

APA - Wisconsin Newsletter



American Planning Association
Wisconsin Chapter

Making Great Communities Happen

A Publication of the Wisconsin Chapter of the American Planning Association

Upper Midwest Conference

Act fast—Last Chance to SAVE!

**Early Registration Ends September 12
SAVE Up to \$40**

Planning for the Next Generation, the theme of the upcoming joint conference for the Upper Midwest APA and Wisconsin CNU, explores how the planning profession needs to reinvent some its concepts and strategies to fit emerging demands. The two-day event will focus on prominent issues such as community development and revitalization, transportation alternatives, natural resources planning, and sustainable urbanism.

Wednesday

The conference opens Wednesday morning with APA president Mitchell Silver discussing the challenges and opportunities for innovation with planning in the 21st century.

Throughout the day the conference provides four breakout sessions. The “tracks” cover economic and community development, placemaking and revitalization, designing a better code, transportation, natural resources planning, and much more.

Lunch features former Milwaukee mayor and current Congress for the New Urbanism (CNU) president and CEO John Norquist using his book *The Wealth of Cities* to discuss how previous planning conventions have fallen short of using value-driven design.

As a supplement to the breakout presentations, there will be walking tours throughout the day. Explore the Dane County Farmer’s Market, downtown Madison, Urban Land Interests’ Block 89, or State Street for a first-hand view of ongoing development and an accentuation of the issues highlighted during the conference.

Bonus Issue

Summer-Fall 2012

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www.wisconsinplanners.org

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The WAPA Newsletter is published electronically four times each year by the Wisconsin Chapter of the American Planning Association to facilitate discussion among its members of planning issues in Wisconsin. Correspondence should be sent to:

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Change of Address: WAPA Newsletter does not maintain the address lists for any APA publication. All lists are maintained at the national APA office and are updated and mailed to the chapters each month. If you have moved, please contact Member Services Coordinator, APA National Headquarters, 122 S. Michigan Street, Suite 1600, Chicago, IL 60603-6107 or call (312) 431-9100 or FAX (312) 431-9985.

Membership Information: To become a member of the Wisconsin Chapter of the American Planning Association, simply become a member of the APA. An application form is provided on the back of this publication. Or you may opt for Wisconsin Chapter only membership.

Professional Services Directory: Put your business in the newsletter. Advertising rates are \$40.00 per issue or \$150.00 per year. Send business card or camera-ready copy (2 inches high x 3.5 inches wide) to the newsletter editor at the address below. Digital copy may be sent as an attachment by email to news@wisconsinplanners.org.

Submission of Articles: WAPA News welcomes articles, letters to the editor, articles from the WAPA districts, calendar listings, etc. Please send anything that may be of interest to other professional planners in Wisconsin. Articles may be submitted by mail, fax, or email. Articles may be edited for readability and space limitations prior to publication. Content of articles does not necessarily represent the position of APA, the WAPA Executive Committee, or the editor.

Submit articles by email attachment. Graphics are encouraged

Deadlines:

Winter issue: submit by January 15.
Spring issue: submit by March 15
Summer issue: submit by June 15
Fall issue: submit by September 15

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Visit the APA - Wisconsin webpage for up-to-date news and information between issues of the the APA-WI Newsletter.

Visit the Upper Midwest on Facebook

For the first time, APA-WI has created a Facebook page just for the conference.



Please [visit the page](#) and hit the Like button to help spread the word about this great event.



Other events during the first day include a silent auction, exhibitor review and networking reception, and a pub crawl to a few of Madison's top pubs.

Thursday

Thursday morning begins with the FAICP Symposium, moderated by Madison native and area planning consultant Michael Slavney. Urban biographer David Mollenhoff and a panel of distinguished planners will discuss the lasting relevance of John Nolen's 1911 plan, Madison – A Model City, while asking the critical question,

“What makes a plan both visionary and sustainable?”

During lunch, Shelley Poticha, director for Sustainable Housing and Communities at the U.S. Department of Housing and Urban Development, will examine the lessons learned from the efforts to plan for sustainable communities. This will be followed with the APA - Wisconsin awards, presented by Carolyn Esswein, AICP.

Separate tracked presentations will continue throughout the day. Also appealing is the opportunity to put the panels on transportation and street-use into perspective by going on one of the three bike tours offered. Other events include the Middleton Hill bus and walking tour and a TREK bike raffle.

Registration

Early registration (\$85 for Plan commission member, student, or unemployed APA member, otherwise \$235) ends 9/12 and regular registration (\$100/\$275) runs through 9/21. After the 21st, online registration is closed and attendees will have to register in person at the Monona Terrace Convention Center.

Ballots Due Saturday, September 15 Elections and Bylaws Amendments

The 2012 APA Wisconsin Chapter election for Board members is underway. In addition, the ballot includes a resolution approving proposed revisions to the bylaws.

At least a dozen years have passed since the Chapter last amended our organization's Bylaw. Bruce Wison, Nancy Frank and Brian Ohm worked over the summer to review the bylaws for needed revisions and to produce an amended version that would reflect our current operating policies.

The proposed amendments have no major changes to any of these procedures or operations. In addition, a number of inconsistencies and obsolete provisions have been amended, and the language simplified to make a more useable document.

The Executive Committee urges passage of the proposed amendments.

The proposed amendments are posted on the APA – Wisconsin website at <http://www.wisconsinplanners.org/executivecommittee.html>, where you will find both a marked version (track changes) and an unmarked version showing the proposed changes.

Here is a summary of the changes.

- Changes the nickname of the chapter from WAPA to APA - Wisconsin, consistent with national APA policy.
- Removes or appropriately revises numerous sections to create consistency with earlier revisions of the bylaws.

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- Eliminates the section defining the Executive Director position.
- Renames the at-large representatives to Vice Presidents with the same duties as under their old titles.
- Renames the "Continuing Maintenance Officer" the "Certification Maintenance Officer".
- Clarifies the terms of office begin January 1, except for student members who may join whenever they are elected by their respective student organizations.
- Revises language in Section 4.2 that was not written in a way that allowed it to be perpetually applicable.
- Includes election times for officers added in prior revisions of the bylaws.
- Clarifies that the president is authorized to execute contracts on behalf of the chapter, as approved by the Executive Committee.
- Eliminates the Professional Development Committee, which has not been constituted in well over 10 years.
- Revises Section 4.4, regarding the duties of the Professional Development Officer (PDO), to be consistent with national APA and AICP policies.
- Revises the duties of various officers to be consistent with recent but fairly long-standing practice in the Chapter.
- Revises various sections to simplify the language and reduce the length of the document. Corrects grammatical errors.
- Corrects an error in the listing of counties in the Northeastern District of APA - Wisconsin, which had omitted Shawano County (see Section 4.9, old 4.8).
- Revises Section 4.10, defining the duties of the Planning Official Development Officer (PODO) to be consistent with practice.
- Revises Section 4.11, regarding the Certification Maintenance Officer, to make the position a voting position on the Executive Committee.
- Eliminates a listing of possible Special Committees.
- Adds Section 6.2, describing the process for developing an annual strategic plan and annual priorities. This section also directs the Executive Committee to post the annual plan and budget to the Chapter website.
- Eliminates unnecessary complexity and deadlines in the election calendar (Articles 8 and 9). Revises the election calendar to be consistent with sound practice and Chapter experience.
- Clarifies that balloting may be electronic, consistent with current practice.
- Specifies that the jury for selecting Chapter awardees should be composed of

Continued on page 5

APA-WI Endowment Gift Card

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.

Your gift is tax deductible.

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planners outside the state and that the jury should provide rankings to the Chapter.

You should have received emails from Lynn Jorgenson at APA and from APA - Wisconsin President Larry Ward with a link to the ballot webpage. In case you missed email or have misplaced it, the link to the ballot is <http://survey.planning.org/WIELECTION12.htm>.

Should you have any questions or problems accessing the ballot webpage, please contact Lynn Jorgenson at ljorgenson@planning.org.

Thanks for taking the time to vote. We look forward to receiving your completed ballot!

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Law Update

Court Decisions

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August Case Law Update

August 31, 2012

A summary of published Wisconsin court opinions decided during the month of August related to planning.

Wisconsin Supreme Court Opinions

No planning related cases to report.

Wisconsin Court of Appeals Opinions

Extraterritorial Plat Approval Jurisdiction Applies to Condominium Plats

In *Village of Newburg v. Deerprint Enterprises, LLC*, an unpublished decision of the

Wisconsin Court of Appeals, the court held that a condominium plat is subject to the extraterritorial plat-approval provisions of the Village's subdivision ordinance. Wisconsin's subdivision enabling laws found in section 236.45 of the Wisconsin authorize cities and villages to apply their subdivision ordinances to the extraterritorial areas outside city and village boundaries. Condominium plats, however, are not subject to Chapter 236 because condominium plats provide for common ownership of land, in other words, land is not being subdivided. Wisconsin's laws enabling the condominium form of ownership, however, allow local governments to pass an

ordinance expressly stating that the local subdivision ordinance will apply to condominium plats. Since the Village had a subdivision ordinance that expressly stated it applied to condominium plats, the Court of Appeals determined that the authority to approve condominium plats also extended into the Village's extraterritorial plat approval jurisdiction.

Billboard Law in Wisconsin

Admar Real Estate Co., LLC v. Division of Hearings and Appeals is another unpublished Court of Appeals case. The case involved a

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challenge to the revocation of two permits to construct billboards along I-90/94 in the Village of Camp Douglas in Juneau County. The case provides a nice summary of the application of section 84.30 of the Wisconsin Statutes governing the regulation of outdoor advertising signs by the state. The Court's summary of the law as applied to the facts of this case follows:

The legislature enacted Wis. Stat. § 84.30 to comply with the requirements of the federal Highway Beautification Act, 23 U.S.C. § 131, thereby avoiding a reduction in federal highway funding. . . . Section 84.30(3) provides that "[n]o sign visible from the main-traveled way of any interstate or federal-aid highway may be erected or maintained," absent one of several exceptions enumerated in the statute. The pertinent exception here is for signs in "business areas." See § 84.30(3)(e).

The statute generally defines a "business area" as an area "zoned for business, industrial or commercial activities under the authority of the laws of this state; or not zoned, but which constitutes an unzoned commercial or industrial area." Wis. Stat. § 84.30(2)(b). "Unzoned commercial or industrial areas" are defined to include "those areas which are not zoned by

state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted." §84.30(2)(k).

Signs adjacent to interstate highways, as opposed to other types of highways, are a special case. For signs adjacent to interstate highways, a "business area" is limited to the following two categories: (1) "commercial or industrial zones within the boundaries of incorporated municipalities, as those boundaries existed on September 1, 1959"; or (2) "other areas where the land use as of September 1, 1959, was clearly established by state law as industrial or commercial." Wis. Stat. §84.30(2)(b).

ADMAR applied to DOT for permits to construct two outdoor advertising signs adjacent to an interstate highway, I90/94, in Juneau County. Therefore, ADMAR's signs needed to meet the stricter limitations for signs adjacent to interstates.

As part of its permit applications, ADMAR submitted a document signed by the Village of Camp Douglas clerk, verifying that the site of the proposed signs was located within the Village

boundaries as of September 1, 1959, and was zoned as a commercial district. DOT issued the permits. However, after ADMAR began constructing the signs, DOT received a complaint that the land on which the signs were located was not within the Village of Camp Douglas boundaries as of September 1, 1959. After further investigation, DOT discovered that the land had not in fact been within the Village boundaries as of that date. On that basis, DOT revoked the permits in two "sign removal orders."

ADMAR appealed the DOT's decision to the State Division of Hearings and Appeals (DHA) which upheld DOT's revocation of the permits. The Court of Appeals agreed with the DHA.

Benevolent Use Not Necessary for Facility to be Tax Exempt

Beaver Dam Community Hospitals, Inc. v. City of Beaver Dam concerns a dispute over interpretation of statutory language in the state property tax code. Beaver Dam Community Hospitals asserts that its community-based residential facility (CBRF) qualifies for the exemption as property owned and used by "a nonprofit entity that is operated as a facility that is licensed, certi-



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fied, or registered under ch. 50" of the Wisconsin Statutes [regulating hospitals and other facilities such as CBRFs], pursuant to Wis. Stat. § 70.11(4) (a). The hospital is a federally tax-exempt non-stock, nonprofit corporation and charges market rates for use of this facility.

The City of Beaver Dam, asserts that the facility is not entitled to the exemption, arguing that the exemption applies only to facilities that show benevolent use, and that the hospital system failed to show benevolent use by its facility. The Court of Appeals held that the exemption does not require a showing of benevolence. The hospital facility is therefore tax exempt.

The case is recommended for publication.

Standard of Review in Non-renewal of Liquor Licenses

Nowell v. City of Wausau involved the review of the City of Wausau's decision not to renew the bar's combined intoxicating liquor and fermented malt beverage license due to a high number of police calls and other activity. The circuit court concluded that judicial review of the City's decision under Wis. Stat. § 125.12(2)(d) should be limited to issues reviewable by certiorari (a more limited review by the court giving greater deference to the City's decision). The Court of Appeals, however, concluded that § 125.12(2)(d) contemplates a de novo review of the City's decision, allowing the court to hold additional hearings and consider other evidence. The Court of Appeals accordingly reversed and remanded the case to the circuit court to conduct further proceedings.

The case is recommended for publication.



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¹This will be your e-mail address of record. APA will use it to conduct electronic voting, deliver member benefits, and perform other administrative tasks.

²Planning board member and student verification required — please use forms above.

³APA welcomes members from outside the U.S. Please join online at www.planning.org/join.

⁴Your chapter is the one that corresponds to your preferred mailing address. Prices are subject to change.



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

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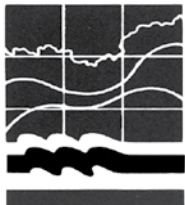
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Legislative Update

By STEVE HINIKER, 1000 FRIENDS OF WISCONSIN
APA - WI LEGISLATIVE ANALYST

2013 LEGISLATIVE AGENDA

The Wheeler Report did individual interviews with all returning and running incumbent state senators about legislation and agenda issues for the 2013 legislative session. Below is the list of issue areas for each senator.

District 1 – Frank Lasee

No comment

District 2 - Robert Cowles

- Water Quality Issues
- Continue work on the Audit Committee
- Balanced Budget

District 3 – Tim Carpenter

- Mandatory Auto Insurance provisions
- Minimum Markup on medication
- OWI
- Straw purchases of guns
- Maintaining local roads v. new roads and expansions
- Review of recalls

District 4 - Lena Taylor

- Jobs and Economic Development (Capital Access)
- Education
- Corrections Reform
- Transportation
- Health Care, Health Exchanges

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Revitalizing
Communities

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District 5 – Leah Vukmir

- Budget
- Special Needs Scholarship Legislation
- Health Care Reform Legislation

District 6 – OPEN

District 7 – Chris Larson

- Education funding
- Job training skills
- OWI/Drunk Driving
- Local Roads Funding

District 8 - Alberta Darling

- Venture Capital
- Mining
- State agency program integrity
- OWI
- Align education with workforce needs
- MPS Governance

District 9 - Joe Leibham

- Maintain fiscal responsibility in the budget
- Analyze government agencies and programs for cost savings
- Career and College Readiness
- Entitlement Reform
- Clarification of Election Laws and Voter ID

District 10 - Sheila Harsdorf

- DNA sampling at the time of felony arrest (DOJ expected to ask as part of their budget)
- Foster job growth in the private sector
- UW Task Force proposals



District 11 – Neal Kedzie

- Tax exemption on retirement income
- Federalizing capital loss deductions
- Income tax exemptions for citizens 65 and older

District 12 – OPEN

District 13 – Scott Fitzgerald

- Mining
- Wind Power Issues
- WEDC Legislation
- Education

District 14 - Luther Olsen

- Jobs and Business promotion
- No Child Left Behind Waiver
- Cell phone driving ban for school zones

District 15 – Tim Cullen

- Merit selection for the Supreme Court Justices
- Redistricting Reform – nonpartisan
- Cyber-Bullying
- Legislation for No Child Left Behind Waiver
- Health Insurance Exchanges

District 16 - Mark Miller

- Infrastructure projects
- Small Business support
- Support to high unemployment areas
- Align job training with skills need

District 17 – Dale Schultz

- Broadband incentives for service to unserved rural neighborhoods
- Merit selection for Supreme Court Justices
- Redistricting Reform
- Recall Reform
- Review of state bioenergy policy
- Mining

District 18 - Jessica King

- Workforce Alignment
- Access to Capital (Venture Capital)
- Infrastructure Development
- Post 9/11 Veterans returning to WI (support services and work availability)

District 19 – Mike Ellis

- Budget
- School Equalization Aid Formula revisions
- Continue to make WI a place for businesses to expand and new businesses to come to
- Mining

District 20 - Glen Grothman

- Work with Rep. Vos on income tax reduction and consolidation
- Skilled factory labor training
- Budget Items: Property tax freeze and tuition freeze

District 21 – John Lehman

- Education – Full accountability (Charter and Choice)
- School Finance
- Exemptions from revenue caps for non-educational expenses in schools
- Corrections (Treatment instead of Prison)
- Mining

District 22 - Robert Wirch

- Shareholder voting for Corporation campaign contributions
- Selling Executive Mansion
- Buy America/Buy Local
- Return DNR Secretary appointment to DNR Board

District 23 – Terry Moulton

- Workplace Wellness
- Uniform Commercial Code
- WiscNet

District 24 - Julie Lassa

- Job creation
- Small Business support (Entrepreneurs, small business start-ups, technology support)
- Venture Capital
- Skills gap training (short-term needs and long-term goals)
- State Contract Reform

District 25 – Bob Jauch

- Skilled workforce training
- Technical College investment to address waiting lists
- Police Office Widow healthcare protection
- 911 Funding – Reforming funding to address cell phones vs. landlines

District 26 - Fred Risser

- Retention of faculty at UW System
- Campaign Finance Reform
- Voter Rights
- Rule-making process

District 27 – Jon Erpenbach

- Healthcare Exchange
- Tax Fairness
- Campaign Finance – Disclosure
- Concealed Carry – Eliminate liability for businesses that post

District 28 - Mary Lazich

- Jobs – disconnect between jobs available and unemployed
- Mining
- Election reform
- Taxes

- 911 Communications
- Chapter 980

District 29 – Jerry Petrowski

- Jobs (Protect what is here, help companies here grow, help bring companies here)
- Agriculture
- Forestry
- Managed Forest Crop Laws
- Small Breweries distribution abilities
- Veterans Court in Central Wisconsin
- Funding Veterans Trust Fund
- Frac Sand Mining

District 30 - Dave Hansen

- Job Creation and Skills Training
- Subsidy Accountability Act
- Private/Public Pension program managed by ETF/SWIB
- Dental Care for MA patients
- Address Physicians Shortage

District 31 - Kathleen Vinehout

- Health Care Exchange
- WEDC accountability for grants (from Audit Committee)
- Frac Sand Mining (Full disclosure, Conditional Use Permits, Review of non-metallic mining laws)

District 32 - Jennifer Shilling

- Frac Sand Mining
- Rural Broadband access
- Local Food Connection and Production
- School funding reforms

District 33 – Open