

# APA - Wisconsin Newsletter



American Planning Association  
Wisconsin Chapter

Making Great Communities Happen

A Publication of the Wisconsin Chapter of the American Planning Association

## Annual Conference Breaks New Ground

### Annual Conference Brings Planners to Milwaukee

The APA – Wisconsin Chapter annual conference was held at the Fron-

tier Airlines Center on March 9 and 10. With over 300 participants, the conference successfully brought together planners, landscape architects and other interested in planning. In addition, because the Midwest Regional Energy Summit was occurring at the same time at the Frontier Airlines Center, participants had an opportunity to participate in both conferences.

The Powerpoint© files of most of the presenters will be

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At left, APA - WI board member and planner with MSA Professional Services, David Boyd FAICP, demonstrates that planners will ride their bikes *anywhere*. Here, Dave checks out the bike donated by Trek, riding down the hall at the Frontier Airlines Center.

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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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.

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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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posted on the Professional Development page of the APA – WI website, <http://wisconsinplanners.org/aicpprofessionaldevelopment.html>. Lots of excellent presentations brought interesting and important information to planners about innovations in planning, the status of new regulations, the state budget, and professional issues like licensing.

In addition, even if you were unable to attend the conference, videos of the Ethics and Law sessions will be available and will be eligible for Certification Maintenance (CM) credit.

In addition to a larger number of mobile workshops at this year's event, APA – WI launched a new initiative to raise funds for scholarships for planning students. The APA – WI scholarship endowment fund has been in existence for the better part of a decade. Each year, proceeds from the conference are transferred to the endowment, once the board determines that all of the other financial

obligations of the chapter can be met.

This year, however, the conference featured additional activities to raise funds for the scholarship endowment.

The big attraction was the raffle of a bike donated by Trek Bicycle Corp., located in Waterloo, Wisconsin. The raffle raised \$870 for the endowment. Those funds will be invested by the Madison Community Foundation, growing each year. Only a portion of the earnings are used to provide scholarships. So the funds put in the endowment from the raffle will continue to grow and support students.

In addition, APA – WI board member and City of Milwaukee planner Maria Pandazi organized a silent auction, which also raised a tidy sum. The board thanks all of those members who donated items for the auction.

Thanks to all for making this year's conference a great success.

## Creative Cluster

BY DAVID J BOEHM

On the heels of the recent success of Milwaukee's Water Cluster, the region's creative industries, defined as "those organizations, individuals, and companies, whose products and services originate in artistic, cultural, creative, and/or aesthetic content," have been identified and recognized in a new study.

**CREATIVITY WORK\$**

*Creativity Works!* Milwaukee Regional Creative Industries Project, a joint project of the Cultural Alliance of Greater Milwaukee and the Greater Milwaukee Committee, defined, inventoried, and measured the economic contribution of these industries in this region for the first time. The study was conducted by Mt. Auburn Associates, an economic development and creative economy research firm, in partnership with other organizations.

The impetus for this study came from a 2008 research report presented by the Cultural Alliance to the Greater Milwaukee Committee. This report concluded that



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the region has superlative arts and cultural assets but that the infrastructure to support them was fragile. Infrastructure such as funding sources and organizational cohesion was missing or weak. The recommendation was that a creative community planning process be undertaken—a first for the region. A review of national and international best practices made it clear that this study should encompass for-profit creative businesses as well as non-profit arts and culture and individual artists, looking at them as one cohesive industry.

### The Numbers

In 2009, there were 66,707 jobs linked to the creative industries or about 4.2% of all jobs in the region, contributing \$2 billion in wages. About half of these workers were employed in creative jobs such as dance, graphic design, or architecture, while the other half worked in a support role, such as an accountant at a theater.

The report also breaks down employment by industry segment: Design,

Media and Film, Performing Arts, Visual Arts and Crafts, and Culture and Heritage. Design is the largest sector, even though it was the only sector to lose jobs between 2002 and 2009, with a loss of 5%. All other sectors gained employment ranging from 2%-28%.

### Key Findings and Strategic Initiatives

The report provides three key findings for the creative cluster. First, focusing on development of the creative industries will yield significant community returns. To fulfill the potential, Creativity Works hopes to have the creative industries designated as a targeted area of economic development by the new administrations restructure of the commerce department. Such a designation would be a first of its kind for Wisconsin, raising the profile of the entire project.

### Bringing Creative People Together

The second key finding states that connecting the creative industries to each other is critical for success. At first glance, this could be a difficult task. Connecting such disparate types of people as symphony violinists, firearm decorators, and art dealers could be a challenge, but participants in the more than 20 focus groups conducted as part of

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the study said that they were very interested in connecting with other creatives from outside of their own business areas. The architects who work downtown may appear very different from the grunge rockers at the neighborhood pub, but Shirah Apple believes they are more similar than different. Apple, the program manager for the *Creativity Works!* project, says, “People who work in creative industries enjoy meeting each other because creativity breeds creativity.”

The idea is to end the individual silos of each profession

and allow communication that can spawn new ideas and generate growth. “Once people learn they have something in common, businesses, non-

profits, and entrepreneurs can create new ideas and generate business. We just want to provide that initial connection. We are also seeking to connect with businesses who use creative services and products as well as those that employ creative workers but who have a different mission—for instance, an insurance firm that employs graphic designers.”

The Cultural Alliance is creating ways to foster opportunities for these connections. In April it will be launching a new web directory which will be a hub of creative resources and services for the region. The organization will also begin a program of networking events, starting with a website launch party, beginning in April. “We held a very successful networking event last year, and networking has continued to be component of meetings related to the project. This will be an important strategy in connecting and convening creative businesses and those who



**CREATIVE  
INDUSTRIES**  
A NEW ECONOMIC GROWTH OPPORTUNITY FOR THE MILWAUKEE 7 REGION



use their services.” The Cultural Alliance is also expanding its business model to better serve for-profit business as well as the non-profit arts and culture sector.

## Building Support

The last key finding is the need for a common voice with a strong support system. *Creativity Works!* hopes to be that voice and provide as much support as possible to the creative industries in the region.

One such support would be to form sector-specific councils with executives from the major businesses and organizations. The hope is that these councils would foster growth in their sector, similar to the Milwaukee Water Council.

Other proposals for businesses and non-profits include leadership training from successful businesses in the area, develop common bench marks businesses can use to check their health, and secure funding for startup entrepreneurial companies.

## Impact on the Region

Through their direct contributions, the creative industry provides much needed goods, services, and jobs for the region. But most people do not consider the secondary effects from the creative industry. “When there are more creative

people in the region, it helps in ways you don’t even realize. People just don’t decide to be creative between 9 and 5 and stop when they leave work. They continue being creative all the time,” says Apple. Garage bands, church choirs, and other after-hours creative activities are not usually considered huge economic drivers, but they provide a higher quality of life for everyone. The more creative people and businesses you have, the more people you have who provide these secondary effects. “Many of these people simply enjoy being creative when outside of work and provide the community with wonderful benefits—and make the region a more attractive place to live, work, and play for everyone.”

## The Future

*Creativity Works!* is now gearing up for its implementation phase with a kickoff planned for April. As the report states, moving forward on selected initiatives will enable Southeastern Wisconsin to use the creative industries to have a positive business impact and further enhance this region’s high quality of life, making creative industries a “signature” of the entire region.

The full report and summary can be found at <http://www.creativityworksmke.com>.

The APA Divisions Council and associated Divisions invite you to a very special event:

### Local Foods Role in Economic Recovery

Ken Meter of Crossroads Research Center, a national expert on community food systems, will be the keynote speaker at dinner at Viora on Sunday, April 10, 2011 during the National Conference. Join us for an evening of conversation, camaraderie, and comestibles focused on food systems. Viora has developed a menu of locally sourced food choices with some excellent wines to highlight the evening. Look for this ticketed event in the conference program as “Local Foods Dinner” when you register. We hope to see you in Boston!

[www.planning.org/conference](http://www.planning.org/conference)



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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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**Session for National Conference:  
The Impact of the Wage Gap on  
Women and Their Families**

The 2010 census shows women and men even on degrees, yet female pay still lags. Women currently earn an average of 77¢ for every dollar paid to their male counterparts equating to \$10,622 a year. This gap is most critical for women during a difficult economy such that we are experiencing.

The panel will address  
the wage gap, with advice  
from three experts on  
women in the workplace.

Although women have made major advances in education and income during the past 30 years, there's still a significant pay gap between the sexes. The disparity starts shortly after a woman graduates from college and gets worse over time. Even when adjustments are

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made for hours, type of job, parent-hood, and other factors known to affect pay, 25% of the pay gap still cannot be explained. With greater access to education and women going into all kinds of formerly nontraditional fields like engineering, science, law, and medicine, shouldn't the problem right itself over time? Will pay gaps continue after more women enter these fields? Women need to become better negotiators and companies need to do more to accommodate mothers with young children. The ongoing studies and data we are bombarded with may just be hurting women by keeping them from understanding what they can do to effect a change in their circumstance. In other words, identifying

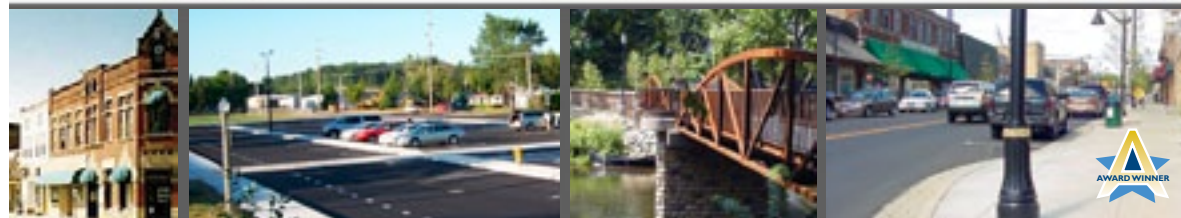
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the problem is only half the job. Women need to know what they can do to help their condition.

We have an exceptional panel assembled for this session. **Dr. Barbara Gault, Executive Director and Vice President at the Institute for Women's Policy Research.** Since joining the Institute in 1997 she has focused on a wide range of issues of importance to women and their families, including poverty, access to education, health, work-life balance, political engagement, and the need for expanded preschool and child care options for working parents. Her publica-

tions include *Resilient and Reaching for More: [Challenges and Benefits of Higher Education for Welfare Participants and Their Children](#)*. "The Costs and Benefits of Policies to Advance Work Life Integration" as well as The Women of New Orleans and the Gulf Coast: Multiple Disadvantages and Key Assets for Recovery, [The Price of School Readiness: A Tool for Estimating the Cost of Universal Preschool in the States](#); and [Working First But Working Poor: The Need for Education and Training Following Welfare Reform](#).

**Dina Lassow, Senior Counsel,**

**National Women's Law Center.** Dina Lassow is Senior Counsel for Education and Employment, but she also works on other issues at the Center such as contraceptive coverage and reproductive rights, especially when they involve litigation. She spends a lot of her time working on *amicus briefs* in the Supreme Court, which is hearing several employment discrimination cases this term. She has two daughters who love sports, and were actually interested in the Title IX work she does when she wears her education hat. Before coming to the Center, Ms. Lassow worked for a couple of small firms, other non-profits, and was a trial lawyer in the Civil Division of the Department of Justice. She went to Harvard/Radcliffe College and Yale Law School.

**Dr. Mary Gatta is currently a Senior Scholar, at Wider Opportunities for Women.** Prior to that she served as a Director, Gender and Workforce Policy at the Center for Women and Work, and on the faculty in the Department of Labor Studies and Employment Relations at Rutgers University. She holds a PhD and M.A. in Sociology from Rutgers University and a B.A. in Social Science from Providence College. Her areas of expertise include gender and public policy, low wage workers, earnings inequality, and evaluation research on workforce projects. Dr. Gatta has published several books, articles, and policy papers. Her

latest book, Not Just Getting By: The New Era of Flexible Workforce Development released from Lexington Press's imprint Press for Change, chronicles groundbreaking thinking and research on new and innovative workforce development initiatives that delivers skills training to single working poor mothers via the Internet. Her book, Juggling Food and Feelings: Emotional Balance in the Workplace was released from Lexington Press in 2002. She is currently one of the editors on an upcoming book A US Skills

System for the 21st Century: Innovations in Workforce Education and Development released by Cornell Press in January, 2011. In addition to books, Dr. Gatta has published numerous scholarly articles and public policy papers on topics including gender equity in academia, the gender based pay gap, and welfare policy.

Please avail yourself of the opportunity to not only learn, but also identify steps we all can take to end this inequity.

# Law Update

## Court Decisions

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### February Case Law Update February 28, 2011

[A summary of published Wisconsin court opinions decided during the month of February related to planning]

### Wisconsin Supreme Court Opinions

#### Presumption of Correctness Given to Department of Revenue's Assess- ments

*Nestle U.S.A., Inc. v. D.O.R.*, 2011 WI 4, involved a challenge to the property tax assessment for a specialized infant formula processing plant built by Nestle in Eau Claire. The Department of Revenue (DOR) assessed the plant following the Wisconsin Property Assessment manual. The specialized nature

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of the facility added significant costs to the construction of the facility. The DOR decided that the “highest and best use” of the property was as a powdered infant formula production facility. Nestle argued that the “highest and best use” was as an unspecified food processing plant because of the limited marketability of the specialized facility. Changing the highest and best use would significantly lower the assessment. The Wisconsin Supreme Court upheld the DOR’s

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assessment, concluding that Nestle failed to present sufficient contrary evidence to rebut the presumption of correctness given to the DOR's assessment.

### ***Wisconsin Court of Appeals Opinions***

#### **MMSD Liable for Damage to Property Caused by Deep Tunnel Project**

In [\*Cianciola, L.L.P. v. Milwaukee Metro Sewerage\*](#), the Wisconsin Court of Appeals an award for damages due to the Deep Tunnel project (a system of tunnels 300 feet below ground meant to control the discharge of polluted waste water during wet weather flows). Due to the project, the Cianciola property continues to settle resulting in the need for structural repairs to building foundations. The Court of Appeals held that the case was not barred by the statute of limitations due to the ongoing nature of the damage. The case is recommended for publication.

#### **Towns Authority to Vacate Alleys Upheld**

In *Smerz v. Delafield Town Board* the Wisconsin Court of Appeals upheld the authority of towns to vacate alleys under section 66.1003 of the Wisconsin Statutes. The facts of the case are as

follows. Several property owners in the Town of Delafield in Waukesha County petitioned the Town to discontinue two portions of unpaved alley. The Town granted their petition and ordered the alley segments vacated as requested as authorized under Wis. Stat. § 66.1003. Several other property owners then filed a declaratory judgment action challenging the Town's action. They claimed that because the alleys were located within a recorded plat, the alleys were subject to Wis. Stat. ch. 236, which does not give town boards authority to act. The challengers to the Town's actions contended that on the County was authorized to vacate the alleys. Wisconsin Statute § 66.1003(3) states that a "town board may discontinue all or part of an unpaved alley" when certain conditions are met. (Emphasis added.) Wisconsin Statute § 236.43 states that circuit courts "may vacate streets, roads or other public ways on a plat" if certain conditions are met. (Emphasis added.) Wisconsin Statute § 236.445 states that county boards "may alter or discontinue any alley in any recorded plat in any town in such county, not within any city or village." Town boards are not given similar authority in Chapter 236. The Court of Appeals found that none of the three grants of authority--§§ 236.43, 236.445, and 66.1003--are meant to be the exclusive means to discontinue an alley. One process does

not take precedence over the other. Wisconsin Statute § 66.1003(3) is meant to provide an alternative to Wis. Stat. Chapter 236 that towns may use to vacate alleys. The case is recommended for publication.

#### **Personal Inconvenience Does Not Justify Zoning Variance**

The Wisconsin Court of Appeals reaffirmed a longstanding rule for zoning variances in [\*Murr v. St. Croix County\*](#). Murr's parents purchased a lot on the St. Croix River in 1960 upon which they built a cabin. In 1963, they purchased an adjacent lot, which remained vacant. The approximately one and one-quarter acre lots contain approximately .48 and .50 acres of net project area. The lots were transferred to Murr and her siblings in 1994 and 1995. Due to repeated flooding, Murr sought to reconstruct the cabin on higher ground by using fill. She initially planned to build in the same location. However, as suggested by a town



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planning commission, Murr ultimately requested to build further from the river to reduce the environmental impact. Murr requested eight variances or special exception permits under St. Croix County's Lower St. Croix Riverway Overlay District ordinance: (1) variance to sell or use two contiguous substandard lots in common ownership as separate building sites; (2) variance to reconstruct and expand a nonconforming structure outside its original footprint; (3) variance to fill, grade, and place a structure in the slope preservation zone; (4) special exception to fill and grade within forty feet of the slope preservation zone; (5) special exception to fill and grade more than 2000 square feet; (6) variance to construct retaining walls and stairs inside the ordinary high-water mark setback; (7) variance to reconstruct a patio within the ordinary high-water mark setback; and (8) variance to construct a deck within the ordinary high-water mark setback. The St. Croix County Board of Adjustment denied all of Murr's requests in a written decision. The Court of Appeals agreed with the Board finding that the request to relocate and rebuild the home in a new location was simply a matter of convenience since she could have flood proofed the current home in its existing footprint. The Court of Appeals relied on long-standing Wisconsin case law that personal inconvenience alone does not

constitute the unnecessary hardship required to grant a variance. The case is recommended for publication.

## Legislative Update

The Executive Budget Bill was released on Tuesday, March 1. The bill (AB40, SB27) can be accessed here: <http://legis.wisconsin.gov/AB40.pdf> I will be providing a detailed summary as soon as I have reviewed the bill. You may also review the Department of Administration's overview here: <http://doa.wi.gov/debf/exebudget.asp?locid=166>

Here is a brief overview of some of the major provisions that I have gleaned:

### Stewardship:

Eliminate payments for aids in lieu of taxes and require local governments to pass resolution of support

Prohibit purchase of development rights EXCEPT for preserving logging rights or trails.

### Erosion Control:

Transfer enforcement of soil erosion controls from DNR to Regulation and Licensing



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Lower recent phosphorous standards to a level no more stringent than neighboring states.

### Recycling:

Eliminate requirement for local recycling programs in the state.

Transfer municipal recycling aid program revenues to economic development fund.

### Working Lands:

Eliminate the conversion fee for rezoning land out of a farmland preservation zoning district.

Eliminate the PACE program (Purchase of Agricultural Conservation Easements) and the \$12 million of GPR supported bonds.

### Transit:

Moves transit Funding from the Transportation Fund to the General Fund (where it will face intense competition from other programs) and keeps a 3%

increase in 2011, and 10% reduction in 2012 and no increase in 2013. Removes \$100 million in bonding authority for transit in S.E. Wisconsin (the KRM.) Note that the provision in the budget repair bill that costs the state \$44 million in federal transit aids.

Requires binding referenda for RTAs. (Separate bill would eliminate RTAs.) (NOTE: Highway spending in the budget bill increases by 14%)

Steve Hiniker will be updating information about the budget as he and others have additional time to analyze what is in the bill and as amendments are presented. Information will be posted to the APA - WI webpage as it becomes available.

We expect that many planners may also wish to address the legislature when hearings are held. Information about hearings on the budget bill and other legislation will also be distributed on the webpage and on the APA - WI listserv.



The 2011 conference sessions have been submitted for CM credit, they have not been posted to the CM log yet. Linda Stoll will send an email when APA

has uploaded the conference sessions to the APA CM website.

Remember that the Ethics and Law sessions will also be posted as separate items. That means that if you did not attend those sessions at the conference but watch the videos, you will need to log the CM credits as Distance Education credits rather than selecting those items as conference sessions.

The current reporting period ends December 31, 2011. As always, AICP allows gives an automatic four month-grace period, without penalty, so members are able to continue to earn and log credits for their reporting through April 30 to complete the CM requirement.

In addition to the webinars, the next APA - WI conference will be next spring, in time for the grace period. Planners can also earn all the credits they need by attending the national conference.

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