to you, but it seemed like I was not getting a response. I certainly intended no personal disrespect.

Mark Hazelbaker

-----Original Message-----

From: Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
Sent: Thursday, October 21, 2004 10:11 AM  
To: 'Mark Hazelbaker'  
Subject: RE: Dane County Comprehensive Planning Grant

I have copied requested documentation. I am forwarding this request to our Legal Counsel to approve. You will be notified by Donna Sorenson on how to proceed with your check.  
Thanks! Joanna

-----Original Message-----

From: Mark Hazelbaker [mailto:mhazel@tds.net]  
Sent: Thursday, October 21, 2004 11:01 AM  
To: 'Schumann, Joanna'  
Subject: RE: Dane County Comprehensive Planning Grant

the message below clearly indicates, I would like a copy of everything.

-----Original Message-----

From: Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
Sent: Thursday, October 21, 2004 9:35 AM  
To: 'Mark Hazelbaker'  
Subject: RE: Dane County Comprehensive Planning Grant

I still don't know weather you are interested in a copy of the entire file, or just a partial application. Please confirm.  
Thanks!

-----Original Message-----

From: Mark Hazelbaker [mailto:mhazel@tds.net]  
Sent: Thursday, October 21, 2004 10:30 AM  
To: 'Schumann, Joanna'  
Subject: RE: Dane County Comprehensive Planning Grant

According to my computer, I sent you the following reply on September 28th, and a follow-up on 10-13. I heard nothing back.

Thank you for such a prompt reply. I would like a copy of everything. Please mail the copies to me at 3240 University Avenue, Suite 3, Madison, WI 53705. I can have a check forwarded when you know the total amount.

-----Original Message-----

From: Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
Sent: Tuesday, September 28, 2004 11:29 AM  
To: 'mhazel@tds.net'  
Subject: RE: Dane County Comprehensive Planning Grant

Dear Mr. Hazelbaker,

Dane County has been awarded a grant in 2002. Our file folder contains several documentation, such as progress reports, financial reports, invoices, a copy of the application and a copy of the grant agreement. I assume there is going to be more than 100 pages of documentation. Cost of copying is 15 cents per page. Please let me know if you would like me to process your request and please specify what kind of documentation would you like me to copy besides grant application.

Thanks!

Joanna Schumann  
Grant Administrator  
joanna.schumann@doa.state.wi.us

Tel. 608.267.3369  
Fax 608.267.6917

Comprehensive Planning Program  
Wisconsin Land Information Program  
Division of Intergovernmental Relations  
101 E. Wilson Street, 10th Floor  
Madison, WI 53702-0001

-----Original Message-----

From: mhazel@tds.net [mailto:mhazel@tds.net]  
Sent: Monday, September 27, 2004 9:35 PM  
To: joanna.schumann@doa.state.wi.us  
Cc: ghderr@chorus.net  
Subject: Dane County Comprehensive Planning Grant

Pursuant to sec. 19.31, Wis. Stats., I hereby request a copy of the grant application(s) and grant award(s) to Dane County, whether singly or in combination with other communities, made by the State of Wisconsin for comprehensive planning. I also would like a copy of all documents and materials in your files concerning these grants.

Please advise me of any copying charges and I will gladly remit them.  
Please send the copies to me at 3240 University Avenue, Madison, WI 53705.

Mark Hazelbaker  
608 663 9770

## Mark Hazelbaker

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**From:** Mark Hazelbaker [mhazel@tds.net]  
**Sent:** Thursday, October 21, 2004 11:01 AM  
**To:** 'Schumann, Joanna'  
**Subject:** RE: Dane County Comprehensive Planning Grant

As the message below clearly indicates, I would like a copy of everything.

-----Original Message-----

**From:** Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
**Sent:** Thursday, October 21, 2004 9:35 AM  
**To:** 'Mark Hazelbaker'  
**Subject:** RE: Dane County Comprehensive Planning Grant

I still don't know weather you are interested in a copy of the entire file, or just a grant application. Please confirm.  
Thanks!

-----Original Message-----

**From:** Mark Hazelbaker [mailto:mhazel@tds.net]  
**Sent:** Thursday, October 21, 2004 10:30 AM  
**To:** 'Schumann, Joanna'  
**Subject:** RE: Dane County Comprehensive Planning Grant

According to my computer, I sent you the following reply on September 28th, and a follow-up again on 10-13. I heard nothing back.

Thank you for such a prompt reply. I would like a copy of everything.  
Please mail the copies ot me at 3240 University Avenue, Suite 3, Madison, WI 53705. I can have acheck forwarded when you know the total amount.

Mark

-----Original Message-----

**From:** Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
**Sent:** Tuesday, September 28, 2004 11:29 AM  
**To:** 'mhazel@tds.net'  
**Subject:** RE: Dane County Comprehensive Planning Grant

Dear Mr. Hazelbaker,

Dane County has been awarded a grant in 2002. Our file folder contains several documentation, such as progress reports, financial reports, invoices, a copy of the application and a copy of the grant agreement. I assume there is going to be more than 100 pages of documentation. Cost of copying is 15 cents per page. Please let me know if you would like me to process your request and please specify what kind of documentation would you like me to copy besides grant application.

Thanks!

Joanna Schumann  
Grant Administrator  
joanna.schumann@doa.state.wi.us

Tel. 608.267.3369  
Fax 608.267.6917

Comprehensive Planning Program  
Wisconsin Land Information Program  
Division of Intergovernmental Relations  
101 E. Wilson Street, 10th Floor

on, WI 53702-0001  
Original Message-----  
mhazel@tds.net [mailto:mhazel@tds.net]  
Monday, September 27, 2004 9:35 PM  
oanna.schumann@doa.state.wi.us  
hderr@chorus.net  
ct: Dane County Comprehensive Planning Grant

ant to sec. 19.31, Wis. Stats., I hereby request a copy of the grant  
cation(s) and grant award(s) to Dane County, whether singly or in combination with  
communities, made by the State of Wisconsin for comprehensive planning. I also  
like a copy of all documents and materials in your files concerning these grants.

e advise me of any copying charges and I will gladly remit them.  
e send the copies to me at 3240 University Avenue, Madison, WI 53705.

Hazelbaker  
53 9770



Mark Hazelbaker

From: Mark Hazelbaker [mhazel@tds.net]  
Sent: Thursday, October 21, 2004 10:30 AM  
Subject: 'Schumann, Joanna'  
RE: Dane County Comprehensive Planning Grant

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From: Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
Sent: Tuesday, September 28, 2004 11:29 AM  
Subject: RE: Dane County Comprehensive Planning Grant

Mr. Hazelbaker,

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Joanna Schumann  
Administrator  
joanna.schumann@doa.state.wi.us

608.267.3369  
608.267.6917

Comprehensive Planning Program  
Wisconsin Land Information Program  
Division of Intergovernmental Relations  
1000 Wilson Street, 10th Floor  
Madison, WI 53702-0001

-----Original Message-----

From: mhazel@tds.net [mailto:mhazel@tds.net]  
Sent: Monday, September 27, 2004 9:35 PM  
Subject: 'Joanna.Schumann@doa.state.wi.us'  
Subject: derr@chorus.net  
RE: Dane County Comprehensive Planning Grant

Under sec. 19.31, Wis. Stats., I hereby request a copy of the grant application(s) and grant award(s) to Dane County, whether singly or in combination with other communities, made by the State of Wisconsin for comprehensive planning. I also request a copy of all documents and materials in your files concerning these grants.

Please advise me of any copying charges and I will gladly remit them.  
I will send the copies to me at 3240 University Avenue, Madison, WI 53705.

Mark Hazelbaker

## Mark Hazelbaker

---

**From:** Mark Hazelbaker [mhazel@tds.net]  
**Sent:** Wednesday, October 13, 2004 3:05 PM  
**To:** 'Schumann, Joanna'  
**Subject:** RE: Dane County Comprehensive Planning Grant

Have you had a chance to get the copies of the Dane County grant file together yet?  
Thanks for your attention to this message.

Mark Hazelbaker

**Mark Hazelbaker**

---

**From:** Mark Hazelbaker [mhazel@tds.net]  
**Sent:** Tuesday, September 28, 2004 12:38 PM  
**To:** 'Schumann, Joanna'  
**Subject:** RE: Dane County Comprehensive Planning Grant

Thank you for such a prompt reply. I would like a copy of everything. Please mail the copies to me at 3240 University Avenue, Suite 3, Madison, WI 53705. I can have a check forwarded when you know the total amount.

Mark

-----Original Message-----

**From:** Schumann, Joanna [mailto:Joanna.Schumann@doa.state.wi.us]  
**Sent:** Tuesday, September 28, 2004 11:29 AM  
**To:** 'mhazel@tds.net'  
**Subject:** RE: Dane County Comprehensive Planning Grant

Dear Mr. Hazelbaker,

Dane County has been awarded a grant in 2002. Our file folder contains several documentation, such as progress reports, financial reports, invoices, a copy of the application and a copy of the grant agreement. I assume there is going to be more than 100 pages of documentation. Cost of copying is 15 cents per page. Please let me know if you would like me to process your request and please specify what kind of documentation would you like me to copy besides grant application.

Thanks!

Joanna Schumann  
Grant Administrator  
joanna.schumann@doa.state.wi.us

Tel. 608.267.3369  
Fax 608.267.6917

Comprehensive Planning Program  
Wisconsin Land Information Program  
Division of Intergovernmental Relations  
101 E. Wilson Street, 10th Floor  
Madison, WI 53702-0001

-----Original Message-----

**From:** mhazel@tds.net [mailto:mhazel@tds.net]  
**Sent:** Monday, September 27, 2004 9:35 PM  
**To:** joanna.schumann@doa.state.wi.us  
**Cc:** ghderr@chorus.net  
**Subject:** Dane County Comprehensive Planning Grant

Pursuant to sec. 19.31, Wis. Stats., I hereby request a copy of the grant application(s) and grant award(s) to Dane County, whether singly or in combination with other communities, made by the State of Wisconsin for comprehensive planning. I also would like a copy of all documents and materials in your files concerning these grants.

Please advise me of any copying charges and I will gladly remit them.  
Please send the copies to me at 3240 University Avenue, Madison, WI 53705.

Mark Hazelbaker  
608 663 9770

Mark B. Hazelbaker

# Hazelbaker & Associates, S.C.

Sheryl Albers  
Mary Rehfeldt

3240 University Avenue, Suite 3, Madison, WI 53705  
608-663-9770 Fax 608-204-9631

Elaine Wilson,  
Office Manager

November 23, 2004

Ms. Joanna Schumann  
Grant Administrator  
Division of Intergovernmental Relations  
101 East Wilson Street, 10<sup>th</sup> Floor  
Madison, WI 53702-0001

RE: Comprehensive Planning Grant for Dane County, Wisconsin

Dear Ms. Schumann:

I appreciate your recent response to the request I made for records pertaining to the Dane County grant for its comprehensive planning effort. Based on the information contained therein, it is apparent that Dane County has, by adopting a resolution dissolving the Comprehensive Plan Steering Committee for political reasons, breached its grant agreement with the State of Wisconsin. Accordingly, the Dane County Towns Association, Gerald H. Derr, as a Dane County and State of Wisconsin taxpayer, David Wiganowsky, another Wisconsin taxpayer and member of the County Board, and the Chairperson of the Dane County Zoning and Land Regulation Committee, William Hitzemann, hereby request that the Wisconsin Department of Administration revoke the County's grant. This letter states the grounds for that request.

## Background

Dane County applied for a comprehensive planning grant using the State form. In so applying, the County affirmatively indicated that it agreed to comply with the requirements of sec. 66.1001, Wis. Stats. In section III of the application, the County's application states in the fifth full paragraph that:

The comprehensive planning effort will be directed by the Dane County Zoning and Natural Resources (ZNR) Committee. The Committee will establish guidelines for the process used in development of the plan. A special Comprehensive Planning Grant Steering Committee will be established with appointments made by the ZNR Committee. It will likely involve representatives from various County committees and commissions, municipalities and agencies that are impacted by the plan.

Subsequent to the submission of the application, which was signed by Dane County Executive Kathleen M. Falk, your agency reviewed the application. The decision was made to award a grant in reliance upon the conditions stated in the application. Not

only was that reliance implied, it was expressly stated. The actual grant agreement was signed May 20, 2002 by Deputy Secretary of the Department of Administration, Linda Seemeyer. The third "whereas" clause of the contract states, "Whereas, the grantee has submitted an application for the grant to the Department and the Department, on reliance upon the representations set forth in the application, approved an award in the amount of \$116,000."

On September 23, 2004, contrary to the representations made in the grant application and accepted by Dane County in the Grant Agreement, the County Board adopted Substitute Amendment 3 to Resolution 70, 2004-2005, a copy of which is attached. That resolution did the following:

- A. It removed the designation of the Zoning Committee as a lead agency in the formulation of the comprehensive plan and, instead, designated the Environment, Agricultural and Natural Resources ("EANR") Committee;
- B. It made the EANR Committee the oversight committee for the comprehensive planning process;
- C. The Resolution dissolved the Comprehensive Planning Steering Committee previously formed during the previous Board session, thereby dismissing all the members of that Committee.
- D. The Resolution directed the EANR Committee chair to appoint new Steering Committee members and to replace all the members of the various subcommittees who had been working diligently to prepare recommendations on aspects of the plan. In other words, the Resolution fired all the public and supervisor members who had been working on the plan.

The Dane County action should lead to suspension of the grant funding by the Department of Administration because the County has violated its grant agreement, assigned responsibility for plan preparation to a body which is without legal authority to undertake the planning process, and violated the public participation process guidelines of the statutes and the grant agreement.

Resolution 70 violates the grant agreement because Dane County explicitly committed in its Grant Agreement to place the formulation of the comprehensive plan under the control of its Zoning Committee. The agreement has not been amended. Until such time as that is accomplished, assigning responsibility for the plan to another committee violates the agreement.

The Resolution violates Wisconsin law because the statutes require that the plan be developed by the County Zoning Agency, pursuant to sec. 59.69(3). With respect to counties, as you know, the "Comprehensive Plan" is the development plan provided for under sec. 59.69(3). Section 59.69(3) makes it clear that the development plan is to be prepared by the "Zoning Agency." The zoning committee is the County zoning agency under sec. 59.69 (2)(a)1., Wis. Stats.

The Resolution asserts that it was enacted under the authority of sec. 59.09(6) to adopt this resolution as an additional procedure. However, this is not an additional supplemental regulation. Rather, it is an enactment which completely contradicts the specific commands of Chapter 59 and sec. 66.1001.

The action by the County Board constitutes a violation of the requirements for a bona fide public participation process as contained in sec. 66.1001(9), Wis. Stats. The theory behind the comprehensive planning amendments adopted in 1999 was that it would improve the planning process by requiring that there be a "bottom up" planning process which would inform elected officials of the wishes and desires of the citizenry. The goal was to establish parameters for public participation which would be in place and effect and guide the process from start to finish.

What happened in Dane County is very disturbing. The comprehensive planning public process was started, citizens were appointed, and work groups were meeting. The new County Board majority elected in April 2004 decided to exact revenge on political opponents by removing them from the steering committee and starting over.

We are not asking the Department of Administration to get involved in the dysfunctional politics of the Dane County Board. We wouldn't wish that on our worst enemy. But, politics is not an appropriate consideration in the public participation process. No public participation process, once begun, should be derailed by a change in the political winds. If that is the case, then the public participation process will be a sham. It will only go so far as the prevailing political winds allow it. Clearly, that is contrary to the intent and the language of section 66.1001(9).

I am sure that the Department of Administration does not want to get involved in any local political hassles, but you are a party by virtue of the fact that you are providing funding for the County's process. Whether you like it or not, the Department of Administration is responsible for assuring that Dane County complies with the promises it made in its Grant Agreement. The County is not doing so. We ask you to direct the County to comply with the undertakings it made in its agreement.

We would be happy to provide you with additional information that we can, and hope and trust that you will begin to investigate this matter in a timely fashion.

Sincerely,



Mark B. Hazelbaker

MBH:emw  
Enclosure

cc: John Rothschild, Legal Counsel, DOA  
Dane County Towns Association Board of Directors  
Dane County Executive Kathleen Falk  
Dane County Board of Supervisors

Mark B. Hazelbaker

# Hazelbaker & Associates, S.C.

Deryl Albers  
Mary Rehfeldt

3240 University Avenue, Suite 3, Madison, WI 53705  
608-663-9770 Fax 608-204-9631

Elaine Wilson,  
Office Manager

January 11, 2005

Ms. Joanna Schumann  
Grant Administrator  
Division of Intergovernmental Relations  
101 East Wilson Street, 10<sup>th</sup> Floor  
Madison, WI 53707

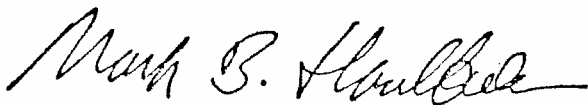
RE: Comprehensive Planning Grant for Dane County, Wisconsin

Dear Ms. Schumann:

You may recall that last fall, I wrote you on behalf of the Dane County Towns Association to ask you to look into a violation of the Dane County smart growth planning contract. To date, I have heard nothing from you even acknowledging my request. Accordingly, I feel that I have no alternative but to bring this matter to the attention of the senior officials in the Department of Administration and the office of the Governor.

Thank you for your attention to this letter.

Sincerely,



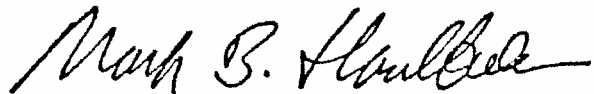
Mark B. Hazelbaker

MBH:emw

cc: John Rothschild, Legal Counsel, DOA  
Dane County Towns Association Board of Directors  
Dane County Executive Kathleen Falk  
Dane County Board of Supervisors

get her in trouble, but rather, to get some action in response to our complaint. I appreciate anything you can do to follow-up on this and see that something is done.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark B. Hazelbaker". The signature is written in a cursive style with a long horizontal stroke at the end.

Mark B. Hazelbaker

MBH:emw

cc: Board of Directors, Dane County Towns Association  
Kathleen Falk, Dane County Executive  
Dane County Board of Supervisors  
Interested Parties





WISCONSIN DEPARTMENT OF  
ADMINISTRATION

JIM DOYLE  
GOVERNOR

MARC J. MAROTTA  
SECRETARY

Office of the Secretary  
Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1741  
Fax (608) 267-3842  
TTY (608) 267-9629

Res 70

January 14, 2005

Mark B. Hazelbaker  
Hazelbaker & Associates, S.C.  
3240 University Avenue, Suite 3  
Madison, WI 53705

RE: Comprehensive Planning Grant for Dane County, Wisconsin

Dear Mr. Hazelbaker:

I am the deputy legal counsel for the Department of Administration. Some time ago, Joanna Schumann asked me to respond to your November 23, 2004, letter regarding the Dane County 2002 Comprehensive Planning Grant Agreement ("Grant"). I apologize for taking so long to respond to you, but the holidays and family commitments interceded. I have reviewed your letter and applicable statutes and grant terms, and do not agree with your conclusion that Dane County failed to meet its Grant commitments to the State of Wisconsin.

As you correctly note, in your letter, section 3 of Dane County's Grant application included a statement that the county intended the comprehensive planning effort to be directed by the Dane County Zoning and Natural Resources (ZNR) Committee. However, it does not necessarily follow that each and every statement set forth in an application must be followed to the letter. DOA utilizes its discretion in the administrative oversight of these grant agreements to ensure that the purpose of the Grant is effectuated, while allowing some flexibility to the grantee to meet changed circumstances. Also, the recital clauses (i.e. the "whereas" clauses) in contracts are merely statements that set forth the intent of the parties in order to clarify ambiguities and ensure "meeting of the minds," but do not necessarily constitute specific contract provisions. Thus, there is nothing in this Grant that requires a specific committee or other sub-organization of Dane County to provide the comprehensive plan.

You cite sections 59.69(3) and 59.69(2)(a)1., of the Wisconsin Statutes as authority for alleging that Dane County's adoption on September 23, 2004, of Substitute Amendment 3 to Resolution 70 violates Wisconsin law. Section 59.69(3) only directs the county zoning agency to prepare a county development plan pursuant to various provisions in Chapter 66 and 62 of the Statutes. Section 59.69(2)(a)1, on the other hand, gives a county board broad discretion to create a planning and zoning committee either as a county board agency, or as a

planning and zoning commission designated by the county zoning agency. In lieu of creating a committee or commission for the purpose, a county board may designate a previously established committee or commission as a county zoning agency, authorized to act in all matters pertaining to county planning and zoning. Further, there does not appear to be any statutory provision prohibiting a duly constituted county board from adopting a resolution altering or removing authority from one of its sub-units to another for purposes of undertaking the planning process.

More importantly, the Department of Administration has neither the authority nor the desire to make determinations whether a particular county sub-unit has the appropriate authority to handle the development of comprehensive plans. That is an internal matter for the county to decide. DOA believes that Dane County has the authority to oversee its planning and zoning as it deems lawful and necessary, and may adopt or reject a comprehensive plan in whole or in part presented to it by one of its duly authorized sub-units. If you believe that Dane County's resolution was not enacted under proper authority, that is a matter you must take up with the county board.

Finally, the action you request of DOA would be premature in any event. Article 12 of this Grant allows the county 48 months to effectuate its terms; that is, it has until May 1, 2006, to meet its Grant obligations.

If you have any questions please do not hesitate to contact me.

Sincerely,



Mark Saunders  
Deputy Legal Counsel

c: John Rothschild, Chief Legal Counsel DOA  
Marc Marotta, Secretary DOA  
Laura Arbuckle, Administrator Division of Intergovernmental Relations

*f- WST  
Res 20*

Mark Hazelbaker

From: Jerry Derr [ghderr@chorus.net]  
Sent: Monday, November 29, 2004 8:10 AM  
To: HAZELBAKER  
Subject: Emailing: index

Mark  
We need to respond to this BS. The rpc killed itself. These guys think they are above the law on this issue.  
See you at 10:30  
Jerry



Classifieds | Jobs | Autos | Homes | Rentals | Obits | Weather



# Wisconsin State Journal

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## OPINION

EMAIL STORY PRINT

What do you think? Add your comment to the story

### Al Matano: Liberals save land planning

00:00 am 11/29/04  
Al Matano

The same folks who killed Dane County's Regional Planning Commission are at it again. They see sensible land use planning as some kind of Communist plot to deprive landowners to do as they wish on their land, without any thought of the impact on the community as a whole.

Everyone knows that unplanned development has **Matano** costs to society - in the form of a need for roads, schools, and other public facilities. Planned development allows the construction of compact communities, where people live close to school, work, shopping and entertainment and recreation. County grows in an orderly manner, we will soon see rail transit connecting communities, with their identities separated from each other by open space.

A few years ago right-wingers, led by the Dane County Towns Association, scored a victory for the minority at the expense of the majority, killing the Regional Planning Commission. A majority vote in County jurisdictions, mostly towns, allowed this to happen - even though only about 17 percent of the population of Dane County lives in the 35 towns.

More recently, the county embarked upon a comprehensive planning process, mandated by state law. Things went along smoothly, with the effort co- chaired by two Dane County Board members - conservative Lyman Anderson and liberal Brett Hulsey. A great deal of public interest and involvement in the process made the early stages of the effort a huge success. However, after the April 2004 election and Anderson's retirement, things went awry.

Right-wing county board members decided they should have unilateral control over appointments to committees. Committee seats sat vacant from April to October. As a result, committees and work could not do business. Perhaps worst of all, meetings were scheduled in the middle of the workday and went on for hours, precluding most citizens from participating or even observing the goings-on.

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Members of the new liberal majority took matters into their hands and passed a resolution to fix the problems. The chair of the new committee on the environment appointed members to the vacant s with the advice and consent of the chair and vice chair of the county board. Daytime meetings wer banned. The process got going again.

In a fit of Orwellian fervor, the right-wingers who derailed the process raised a hue and cry. They a that the efforts to get the process back on track were just the opposite. They threatened to take the and go home. They threatened to call their right- wing pals in the Wisconsin Legislature to shut the down - just as they had done in shutting down the Dane County Regional Planning Commission.

**ADVERTISEMENT**

We can't let this happen. Dane ' prosperity and great quality of li too precious to squander in ans

the cries of a few extremists. The comprehensive planning process must go on - and indeed it is gr even now.

Matano is a Dane County Board member representing Madison.

What do you think? Add your comment to 1

Mark Hazelbaker

---

**From:** Eileen Bruskevitz [eileen53597@charter.net]

**Sent:** Monday, November 29, 2004 8:41 AM

**To:** Bill Hitzmann; Dave Wiganowsky; Gerry Derr; Mark Hazelbaker; Robert Bowman; Steven Underwood; Vern and Brenda Wendt

Send this along with a copy of the WSJ editorial of 11/26  
Draft Draft Draft

**To:** Elected Officials and Plan Commissioners of the Towns, Cities, and Villages of Dane County

**From:** Dane County Supervisors Bill Hitzemann, Vern Wendt, and David Wiganowsky

**Re:** Notice of Claim regarding Resolution 70 Sub 3 as adopted.

The Comprehensive Planning process in Dane County is not proceeding properly and we been left with no choice but to file a Notice of Claim against to correct the statutory and contractual violations that affect the integrity of the comprehensive planning process. Our appeals to Dane County Corporation Counsel, the County Board and the County Executive to right the situation fell on deaf ears. These violations jeopardize the Comprehensive Planning grant funds to the county and the 14 towns and villages which applied jointly with the County.

As the leaders of the municipalities in Dane County who will be affected by the Dane County Comprehensive Plan we want you to understand the nature of the breach of public trust which has occurred. We also ask for your support to correct it.

The events that lead to the passage of County Board Resolution 70 Sub 3 (attached) started with the change in the county board rules at the final County Board meeting before the April 2004 election. At the end of each County Board term, the Board has the option to change its rules by a simple majority vote. Rules may be changed at any other time during the term with a 2/3 vote. At its final 2004 meeting, the rules were changed to reorganize the County Board Committee structure to create the Zoning and Land Regulation Committee and the Environment and Natural Resources Committee (EANR), formerly the Zoning and Natural Resources Committee and the Strategic Growth Management Committee, respectively. The initial draft of that rule change included giving responsibility for Comprehensive Planning to the EANR Committee. However, Attorney David Gault, Assistant Corp Counsel noted in his (attached) email communication,

"Sup. Hitzemann has raised a question with me as to whether OA 1 transfers too much oversight authority away from the zoning committee to the new environment & natural resources committee. In my opinion it does.

Art. 8 of OA 1 creates the new committee and says that it will provide policy direction and guide implementation of county planning including "comprehensive planning under s. 66.1001, Wis. Stat." However, the statutes regarding comp. planning give the zoning agency (committee) authority over comprehensive planning.

Sec. 66.1001(1) (a) 1, Stats. defines a comprehensive plan for a county as the county development plan under sec. 59.69(2) & (3), Stats. The county zoning committee is the county zoning agency as defined by sec. 59.69(2)"

Mr. Gault goes on to state, "Therefore, I don't believe the county can grant authority over comp. planning to the environment & natural resources committee to the exclusion of the zoning committee."

The language in the proposed County Board rule to transfer Comp Planning from the Zoning Committee to the EANR committee was deleted and the Zoning Committee retained its authority to "direct the preparation of the comprehensive plan." This rule change passed on a majority vote.

A second attempt to take comprehensive planning away from the zoning agency and give it to EANR occurred with Resolution 70. After the April 2004 election and with vacancies on the Comprehensive Planning Work Groups, Supervisor Hitzemann, the new Chair of the Zoning Committee asserted his authority to make appointments. But, Sup. Richmond, the new Chair of the EANR Committee who also had input into the appointment process, would not consider names provided by Sup. Hitzemann. Instead, Resolution 70 was introduced to the County Board which called for the dissolution and reconstitution of the Comp Planning Steering Committee and its Work Groups. Resolution 70 also designated the EANR Committee as the Committee to oversee Comprehensive Planning in Dane County. Despite efforts by County Board Chair Kesterson to mediate this dispute, Sup. Richmond refused to participate and Resolution 70 passed on a 19-16 vote with 2 absent, clearly not the required 2/3 vote. And still, the County Executive signed it.

The prevailing side based their decision to pass Resolution 70 Sub 3 on Corporation Counsel's astonishing legal opinions which forced us to rely on the Notice of Claim. We believe Corporation is wrong in her reading of the intent and spirit of the law and has been directed to represent the County Executive to the detriment of the people of Dane County.

Our appeal to the County Executive to veto Resolution 70 is attached—we received no response from the County Executive or her staff. Also attached is a copy of the Dane County Towns Association request to the County Executive to veto Resolution 70.

We want to point out that the grant funds to the county and to the 14 municipalities which are being represented by the county in the Comprehensive Planning grant application and contract are in jeopardy. Both were signed by the County Executive Falk and both represent that the Zoning Agency will direct the preparation of the Comprehensive Plan as specified in Wisconsin Statute 66.1001. Yet the County Board by adopting Resolution 70 and the County Executive by signing Resolution 70 into law has violated the contract she signed with the Office of Land Information and the Wisconsin Dept of Administration.

The Dane County Comprehensive Plan is due in 2006. We have worked to meet that deadline and have been willing to work with all parties to create a plan that will result in an enforceable ordinance we can agree on and live with. We need to get it right using a process that is legal and fair. Resolution 70 is neither.

We are supervisors who represent rural and urban areas and we want to see them prosper under the County Comprehensive Plan. While the towns will be most impacted by the Comprehensive Plan cities and villages will also be affected. All must have confidence in the process, its fairness and effectiveness, or we will surely face litigation and disputes unnecessarily.

We ask you to join us in requesting that the County Board and the County Executive to rescind Resolution 70 Sub 3, that they uphold the representations made in the Comprehensive Planning grant application, and that they restore the process to its original composition so that the County can meet its obligations for the Zoning Committee to direct the preparation of the development plan for Dane

County, the Comprehensive Plan.

Please do not hesitate to call us if you have any questions or concerns.

Sincerely,

---

Sup. Bill Hitzemann

---

Sup. Vern Wendt

---

Sup. David Wiganowsky

Cc: Realtors Assoc of South Central Wisconsin  
Madison Area Builders Association  
Who else?????

Attachments:

Email from Assist. Corp Counsel Dave Gault  
Resolution 70 Sub 3  
Letter from CB members to Veto Res 70  
Letter from Dane County Towns Assoc to Veto Res 70  
Wisconsin State Journal Editorials

DCTR  
8 - Res 70

Press Release

For Immediate Release

From: Sup. Bill Hitzemann

Chair, Dane County Zoning and Land Regulation Committee

Date: 11/17/04

RE: Notice of Claim – Res. 70 Smart Growth in Dane County

A group of concerned Dane County supervisors and the zoning committee have filed a legal notice of claim with the County aimed at overturning County Board action which threatens the validity of the Dane County planning process. The claim, filed by Supervisors Bill Hitzemann, David Wiganowsky and Vernon Wendt, challenges the validity of Resolution 70, adopted by the County Board majority September 23 and signed by County Executive Kathleen Falk in October.

The dispute centers on the process used to develop Dane County's first "Smart Growth" plan. In 2002, Dane County began work to develop a comprehensive plan. The County Board and Executive applied for and accepted a grant from the State of Wisconsin to help pay for the process. Under the grant, the County commissioned its zoning committee to supervise the process.

The zoning committee, working cooperatively with the County Board's strategic growth management committee, successfully launched the planning process, creating a Steering Committee and several work groups. The work groups consist of citizens who lend volunteer time and effort to create a land use plan for the community, as provided by the Smart Growth law provision requiring a "public participation process." Those groups started working on the plan, holding regular meetings to work toward developing sections of the plan. The process had reached its halfway point when Supervisors Scott McDonell and Rich Pertzborn introduced Resolution 70.

Resolution 70 wiped out the entire Steering Committee and work groups, removed oversight of the planning process from the zoning committee, and gave control over appointments of the reconstituted committee and work groups to the Environment



Agriculture and Natural Resources (EANR) Committee. Ironically, although the County's plan will apply only in the unincorporated parts of Dane County, the EANR committee's membership does not include a single farmer; the zoning committee has three.

The notice of claim challenges Resolution 70 on several legal grounds. First, Wisconsin law provides that the designated county zoning agency, and only the designated county zoning agency, is empowered to direct preparation of the Comprehensive Plan. Second, Resolution 70 breaches the grant agreement Dane County signed with the State of Wisconsin. Third, the Resolution was adopted in violation of County Board rules. Finally, the Resolution was adopted in retaliation for the claimant's exercise of their First Amendment rights.

It is clear from public statements by leading supporters of Resolution 70 that they acted out of political motives. Sup. Hitzemann said, "Resolution 70 is a breach of trust with the people who have worked for months to create a plan. The Resolution violates the County's grant agreement, and the letter and the spirit of the law. This is not about politics; it is about following the law. We believe that the state statute mandates that the Zoning and Land Regulation Committee performs the comprehensive planning functions for Dane County," he said.

From a policy perspective, Hitzemann stressed that Res. 70 "hijacks" the comprehensive planning process. He noted that the ZLR Committee is largely composed of supervisors representing Dane County towns, where the Comprehensive Plan will have its greatest impact. The Comprehensive Steering Committee included members of the Farm Bureau, the Dane County Towns Association, Dane County Cities and Villages, environmentalists, real estate groups and others who represented a cross section of opinion and who were committed to a productive planning effort.

The Chairman of the Steering Committee, Sup. Vern Wendt, a senior supervisor, who is also Chairman of the Town of Black Earth, was removed from the committee. Under the Res. 70 Committee, Hitzemann noted that the recent appointments were lacking in diversity of opinion. Hitzemann stated that changing the Steering Committee half way through the process has ground the process to a halt.

Supervisor Wendt indicated Resolution 70 would undermine confidence in the final comprehensive plan. "We were working to prepare a plan in the expectation that the work groups and the steering committee would be allowed to follow their own lead," he said. "It's clear that the County Board majority isn't interested in dissent. This kind of behavior has diminished my confidence in our Smart Growth planning process"

Hitzmann said. "Comprehensive Planning is supposed to be driven by the public, not a few County Supervisors. The people, especially those most impacted by the plan, must have confidence in its fairness and effectiveness. We need a plan that can be approved by the Towns. Those citizens who have already contributed considerable time and effort have to feel confident that their efforts will be respected. Res, 70 violates the state statute and has to be reversed" Hitzmann declared.

f- Res 70

**Mark Hazelbaker**

**From:** Mark Hazelbaker [mhazel@tds.net]  
**Sent:** Tuesday, November 30, 2004 10:59 AM  
**Subject:** Al Matano Guest Column

Sunny Schubert et al

Jerry Derr and Vern Wendt asked me to forward the attached article to you. We found it interesting that Matano decided to respond to your editorial by attacking the Towns Association.

If you have questions, you can call Jerry at 575 3407 or Vern at 767 3455 or me at 663 9770.

Mark Hazelbaker  
DCTA Legal Counsel

Reply article:

A desire for revenge and a belly full of resentment are a poor basis to make public policy. Perhaps no better recent proof of that fact is this than Supervisor Al Matano's guest column in the *Wisconsin State Journal* on Monday, November 29, 2004. Supervisor Al Matano's ostensible purpose was to defend the County Board majority's decision to wipe out the existing Comprehensive Planning and Steering Committee and impose one dominated by Madison supervisors. Rather than provide a rationale for that move – which doesn't exist – he goes on the offensive, citing the Dane County Towns Association and its alleged "right wing" agenda as the reason why the Board majority acted.

Let's be clear about something. The Dane County Towns Association has always supported balanced land use planning by and for town residents. What we have consistently opposed is being dictated to. Supervisor Matano is correct that town residents constitute only 17% of the population of the County. But they constitute 100% of the population of the towns. Supervisor Matano's district includes no town territory and his constituents constitute 0% of the population of the towns.

Yet, curiously, Supervisor Matano, despite the fact that he represents Shorewood Hills and the Midvale area in Madison, seems obsessed with telling the rest of Dane County how to grow, how to live, and how to act. This was shown in his aborted attempt to prevent the City of Sun Prairie from constructing an overpass at the Highway C/U.S. 151 intersection, wherein he indicated that he did not want to see the overpass built because he objects to Sun Prairie's city land use plan. It's also evident in his resentment-driven agenda to try to tell rural residents how to live.

For the Dane County Towns Association, the issue is not partisan politics, as it appears to be for the majority of the County Board. Rather, it is that rural residents are tired of being told by people from the City of Madison how they will live, where they will do business, and what their future will be.

The Dane County Towns Association moved to dissolve the Regional Planning Commission for exactly that reason. The Regional Planning Commission, which was dominated by Madison's appointees and their agenda, did a miserable job of managing planning in Dane County. The plain fact

is, the Regional Planning Commission did nothing more than carry water for the City of Madison. The results of that distorted agenda are evident everywhere. If you don't like the big box retail development and the huge sprawling extent of the City of Madison, you can thank the Regional Planning Commission for it, because decisions that the Commission made in the past ten years allowed the City of Madison to engulf the thousands of acres of farm land that have been lost in this unfortunate development. The undersigned, one of whom served on the former RPC for years and the other who watched its shenanigans for even longer, know well that the RPC worked hard to destroy itself. Its dissolution was a favor to everyone.

The struggle over planning in Dane County is not about a right wing agenda at all. It is about an agenda of common sense. The Towns Association believes that the people who live in towns, who will have to bear the effects of decisions made concerning land use planning, ought to be the ones with at least the predominant voice, if not the only voice, in making them. Supervisor Matano apparently thinks that his mission as the representative of a near west side City of Madison and Shorewood Hills constituency is to reach out and crush someone. We reject that. Standing up for our rights is not only understandable, it's our only choice.

Unfortunately, Supervisor Matano's agenda seems to be shared by a number of other County Board members. Their action in abolishing the existing Comprehensive Planning Steering Committee and grinding smart growth planning to a halt had absolutely nothing to do with the process. In fact, the people involved in the process both citizens and supervisors who had been contributing to the work groups will tell you that the planning process was actually working well. It certainly wasn't yielding everything that the towns wanted, but it was a process the towns were committed to and were willing to work with. Supervisor Matano and his cronies acted out of resentment at the fact that they were unable to elect the Coounty Board Chairperson or Comprehensive Planning committee Chair of their choice, not out of fear that planning was under attack. The reality is that towns are determined to save planning from the over-zealous control-oriented agenda of Madison supervisors like Matano who can't help but try and control other people's lives.

As the President of the Dane Co Towns Association,

Jerry Derr

Vernon Wendt, Dane County Supervisor and Chairperson, Town of Black Earth