

APA - Wisconsin Newsletter



American Planning Association
Wisconsin Chapter

Making Great Communities Happen

A Publication of the Wisconsin Chapter of the American Planning Association

20 Years After Wisconsin's Land Recycling Law

BY CIARA O'NEILL, UNIVERSITY OF WISCONSIN - MILWAUKEE

Brownfields are abandoned or underused sites, the products of past commercial or industrial activities that have since moved on and left “real or perceived” environmental contamination that hinders expansion or redevelopment (U.S. Conference of Mayors 2010). Brownfields pose both challenges and opportunities to the local environments and economies.

The State of Wisconsin has a nationally-recognized program for remediation and redevelopment of brownfields. This year marks the 20th anniversary of the Wisconsin Land Recycling Law, which aims to assist in returning brownfields to productive use by setting forth conditions and requirements for their cleanup in exchange for liability protection for purchasers or current “innocent” landowners, municipalities, lenders, and representatives (Wisconsin Land Recycling Law Fact Sheet 1995). In addition, over

the years, the Wisconsin legislature created a number of grant and loan programs and several financial tools to make brownfield redevelopment a more attractive option.

The Brownfields Study Group was created under direction of the State Legislature and Governor Thompson in 1998 to “evaluate Wisconsin’s current brownfields initiatives and recommend changes, as well as propose additional incentives for the cleanup and reuse of brownfields” (Brownfields Study Group 2014). The members of the Brownfields Study Group—planners, attorneys, environmental consultants, nonprofits, academics, and state agency staff—have seen firsthand the successes and limitations to Wisconsin’s brownfield toolbox.

Now that the land recycling legislation has reached its 20th anniversary, the Brownfields Study Group has committed to mark the occasion by looking more systematically at the

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benefits and economic impacts of redeveloping brownfields across the state.

This spring, the Brownfields Study Group compiled all of the evidence it could find—from national studies, from evaluations of brownfield programs in other states, and from case studies in Wisconsin and around the country. The key findings from this effort are summarized below. This review of studies will be followed during the next 12 months by a rigorous assessment of the costs and benefits of Wisconsin's brownfield program, especially the grant and loan programs funded by the state, but also considering local revenues that have supported brownfield development. This work will be conducted by an independent researcher to be selected within the next several months.



Brownfield Study Group Invites Planners' Case Studies

A subcommittee of the Brownfields Study Group is pursuing additional opportunities to gather information about brownfield remediation and redevelopment. Recognizing the intimate knowledge that planners have of brownfield projects, the Brownfields Study Group is reaching out to planners to submit information about one brownfield story in the communities they serve. The Brownfields Study Group welcomes both successful and less than successful projects. Additional details about this effort are presented in the accompanying sidebar and on the APA-WI website.

Costs and Benefits of Brownfield Redevelopment: Preliminary Findings

Brownfield redevelopment is substantially more complicated than development on greenfield site. In some cases, because the owner has abandoned the site, the municipality faces uncertainties about current ownership. The costs of development are burdened by back taxes, the need for specialized legal advice for all parties, and the costs of investigating site conditions and cleaning up whatever contamination remains on the site from its former use.

But brownfield redevelopment also brings a wide range of benefits. By redeveloping brownfields a community reduces the amount of development taking place on the periphery and directly avoids contributing to urban sprawl. Many brownfield properties are tax delinquent

Submit Your Brownfield Story: Influence Policy

The Brownfields Study Group is eager to hear one of your brownfield stories. The Brownfields Study Group has been effective in advising the legislature on programs and policies to improve brownfield remediation and redevelopment. APA - Wisconsin is collaborating with the DNR to make an online form available to guide you through the information needed to compile the case study.

<http://www.wisconsinplanners.org/brownfield.html>

From this page, you will receive additional information about the data collection. You will be able to preview the questions that will be asked so that you can look up or compile the necessary financial information before beginning the survey. You may also choose whether to complete the survey online or simply fill in an online Word document and return it to the DNR Bureau of Remediation and Redevelopment. In order to obtain a range of successes and less than fully successful case studies, the website will ask you to select a successful or unsuccessful case study based on which day of the week you initially access the website. Even if your community has experience with only one brownfield project, please participate, regardless of the day of the week.



or publicly-owned prior to redevelopment. Redeveloping the site increases the local property tax base. Redevelopment of brownfields removes a blighting influence from the neighborhood, which may decrease property values (and tax base) of surrounding properties.

Environmental benefits to remediating brownfields includes reduced pollution and exposure to contaminants, but also reduced consumption of “greenfields” or undeveloped land. Redeveloping infill sites results in multiple benefits—reduced infrastructure costs, more efficient use of public infrastructure, higher property tax revenue per acre than conventional development (Smart Growth America, 2013), and job creation nearer to where jobs are most needed.

A preliminary examination of Wisconsin’s largest brownfield grant program highlights the economic benefits. The Wisconsin Brownfields Grant Program prioritizes job creation in awarding grant funds. Since 1998, the program has awarded over \$90 million in competitive brownfield grants. Applicants to the program have been required to estimate total project costs of a redevelopment, post-redevelopment property values, and the number of jobs created on site. Drawing

from the information provided by these applicants, we can begin to see the economic impacts of just one of Wisconsin’s brownfield program’s.

- The cost per job created (considering just state grant funds) has averaged just over \$11,000 since 1998. This compares favorably to more general economic stimulus and incentives provided by both federal and state government. For example, a White House estimate of the cost of generating one «job-year» under the American Recovery and Reinvestment Act (ARRA) was \$92,000 (Executive Office of the President 2009); other sources from Indiana and Nevada estimate general economic development incentives—not involving brownfields—cost about \$30,000 per job (Damon 2013; Ball State University 2013). The Wisconsin Growth Capital Coalition (2014) estimates that Wisconsin Act 255, the Venture Capital Tax Credit, cost \$26,500 per job.
- \$90 million in grant funds leveraged an additional \$601 million in eligible project costs. Some of this additional investment came from local units of government, often using TIF funding, but private investment probably makes up the larger share. This inability to be certain is why the Brownfields Study Group needs to learn more about the financial details of the projects.

While preliminary, these findings are in line with the results of studies in other jurisdictions. Below are some of the specific findings from research on the public economic costs and benefits of brownfield redevelopment.

- Minnesota’s program provided \$118 million in grant funding from 1995-2010, spread out over 276 cleanups. This investment led to a cost per job of approximately \$5,900 (Minnesota Brownfields 2011).
- In the state of Washington, \$1 of state cleanup grants creates \$6 in local and state tax revenue, \$7 in payroll value, and \$32 in business revenue (Maul, Fostre, and Alongi, no date).
- Economic analysis of Cuyahoga County Department of Development’s brownfield loan program found that \$32 million in loans leveraged \$430 million in eligible costs, that is, dollars invested by others.

The research being pursued by the Brownfields Study Group will be designed to look at the total public investment in brownfield redevelopment and to tease out some of the additional detail about costs and benefits and the overall Return on Investment that the state and local communities gain when brownfields are developed.

Brownfield Challenges and Opportunities

One of the under-recognized benefits of brownfield redevelopment that has surfaced as a result of the preliminary research conducted by the Brownfield Study Group is the Smart Growth dividend that comes with brownfield development. An evaluation of Iowa’s brownfield tax credit program found that redeveloping 1 acre of brownfield translated to 4.5 acres of greenfield land to accommodate the same building space

Brownfields By the Numbers: Costs and Benefits Measured

Cost per job: \$3,000 - \$11,000

Annual payroll value:

Washington State: \$7 per state dollar invested
Neenah, Wisconsin: \$30.5 million; \$26 per public dollar invested

Wausau: \$50 million annually

Tax revenue generated per \$1 brownfield grants:

Washington State: \$6 annually (state and local taxes)

Neenah, Wisconsin: \$0.58 annually (local taxes only)

Business revenue generated:

Washington State: \$32 for every state dollar invested

(Jin 2013). This is likely due to the different zoning contexts. For example, due to the higher density zoning in areas around brownfield sites, the number of housing units per acre is higher than if the same housing was produced on a greenfield site (De Sousa 2006).

These denser types of development are more environmentally sustainable across a range of measures. Infill sites are associated with lower vehicle miles of travel, which translates to cleaner air, less fuel usage, and lower carbon emissions. They are also thought to better pro-


tect water quality; the EPA estimates that housing development at 8 houses per acre produces 74 percent less water pollution than development at 1 house per acre (Jin 2013).

According to study done in Cincinnati, proximity to brownfield sites can devalue housing prices by as much as 19.96 - 21.93 percent (Mihaescu and vom Hofe 2012). This means that brownfields can pose challenges for areas that are already economically distressed. In a national-scale study, researchers examined home sale transactions to explore price changes in the vicinity of all brownfields that applied for a cleanup grant from EPA from 2003-2008. The researchers found that cleanup and redevelopment consistently yield housing price increases between 5.1 and 12.8 percent for properties within a kilometer of a site (Hanniger, Ma, and Timmons (2012). The researchers estimate that homes within a kilometer of a redeveloped brownfield increased in value by over \$2 million for each brownfield.

Despite these possible benefits, brownfield redevelopments still have considerable obstacles to overcome: pollution, perceptions about contamination, aging urban infrastructure, and unexpected consequences of federal and state environmental laws pose a considerable liability threat to those undertaking these projects. Programs such as the Land Recycling Law and

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the Wisconsin Brownfield Grant Program are intended to relieve these burdens.

Case Studies in Wisconsin

Although Wisconsin has not yet undertaken a comprehensive assessment of the costs and benefits of brownfield cleanup and redevelopment, several communities have produced full case studies of specific projects that show the benefits that have come to communities when redevelopment projects are successful. Below, we look at three case studies from La Crosse, Neenah, and Wausau. Each of these medium-sized cities had strong industrial histories, leaving more than their fair share of brownfields in the wake of economic transformation at the end of the 20th century.

La Crosse

The Riverside Redevelopment in La Crosse encompasses more than twelve different properties with a long history of industrial and commercial development dating back to the nineteenth century. The CenturyTel project is made up of



CenturyTel brownfield project in La Crosse

four of the twelve properties, located in downtown near the Riverside Memorial Park.

After cleanup and redevelopment, the new Midwest regional headquarters for CenturyTel has increased property value from \$600,000 to over \$35 million, retained approximately 500 service jobs and created 350 more with an annual payroll value of about \$20 million (Kirch, no date). Other components of the project include the Riverside Center building, which sat on a 0.7-acre site assembled from 4 industrial-use parcels.

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Since being redeveloped, the value of the site has increased from \$1.2 million to \$13.7 million.

The City also converted river side land formerly occupied by a manufactured gas plant to create access to a “park and an extension of the public bike trail, with access to the La Crosse River.” (Wisconsin DNR, Remediation and Redevelopment 2007).

Neenah

The Glatfelter Corporation, one of the oldest and largest producers of recycled printing and specialty papers in the United States, had been operating in Neenah for over 100 years when it closed its mill in 2006, displacing 220 primarily high-wage, blue collar workers and leaving a large and undervalued property on the waterfront adjacent to Neenah’s downtown. Glatfelter’s properties, both owned and leased, “in combination with a blighted rail spur property and a fourth blighted property adjacent to the mill site, form a combined 16 acres of blighted land” that would have wielded a significant negative influence over nearby neighborhoods had the City not taken immediate action to control the site (Neenah Gladfelter 2014).

Neenah received a total of \$1.2 million for brownfield cleanup, including \$700,000 in Blight Elimination and Brownfield Redevelopment funds through the Wisconsin Economic Development Corporation, \$429,500 in American Recovery and Reinvestment Act «Ready for Reuse» grants, and a \$97,000 site assessment grant. Using these funds, the City essentially prevented the creation of another brownfield and successfully spurred action to redevelop a struggling area.

Today, the Glatfelter Mill Redevelopment houses a diverse mix of retail, office, and hospitality with a 3% vacancy rate. The site is home to over 400 jobs, with an additional 400 jobs to be added in the future. Plexus’s headquarters alone has a \$30.9 million payroll value with an average salary of \$80,943 (Scott 2013). The redevelopment has also added to Neenah’s property tax base, generating over \$700,000 in revenue annually. In 2012 this development won the Brownfield Renewal Award for Economic Impact (Brownfield Renewal Award 2012).

Wausau

The Wausau Riverfront Revitalization project, a 31.0-acre area in downtown Wausau stretching nearly 1-mile along the Wisconsin River and consisting of 23 contiguous parcels and all of it former or current brownfields, is still in progress. While the northern area remains to be developed, a total of 13 acres have so far been completed: “8.5 acres have been redeveloped for commercial uses (offices, an eye clinic, a bank, stores, and a restaurant), 1.5 acres adjacent to the Wisconsin River have been converted to public green space and recreational land uses,

including a trail, and 3.1 acres have been converted to other public uses (including a library, public parking lot, and a parking structure)” (Brownfield Renewal Award 2013).

Notable aspects of this project include the tallest commercial building in the state outside of Milwaukee—impressive for a city with a population of 39,000 people—and the vision and planning that went into such a large contiguous area. The City managed not only to create “waterfront features such as trails, public plazas, and green space,” but also leveraged existing efforts to develop a “unique riverfront amenity – an urban whitewater kayak course that borders a portion of the south redevelopment area.”

The project has been very successful in leveraging both public and private investment. The three major commercial buildings on the site have used a total of \$40.5 million in private funding, and at least \$3 million in private foundation funds have contributed to the development of the riverfront trails, greenspace, and public plaza.

Thus far, the completed commercial components of this project have led to the creation of 840 permanent new jobs, an estimated 75% of which are professional jobs with average annual

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wages of greater than \$60,000 with a total payroll value of over \$50 million. It has also generated a total of \$7 million in tax revenue for City since it was completed in 2003. These numbers are very significant for a city of Wausau's size.

Further work is being performed in the northern sections, "utilizing two U.S. EPA brownfield cleanup grants, a U.S. EPA brownfield area-wide planning grant, as well as private donations and City funds."

Conclusion

Despite the substantial success of brownfield redevelopment programs in Wisconsin and across the country, the task of transforming brownfields into cleaner, active sites for housing, jobs, and recreational space is far from complete. Brownfields number more than 400,000 across the country, according to the U.S. General Accounting Office. "In Wisconsin, there are an estimated 10,000 brownfields, of which 1,500 are believed to be tax delinquent" (Wisconsin DNR 2014).

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2014 Conference Begins in One Week

The APA - Wisconsin conference begins this year with a late Wednesday afternoon pre-conference mobile workshop at the Resilience Research Center, which houses a community center and the Badger Rock Middle School. The building is impressive enough, with all manner of sustainability bells and whistles. Growing Power Madison maintains an office and gardens at the site and works directly with middle schoolers and community members on building a more just and healthy food infrastructure in the community.

Throughout the conference, B-Cycle (Madison's bike sharing system) will provide complimentary passes so planners may explore Madison on their own. Think about pedaling your way to dinner.

The two-day conference kicks off Thursday morning with a plenary introducing "Complete Communities" with a panel discussion featuring Appleton Mayor Tim Hanna; Dane County's Health Equity Coordinator, Angela Russell; and Steve Hiniker of 1000 Friends of Wisconsin. After



the plenary, its off to any of five concurrent session tracks:

- Efficient Transportation
- Rural Lands & Small Towns
- Neighborhood Design
- Planning for Healthy Choices
- Other Good Stuff

On Thursday afternoon, some members will take the opportunity to tour Epic Systems Corporation in Verona to see the extensive sustainable systems integrated into the campus of Dane County's largest private employer.

All participants will want to attend the reception and bid on items in the silent auction, a conference feature for the past three years that has grown in success--and money raised for scholarships for planning students at our two accredited planning degree programs in Wisconsin. And then Pub Crawl around the Madison Square!

After continental breakfast Friday morning (for pub crawl participants, that may include two aspirin), the conference address by APA President William Anderson, FAICP, highlights "Sustaining Places: Health, the Common Language". Anderson is a planner with AECOM in San Francisco. He focuses on inner cities, community planning and regional planning.

Between sessions, you will want to purchase your tickets for the bike raffle. Just \$5 gives you a chance at winning either a Schwinn fold-up bike (donated by Pacific Bikes) or a TREK-donated Alliant Commuter bike. Just think of the opportunity 10 tickets could bring!

During lunch on Friday, chapter members will facilitate a member conversation about Planning

in the Trenches: What's really happening in Wisconsin? What are we doing now? Where are the gaps? How do we move forward? Participate in a discussion on current trends and issues facing planners today.

AICP members, don't forget that the conference offers a tremendous value for those Certification Maintenance credits. Through the two-day conference, you can earn 9-10 CM credits, depending on your session choices.

Bridging Public Health and Planning: Cases, Resources and Action

BY NANCY FRANK

UNIVERSITY OF WISCONSIN - MILWAUKEE

On April 9, fifteen planners and an assortment of public health professionals met for a day-long workshop in Madison to reach a deeper understanding of the shared concerns in our work and the opportunity and need for planners and public health professionals to work together more directly and more regularly. The ultimate goal was to forge a plan for next steps to build an effective collaboration between the public health and planning communities.

The results of this workshop are being disseminated in a number of ways, all of them readily accessible to you. You will find links to these resources on the APA - Wisconsin homepage, <http://www.wisconsinplanners.org>. Among the items that are are the final report, entitled *Bridging Public Health and Planning* (<http://wisconsinplanners.org/attachments/Comin->

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The APA-WI board established an endowment fund to support scholarships for students attending either of the accredited masters degree programs in planning in Wisconsin: UW - Madison and UW - Milwaukee.

APA-WI invites members to contribute to the endowment fund as a way to support the next generation of planners in Wisconsin. Just return this pledge form to APA-WI Treasurer Connie White with your contribution.

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Latinos & Planning	LAP	Urban Design & Preservation	URBAN_DES
New Urbanism	NEW_URB		

Chapter Dues (mandatory for U.S. members)

Chapter	Regular	Student	Chapter	Regular	Student	Chapter	Regular	Student
Ala.	\$30	\$7	Mass.	\$35	\$15	S.C.	\$35	\$15
Alaska	\$35	\$25	Mich.	\$60	\$15	Tenn.	\$25	\$7
Ariz.	\$42	\$5	Minn.	\$50	\$5	Texas	\$45	\$5
Ark.	\$25	\$15	Miss.	\$35	\$10	Utah ¹	25% APA dues	\$5
Calif.	\$85	\$15	Mo.	\$25	\$5	Va.	\$45	\$15
Colo. ¹	25% APA dues	\$10	Natl. Cap. ²	\$30	\$12	Wash. ¹	25% APA dues	\$8
Conn. ¹	35% APA dues	\$14	Neb.	\$30	\$20	W. Va.	\$45	\$5
Del.	\$30	\$5	Nev.	\$30	\$15	W. Cen. ¹	\$25	\$5
Fla. ¹	45% APA dues	\$5	N.J. ¹	35% APA dues	\$5	Wis.	\$45	\$5
Ga.	\$35	\$10	N.M.	\$40	\$10			
Hawaii	\$25	\$5	N.Y. Metro	\$49	\$17			
Idaho	\$25	\$5	N.Y. Upstate	\$35	\$5			
Ill. ¹	25% APA dues	\$12	N.C.	\$40	\$10			
Ind.	\$35	\$15	N. New Eng. ^{1,3}	25% APA dues	\$5			
Iowa	\$34	\$11	Ohio	\$45	\$15			
Kan.	\$25	\$5	Okla.	\$30	\$12			
Ky.	\$35	\$5	Ore.	\$55	\$10			
La.	\$50	\$10	Penna. ¹	45% APA dues	\$15			
Md.	\$27	\$5	R.I.	\$25	\$15			

¹Round percentages of APA National Dues to the nearest dollar.

²Includes Washington, D.C.; Montgomery County, Md.; and Prince George's County, Md.

³Includes Maine, New Hampshire, and Vermont.

⁴Includes Montana, North Dakota, South Dakota, and Wyoming.

For chapter-only membership, write **CHAPTER ONLY MEMBERSHIP** on the top of the form, and send your \$45 check to the address listed on the form, or fax if paying with a credit card.

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You may also download this form at

<http://wisconsinplanners.org/attachments/memberform2012.pdf>

[gEvents/BridgingPublicHealthandPlanningNext-StepsFinal_2014.pdf](#)). Within the next month or so, two videos will be posted: a short video presenting the highlights of the workshop and a longer (approximately one hour) summary of the presentations at the workshop. APA - Wisconsin's participation in producing the workshop and these materials was supported through a grant from the Robert Wood Johnson Foundation.

As a participant at the workshop, let me share some of my own discoveries from the day. I had thought that I was already fairly well-informed about the connections between planning and public health, as many of my own focus areas within planning (water, brownfields, transportation and land use) connect directly to public health outcomes. Even so, the presentations deepened my understanding of the connections and opportunities, and presented a number of tools and resources that I would otherwise have been unaware of.

So here are some of the things I learned.

Key Ideas

Health in All Policies. Health is critically important. It is, literally, a life or death matter.



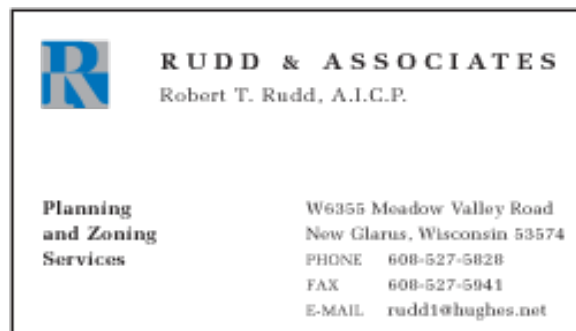
Consider a world in which health was considered in the development of all policies. Or start smaller, consider a comprehensive plan that considered health in all policies. Think about how this perspective would strengthen planning.

Hospitals Can Be Key Partners in Planning. Hospitals have both mission and economic interests in promoting health in the communities they serve. Yet planners rarely think to put hospital board members or administrators on their list of key stakeholders for a general plan. Think again! In addition, hospitals may be willing (eager?) to help fund planning efforts.

Planners Have Data, and Public Health Professionals Have Data. We ought to share. Indeed, putting our data together through GIS applications can yield important insights about our communities.

Cases

The workshop included case studies of integrating public health and community planning from Dubuque, Menasha, Wisconsin Rapids, and Madison/Dane County. Excerpts from these case studies will be part of the longer video.



Resources

County Health Rankings and Roadmaps,
<http://www.countyhealthrankings.org/>

I knew about the county health rankings and had spent some time exploring the rankings in Wisconsin. Even so, I also know that this data source is not widely used by planners in conducting community inventories in the planning process. The tool provides data, rankings, and (in some cases) trend data on 34 indicators across six areas: length of life, quality of life, health behaviors, clinical care, social and economic factors, and physical environment.

This data is a resource for planners, but more importantly, it could be a powerful interactive tool for helping community residents to explore their county and see planning as powerfully connected to their lives. Efforts are now underway to create more local rankings because the county scale can often be too large to serve more localized needs.

A related resource is the “roadmaps” section of the county health rankings website. Part of the Roadmaps area provides information on Policies and Programs along with the scientific support showing the health impact of them. For example, under Physical Environment, the website lists policies and programs for air and water quality and for housing and transit. The “housing and transit” link brings up a list of 32 policies and programs. Each one is tagged as being scientifically supported, having some evidence in support, having the support of expert opinion or not having sufficient evidence of benefits. For example, improved streetscape design has

been shown in scientific studies to increased physical activity, increased active transportation, and increased pedestrian and cyclist safety. The Evidence of Effectiveness section then cites thirteen peer reviewed studies and summarizes the evidence in each.

Investing in What Works for America's Communities is a collection of essays produced by the San Francisco Federal Reserve Bank and the Low Income Investment Fund. You can download the entire volume for free from this link: http://whatworksforamerica.org/pdf/whatworks_fullbook.pdf.

In the introductory essay, Elizabeth A. Duke, a governor of the Federal Reserve articulates the essential connection between the physical planning that we do and the health and welfare of residents: "Successful community development is based on attention to both the physical infrastructure, whether housing or commercial spaces, and the health and welfare of the residents therein." The central focus of the book is on addressing the needs of low-income communities, which we know exist across all parts of Wisconsin. This is going on my summer reading list.

APA's "Public Health Terms for Planners & Planning Terms for Public Health Professionals,"

This glossary addresses one of the challenges of collaborating across professional

boundaries: each profession's specialized jargon. APA, in collaboration with the National Association of County and City Health Officials and with funding from the federal Centers for Disease Control and Prevention, has put together a short list of terms that each profession may need to learn from the other (<http://wisconsinplanners.org/attachments/ComingEvents/jargonfactsheetforPublicHealth.pdf>).

Action

The last session at the workshop and a follow-up survey focused on identifying specific actions to deepen the relationships between public health and planning professionals. Two-thirds of the participants supported increased networking--attending each others conferences, doing more joint training, and developing local working groups, like the Healthy Places Learning Group. A second identified priority is to work jointly on developing "tools for health impact assessment, financial impact assessment and related impact assessments/analyses" (Bridging Public Health and Planning, p. 2).

Law Update

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May Case Law Update May 31, 2014

A SUMMARY OF WISCONSIN COURT OPINIONS
DECIDED DURING THE MONTH OF MAY
RELATED TO PLANNING

FOR PREVIOUS CASE LAW UPDATES, PLEASE GO
TO: [HTTP://WWW.WISCONSINPLANNERS.ORG/
LAWANDLEGISLATION.HTML](http://www.wisconsinplanners.org/lawandlegislation.html)

Wisconsin Court of Appeals

Challenge to WPDES Permit Requires Exhaustion of Administrative Remedies

In [*Clean Water Action Council of Northeast Wisconsin v. Wisconsin Department of Natural Resources*](#), 2014 WI App 61, the Clean Water Action Council of Northeast Wisconsin (CWAC) brought a lawsuit in circuit court challenging the

reissuance of the Wisconsin Pollutant Discharge Elimination System (WDPES) permit for Appleton Coated LLC. The circuit court dismissed the case because CWAC proceeded directly to judicial review of the DNR's actions without first obtaining a contested case hearing before the DNR for review of WDPES permit decisions as provided under Wisconsin law. The Wisconsin Court of Appeals affirmed the dismissal by the circuit court.

The case is recommended for publication in the official reports.

Employee Safety Outweighs Disclosure of Public Records

In [Ardell v. Milwaukee Board of School Directors](#), the Wisconsin Court of Appeals recognized a limited exception to the disclosure of public records under Wisconsin's Public Records Law when there are documented and well-founded safety concerns for the public employee who is the subject of the public records request.

Wisconsin law includes a presumption favoring disclosure of public records. However, the Court of Appeals acknowledged that the presumption is not absolute. In this case, the person requesting the documents had a history of violence against the employee about whom he was requesting documents. While the school district originally indicated it would turn over the records, the district later decided against disclosure of the records. This lawsuit was an effort to compel the school district to disclose the documents. Based on the requestor's history of violence and harassment of the employee, the circuit court and the Court of Appeals determined that the records request was not a legiti-

mate one. Rather the intent was to continue to harass and intimidate the employee. Both the circuit court and the Court of Appeals agreed that the schools district properly withheld the disclosure of the records.

The case is recommended for publication in the official reports.

City Must Disclose Vote Taken During Closed Meeting

[Journal Times v. City of Racine Board of Police and Fire Commissioners](#), involved a newspaper's request for the motions and roll call votes taken at a closed meeting to discuss the search for a new police chief. There were three finalists for the position - two minority candidates and one nonminority candidate. The nonminority candidate withdrew his application. At the closed meeting to discuss the withdrawal, the Commission decided to reopen the search to review a "broader pool of candidates." Wisconsin Open Meetings law expressly requires that motions and votes be recorded for closed meetings as part of the public record. The City initially refused to release the information but made it available after the newspaper initiated this lawsuit since the City did not have any basis for withholding the information. Wisconsin's public records law allows for the awarding of attorney fees if the lawsuit was a reason for the release of the information. The Wisconsin Court of Appeals remanded the case back to the circuit court to decide if the lawsuit was a reason for the release of the information and, if so, the amount of attorney fees and costs to be awarded.

The case is recommended for publication in the official reports.

In My Opinion Planning and Public Health

BY NANCY FRANK, EDITOR
UNIVERSITY OF WISCONSIN - MILWAUKEE

At APA - Wisconsin's 2013 conference, the theme of planning and public health received rave reviews from attendees, especially for some of the outstanding plenary session speakers, like Dean Magda Peck from the UWM Zilber School of Public Health. (You can view Dean Peck's powerpoint at http://wisconsinplanners.org/attachments/ConferencePresentations2013/Peck_APA-WI.pdf.) At the end of her engaging talk, Dean Peck challenged each of us to bring health (and health professionals) into our planning work.

The board took that challenge seriously, and committed to spend another year building relationships with the public health profession. This effort has taken two principal paths. First, APA - Wisconsin invited members of the Wisconsin Public Health Association (WPHA) to identify sessions for the 2014 conference to ensure that our conference theme, "Complete Communities: Integrating Economy, Health, and Environment," would have high quality sessions on health issues for complete communities. As it turned out, the submissions in this area were exceptionally strong, prompting the conference committee to devote an entire track to health and planning (see accompanying story in this issue about the conference).

The second major initiative was APA - Wisconsin's participation with the WPHA in obtaining funding from the Robert Wood Johnson Foundation to hold a one-day workshop on "Bridging Public Health and Planning: Cases, Resources and Action," held in Madison on April 9 (see accompanying story in this issue). The workshop focused on how to integrate planning into community health improvement efforts, looking at case studies from Dubuque and around Wisconsin.

Recently, APA - Wisconsin board members have heard feedback from some chapter members questioning the chapter's emphasis on public health at two consecutive conferences. They have pointed to other urgent issues in planning—the sad status of state support for comprehensive planning in Wisconsin, the urgent needs for affordable housing, the need for improved transportation choices, and (of course) the critical need for economic development to create new jobs in all of our communities. So why focus on health?

While Dean Peck's call to action was inspiring, the APA - Wisconsin board members have in mind a number of other, mission-critical purposes in focusing on health. Clearly, a number of us believe that health is an important issue that planners need to be more attuned to addressing. But beyond the sound planning reasons for better connecting our work to public health, this engagement may reap both short-term and longer-term benefits for our organization and its ability to serve our members and for the re-engagement of legislators in recognizing the role of planning in serving the needs of Wisconsin residents and businesses. Here is my list of these benefits.

Connecting to public health creates short-term opportunities to build membership and conference attendance. The financial crisis and resulting weak economy and even weaker public sector have put a major dent in APA - Wisconsin membership levels. This past quarter, membership in APA - Wisconsin was at the same level as twelve years ago. While we cannot be sure of the reasons, we see distinct patterns in our renewal rates and in our own workplaces that are undeniable. Planners are moving out of Wisconsin for better job opportunities elsewhere. Planners who move or retire are not replaced by their organizations, resulting in fewer planners overall. Unemployment among planners remains high, and many planners are more financially strapped than in the past. New graduates of our two accredited planning programs are also moving out of state for jobs, and—even if they stay in Wisconsin—they are not renewing their APA memberships because they are unemployed or severely underemployed, and their employers are not picking up the cost of the dues.

We hope to attract new attendees to our conference and even new members by engaging with public health. Public health is just one of several professions that we have and will continue to engage to increase membership and conference attendance. Our several years of collaboration with the Wisconsin chapter of the American Society of Landscape Architects was very successful. We believe that other professions may also offer similar opportunities for growing membership, conference attendance, and chapter revenue. The conference committee would welcome your ideas about other opportunities to engage with allied professions.

Connecting our work to public health may also be one of our best hopes for persuading the legislature to support comprehensive planning. Some of the first plans completed under the 1999 comprehensive planning law are now coming up to their 10-year anniversaries. While many communities amend their plans regularly, and some may already have launched a new round of planning to complete their 10-year plan updates, many communities are financially strapped and will be unlikely to prepare full updates of their plans without state grant support.

We know that many state legislators are either hostile or indifferent to planning. They see planning as either infringing on property rights or not offering any benefit, preferring to allow the market to decide where and what sort of development should occur. The arguments concerning the economic benefits of planning for public infrastructure investments have not resonated as much as we would like. Given the current lack of interest in planning among legislators, we can also surmise that they do not recognize the importance of planning for retaining and attracting businesses and jobs (see story in this issue about brownfield development).

Planners need to continue to educate our legislators—at both the local and state levels—that planning produces benefits that far exceed the costs. But a relationship to public health adds a new arrow to our quiver. Protecting health is one of the prime functions of government. Public health professionals know that they cannot make progress on the diseases of the 21st century (heart disease, cancer, diabetes, stroke) unless cities are reshaped and re-imagined.

ined. The public health enterprise needs planners to be at the table, and planners need public health professionals to carry our message about the health impacts of how we plan and design cities and regions.

Join the chorus!

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Continued from page 8

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