

WAPA NEWSLETTER



American Planning Association
Wisconsin Chapter

Making Great Communities Happen

A Publication of the Wisconsin Chapter of the American Planning Association

LEED for Neighborhood Development Advances

JOE PETERANGELO, UW-MILWAUKEE

On October 12th, the nation's first rating system for sustainable neighborhoods took a big step forward. LEED for Neighborhood Development (LEED-ND), which represents the most planning-related certification system for green developments to date, was approved to become a permanent program.

Leadership in Energy and Environmental Design (LEED) is a family of certification programs managed by the U.S. Green Building Council (USGBC). Until recently, LEED focused exclusively on individual buildings, but in creating LEED-ND, the USGBC partnered with Congress for the New Urbanism and National Resources Defense Council to consider sustainable development practices at the neighborhood scale.

The advancement of LEED-ND comes at a time when the USGBC and its partners are rolling out other major changes to the LEED system. In April, the USGBC added new "regional priority credits" to the newest version of its rating systems, among other modifications, and the LEED system's professional accreditation program has recently been revamped as well.

How the LEED-ND Rating System Works

In order to qualify for LEED-ND certification, neighborhood developments must first meet nine prerequisites, six of which are related to the project's location and context. Two examples of these



The Brewery, rendering. Courtesy of <http://www.thebrewerymke.com/index.htm>

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www.wisconsinplanners.org

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 WAPA webpage for up-to-date news and information between issues of the WAPA Newsletter.

prerequisites state that the site must be located with proximity to water and wastewater infrastructure and must avoid floodplains. Thus, the new system places a heavy focus on site selection; a critical element of sustainable development

that many project teams felt was not emphasized enough in previous LEED systems (see *WAPA Newsletter*, Winter 2008). After all the prerequisites are met, projects receive points by meeting as many of the rating system's 53 "optional"

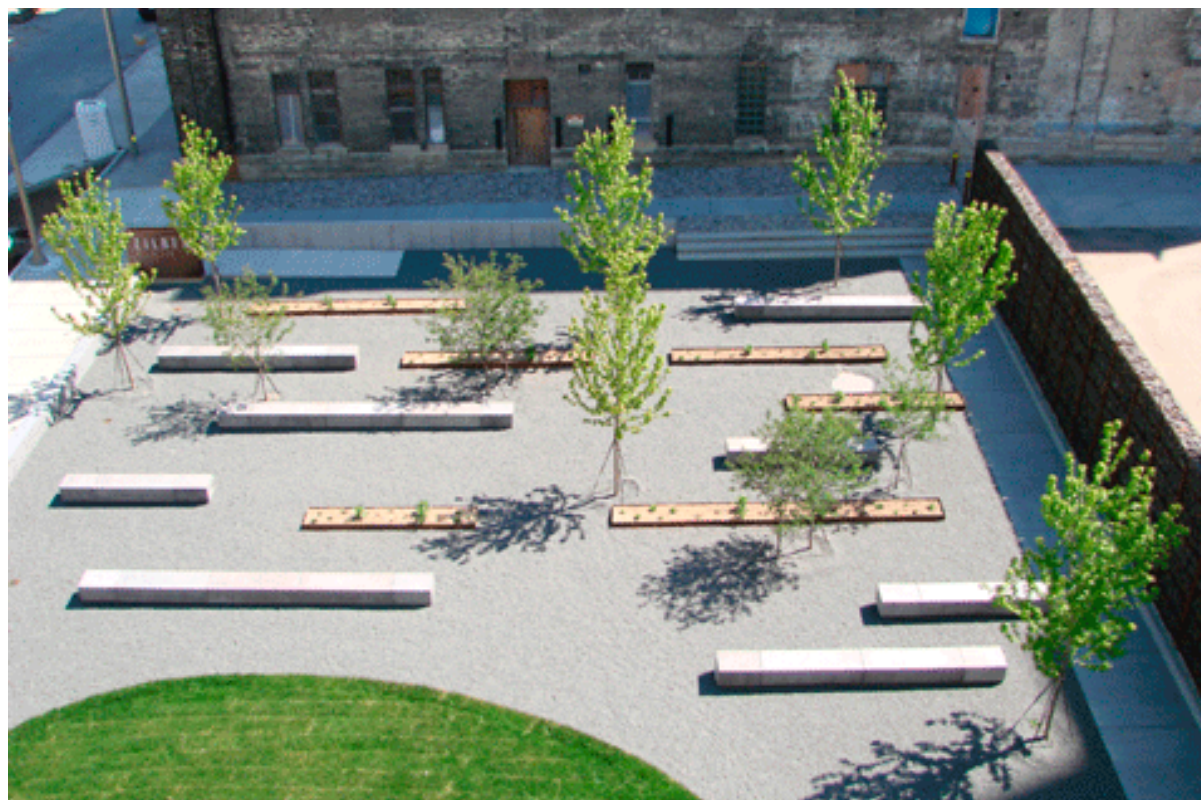
sustainability credits as possible. Each of these credits falls into one of the following areas: Smart Location and Linkage, Neighborhood Pattern and Design, Green Infrastructure and Buildings, and Innovation and Design Process. Depending on how many total points the project receives, the neighborhood may qualify for one of the four levels of certification: certified, silver, gold, and platinum.

Below, Zilber Park at the Brewery features a number of sustainable elements, including "a Gabion wall constructed of recycled steel . . . It will provide a waterfall in summer and an ice sculpture in the winter. The park also has a crushed granite walking surface and a storm water retention basin underground. Source: Real Estate Weekly, June 24, 2009, accessed at BizTimes.com, Photo courtesy of The Brewery, <http://www.thebrewerymke.com/index.htm>

LEED-ND in Wisconsin

Among the 197 registered LEED-ND pilot projects in the U.S., four are in Wisconsin: the former Pabst Brewery redevelopment and The North End, both in Milwaukee, Pointe Blue in Racine, and Riverheath in Appleton.

The Pabst Brewery redevelopment, now known as "The Brewery," is one of only three projects nationwide currently on track to achieve Platinum-level certification under the LEED-ND pilot program. The project involves renovating 16 existing buildings and constructing at least six new buildings to create a new, mixed-use neighborhood on the northwest corner of downtown Milwaukee. Four buildings have already been renovated and are currently occupied by residential, commercial, and institutional users, and a new parking structure was completed on December 1st that will be LEED-certified for Core and Shell at the Gold level.



According to Christine Scott Thomson, an adjunct professor at UW-Milwaukee's School of Architecture and Urban Planning, The Brewery project is "an exciting and rare project" in that it is such a unique opportunity in a downtown location with excellent accessibility and existing infrastructure. "It offers valuable lessons," she says, "including the project's sustainable stormwater management practices, the sustainability guidelines they developed for the project and the green charrette process they utilized in planning the neighborhood."

The Brewery recently received LEED-ND Stage 1 approval, which is the first of three stages in the LEED-ND certification process. Stage 1 approval is granted to projects when they are on track for certification and have acquired building permits for less than half of the planned buildings. This first stage shows the project's commitment to sustainable development and can be used as a marketing tool to add momentum to the project moving

forward. Stage 2 certifies the neighborhood plan when all building permits have been acquired but the buildings have not all been built, and Stage 3 is the final acceptance of LEED documentation that results in LEED-ND certification.

Regional Priority Credits

Another change to the LEED rating systems is a new attention to the unique sustainability issues facing each state and the distinct regions within them. The USGBC recently organized committees of volunteers throughout the country to decide which LEED-ND credits should be given extra weight in each region of their state.

Maggie Pipek was part of the committee that chose Wisconsin's regional priority credits. She is an architect with Engberg Anderson, a Milwaukee-based architecture, planning and interior design firm that is involved with two of Wisconsin's other LEED-ND pilot pro-

gram neighborhoods (The North End and Riverheath). The LEED regional group first divided the state into seven distinct categories (regions) based on population density. They named these regions Urban Core, Urban Neighborhoods, Suburban, Regional Center Cities, Villages, and Rural Environmental Conservation.

"We identified key priority issues in each of the regions and selected six related credits, from the existing optional credits in the LEED-ND rating system, to receive an additional bonus point incentive," Pipek explains. Regional priority credits are a new addition to LEED-ND that were not in the pilot program but will appear in the permanent version of the program.

LEED Accreditation for Professionals

As interest in sustainable development has grown in recent years, an



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ever increasing number of planners have become LEED Accredited Professionals (LEED AP), a credential that distinguishes one as having knowledge and expertise in the field of green building.

In January, 2008 the Green Building Certification Institute (GBCI) took over the management of the LEED professional accreditation program and has since created a new three-tiered system—the entry level LEED Green Associate, which remains a general distinction, the more advanced LEED Accredited Professional, which involves specializing in a specific LEED program, such as LEED-ND, and LEED Fellow, which is currently being developed for the most distinguished leaders in the field.

In order to become a LEED Green Associate, the GBCI requires one to have experience working with a LEED-registered project, or employment experience related to sustainability, or an educational background in green building. Then one must pass the exam, which is a general test of green building principles. To become a LEED AP ND under the new system, one must have direct experience in the last three years with a LEED-ND project and must pass a second test specifically focused on the LEED-ND system.

More Information

LEED-ND and the entire LEED system are constantly evolving. An

announcement will be made soon when registration opens for the first projects under the permanent LEED-ND program. In the meantime, the GBCI is looking for volunteers to take the beta version of the LEED AP Neighborhood Development test in February, 2010. They're offering the exam for free and those that are qualified and pass the exam will become the first LEED AP NDs in the country. Registration for the exam closes on December 15th.

Even if you're not working on a LEED-ND project or contemplating LEED professional accreditation, you can visit the state's LEED-ND project that is furthest along in its development, The Brewery, which is on track to be one of the highest-rated green neighborhoods in the nation. More information on The Brewery can be found at www.thebrewerymke.com.

For more information on LEED-ND and to stay tuned to future developments, visit the U.S. Green Building Council's website at www.usgbc.org/leed/nd. To find out more about becoming a LEED Green Associate or LEED Accredited Professional, visit the Green Building Certification Institute at www.gbci.org.

Thanks to Dennis Stapleton of Zilber Ltd. for assistance in providing information about The Brewery project.

The APA Paying for Growth Task Force Report

In early 2009 the APA's Paying for Growth Task Force presented to the APA Board at the Annual Conference in Minneapolis.

The Task Force recommends that:

- APA should continue to increase planners' awareness of cost of growth issues through special tracks such as the Paying for Growth track at the 2008 National Conference and through AICP symposia.
- AICP should pursue education providers who offer capital budgeting and other finance-related conferences, so that AICP Certification Maintenance credits are available to members on these topics.
- Consideration should be given to seeking funding for a full PAS Report on this topic.

The Paying for Growth Task Force was chaired by L. Carson Bise, II, AICP and included William R. Anderson, FAICP; Jeff P. Bronow; Janet L. Carter; Mike G. Deming; Terry F. Holzheimer, FAICP; Arthur C. Nelson, FAICP; and Tyson Smith, AICP.

For more information, go to: <http://www.planning.org/divisions/economic/newsletter/2009/pdf/spr.pdf>



American Planning Association

Wisconsin Chapter

2010 CHAPTER AWARDS CALL FOR NOMINATIONS

Nomination deadline: Thursday, January 14th at 3:00 PM

Entries shall be submitted to: 2010 WAPA Awards
c/o Carolyn Esswein, AICP
GRAEF
125 S. 84th Street, Suite 401
Milwaukee, WI 53214

PURPOSE

To give recognition to outstanding achievements in planning and to publicize persons and organizations whose activities advance planning in Wisconsin.

ELIGIBILITY

A WAPA or APA member must submit the application.

Plan Document, Planning Tool, Urban Design, and Plan Implementation nominations must be for projects located in Wisconsin and must have included a WAPA or an APA member throughout the planning process. Elected Official of the Year and Citizen Planner of the Year nominees must live and work in Wisconsin. Outstanding Journalism nominations must have a reporter from, and a story about, a Wisconsin community.

No project may be considered if a member of the Jury, or his/her organization, had a role in planning or implementing the project. Jury members are selected from outside of Wisconsin.

JUDGING and ANNOUNCEMENT

The Jury has the right to select one or more winners per category. Neither the Awards Jury nor the Chapter is under any obligation to grant an award in each category. The Awards Jury may also consider a nomination for an award in a category other than the category indicated by the Nominator.

Awards will be presented at the WAPA / ASLA Annual Conference on March 26 and 27, 2009 in Sheboygan. Nominators will be notified of Jury decisions in early March.

QUESTIONS

For questions, contact Carolyn Esswein at Carolyn.Esswein@graef-usa.com or 414.266.9221.

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2010 Chapter Awards

CATEGORIES & CRITERIA

page 2

CATEGORY: PLANNING

1. Plan Document
A plan of unusually high quality and effectiveness.
2. Planning Tool
A regulation, ordinance, or program (other than a Plan) that is of unusually high quality and effectiveness.
3. Urban Design
An urban design concept for a new or redeveloped area of unusually high quality and design.
4. Plan Implementation
Implementation of a project or Plan that accomplishes its objectives in a substantial, timely, and effective manner.
5. Student Project
An outstanding student planning project or paper. Students must be attending a planning program, or be within one year of graduation, at a Wisconsin University.

CATEGORY: INDIVIDUAL

1. Elected Official of the Year
An elected official who has made a substantial contribution to planning excellence in their community.
2. Citizen of the Year
A citizen who has made a substantial contribution to planning excellence in their community.

CATEGORY: MEDIA

Outstanding Journalism
A story about a Wisconsin community or project that highlights an outstanding planning issue or raises public awareness of planning.

JUDGING CRITERIA

PLANNING: Plan Document and Planning Tool

1. Originality and Innovation
2. Transferability
3. Quality
4. Comprehensiveness
5. Public Participation
6. Role of Planners
7. Effectiveness and Results
8. Intergovernmental Cooperation

PLANNING: Plan Implementation

1. Community Acceptance and Support
2. Environmental Planning and Impacts
3. Value Added to the Community
4. Quality
5. Role of Planners
6. Effectiveness and Results

PLANNING: Urban Design

1. Originality and Innovation
2. Value Added to the Community
3. Quality of the Physical Form
4. Relationship to the Natural Environment
5. Long-term Sustainability

PLANNING: Student Project / Paper

1. Originality and Innovation
2. Potential Value Added
3. Comprehensiveness

INDIVIDUAL and Media

1. Support of Planning/Planners
2. Effectiveness and Results

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2010 Chapter Awards

SUBMISSION REQUIREMENTS

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The following requirements are mandatory. If any attachment is omitted, the application will not be considered.

Four (4) collated sets of the following are required in order for the application to be considered for an award.

1. 2010 WAPA Awards Application Form.
2. A three-ring binder containing all the required attachments – including a CD-ROM within the binder.
3. An Executive Summary of the nomination (one-page maximum).
4. A two-page explanation of how the nomination meets the judging criteria for the category.
5. One (1) to three (3) one-page letters in support of the nomination.
6. For the **Plan Document and Planning Tool categories**: The adopted Plan Document or Planning Tool, eight (8) Powerpoint slides, provided digitally on CD-ROM media in **PDF format** – highlighting the project with a brief caption for each image. A three (3) to five (5) page summary of the document. List of all consultants and municipalities that worked on the document.
7. For the **Student Project category**: The Student project or paper, five (5) Powerpoint slides, provided digitally on CD-ROM media in **PDF format** – highlighting the project or paper with a brief caption for each image. A one (1) to three (3) page summary of the document. List of all students and faculty that worked on the project or paper.
8. For the **Plan Implementation and Urban Design categories**: The approved Plan, five (5) Powerpoint slides, provided digitally on CD-ROM media in **PDF format** – highlighting the project with a brief caption for each image. The Plan on CD-ROM media in PDF format. List of all consultants and municipalities that worked on the project.
9. For the **Individual categories**: One (1) portrait of the individual nominee in .pdf or .jpeg format and up to five (5) Powerpoint slides, provided digitally in PDF format, – highlighting the work of the individual with a brief caption for each image. The portrait and slides must be provided digitally on CD-ROM media.
10. For the **Media category**: One (1) essay, document, article, article series, or transcript that best represents the nomination. The text and any associated images must be provided digitally on CD-ROM media in .doc or .jpeg formats.
11. Identify communities, firms, agencies, or individuals who should be listed on the award if you are selected as a winner.



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		2010 Chapter Awards	APPLICATION FORM	page 4
I nominate _____ for a 2010 WAPA Award in the category of _____				
NOMINATOR I hereby certify that the work nominated hereby was undertaken and completed by the parties credited and meets the eligibility requirements set forth above. I understand that any nomination that fails to meet any of the nomination requirements may be disqualified.				
Signature of Nominator			Date	
Print Name			APA Membership Number	
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How associated with the Nomination				
Location of Nomination				

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WAPA is purchasing the AICP Exam Review CDs offered by the Chapter Presidents' Council. We will give away the CDs for **free**.

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AICP CM Chapter/National Comparison Report

As the end of the first two-year cycle for CM comes to a close, we take a look at how well Wisconsin Chapter AICP members have managed to earn the necessary Certification Maintenance credits (32 required in the two-year cycle). The Wisconsin Chapter has worked hard to make free and low-cost CM credits available in a number of ways. WAPA has continued to offer its annual conference at an affordable rate, that keeps the cost per CM credit to about \$20 per credit. In addition, by partnering with a consortium of chapters across the country, WAPA has been able to offer free webinars. A planner who takes all of the webinars offered each year would earn all of the credits needed for the CM 32-credit requirement, including the ethics and law credits. Finally, through the district programs and

university partners, free or low-cost credits have been available in every district at various times of the year.

Planners who have not yet completed their credits for the 2008-2009 reporting period have through April 30, when the automatic grace period ends (see accompanying information in sidebar).

The following statistical report provides details for the WAPA membership and our progress with completing the CM requirement for the 2008-2009 reporting period.

The report also provides a comparison to the national average. Please note this report excludes members who are on a different reporting period; who have been approved for an exemption; or who may have dropped their membership.



**Certification
Maintenance**

Worried About Finishing Your CM Requirements by December 31?

Automatic Grace Period (through April 30):

You will not lose your AICP membership if you fail to meet your CM requirement by December 31, 2009.

At the end of every two-year reporting period, members have an automatic 4-month grace period through April 30 to fulfill the CM requirement allowing members to continue to earn and log credits into their personal CM log, as well as the ability to claim credits for attendance at events they had forgot to log.

The system will automatically grant members this grace period on January 1st without penalty. There is no need to request this grace period.

Your next reporting period (i.e. January 1, 2010 – December 31, 2011) will begin on January 1, 2010 regardless of whether or not you need to use the grace period to meet your CM requirement. The more time you wait, the less time you will have to earn credits for your next reporting period.

What can you do?

Get logging!

- o Check APA's online events calendar (www.planning.org/cm/search/) and read APA Interact for Certified Planners to locate distance education or upcoming nearby events that offer multiple CM credit opportunities.

- o Take advantage of APA's selection of FREE distance education products that offer CM credits (www.planning.org/cm/free). Currently, there are more than 32 CM credits available to members.

- o If you are looking to fulfill the ethics & law requirements, APA is now offering a bundle package discount for its online courses - Ethical Practice for Practicing Planners and Hot Topics in Planning Law. Members can save 10% when ordering these courses together. (<http://professional.captus.com/Planning/Default.aspx>).

- o Self-report up to eight CM credits for planning-related activities that have not been registered by a provider. The self report tool can be found on your CM log at <http://www.planning.org/cm/log/>.

Continued on page 12

GARY PETERSON, AICP
PRESIDENT, WISCONSIN AMERICAN PLANNING ASSOCIATION

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*Verification of status required

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Name of board or commission _____ Date _____

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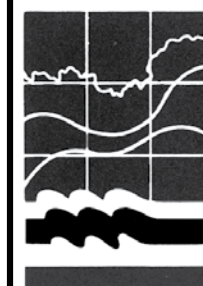
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Report Analyzes the Impact of Compact Development on VMT

JOE PETERANGELO, UW-MILWAUKEE

A groundbreaking new report published by the National Research Council (NRC) says that a change to more compact development could lead to significant reductions in VMT, energy use, and CO2 emissions. The report, *Driving and the Built Environment: The Effects of Compact Development on Motorized Travel, Energy Use, and CO2 Emissions*, found that doubling residential density in a metropolitan area could decrease VMT by up to 11 percent by 2050 and by as much as 25 percent over the same period if combined with higher employment concentrations, public transit improvements, and

mixed use development.

The NRC committee responsible for the report evaluated several scenarios to determine how each would affect VMT and CO2 emissions. These scenarios considered the possibility that compact development could constitute anywhere from 25 to 75 percent of new and replacement housing units built between now and 2050 and that residents of compact communities could reduce their driving by between 5 and 25 percent.

The committee's analysis showed that the potential for reductions in VMT and CO2 emissions could range from less than 1 percent to 11 percent by 2050, depending on the degree of change that occurs toward higher density development. Though they "disagreed about whether the changes in development patterns and public policies necessary to achieve the high end of these findings are plausible," they concluded that higher density, mixed-use develop-

ment is necessary to achieve the high end of these findings are plausible," they concluded that higher density, mixed-use develop-

The most reliable studies estimate that doubling residential density across a metropolitan area might lower household VMT by 5 to 12 percent, and perhaps by as much as 25 percent, if coupled with higher employment concentrations, significant public transit improvements, mixed uses, and other supportive demand management measures.

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ment would bring about a small decrease in energy consumption and CO2 emissions in the short term and that those improvements would grow over time.

The full NRC report can be found here: http://www.nap.edu/catalog.php?record_id=12747

Law Update

Court Decisions

BY BRIAN OHM, PROFESSOR
UNIVERSITY OF WISCONSIN — MADISON
WAPA VICE PRESIDENT FOR CHAPTER AFFAIRS

NOVEMBER 30, 2009

Wisconsin Supreme Court

No decisions to report.

Wisconsin Court of Appeals opinions

City is a “customer” of city-owned electric utility

In *Wisconsin Power and Light Co. v. Public Service Commission of Wisconsin*, 2009 WI App 164, the Wisconsin Court of Appeals upheld the decision of the Public Service Commission (PSC) to allow the City of Wisconsin Dells’ Water and Light

Utility to provide electricity to several condominium developments near the Chula Vista Resort. At issue was section 196.495 of the Wisconsin Statutes that prohibits electric utilities from providing electric services to premises that are already receiving electric services from another utility and sets standards for determining which utility has the right to serve new customers.

Chula Vista petitioned to have the City of Wisconsin Dells annex two parcels to get access to City water and sewer for new condominium complexes and other facilities Chula Vista planned to build. At the time the City annexed the parcels, Wisconsin Power and Light (WP&L) was the only utility providing electric service in the area. After the annexation, the City built three sewer lift stations and a well in the annexed area to serve the new development. Since 196.495 allows public utilities to extend electric service to serve their own facilities, the PSC authorized the City to provide electricity to the lift stations.

After completion of the condominiums, the City began providing electricity to them. WP&L then sought a ruling from the PSC that it had exclusive rights to provide electric service in the annexed area. Under the standards for serving new customers in 196.495, service can be extended from a line “actually used

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to serve a customer.” WP&L argued that since the City was only providing electricity to City facilities, the City was not providing electricity to a “customer” in the area. The Court of Appeals disagreed with WP&L’s argument finding that the City sewer and water utilities were customers because they were billed for services by the City’s electric utility, the same as private customers. The City was therefore allowed to provide electricity to the new development at Chula Vista.

Legislative Update

By STEVE HINIKER
1000 FRIENDS OF WISCONSIN

December 1, 2009

These legislative updates and other related information are on the WAPA website’s Law and Legislation page for members to access and continue to personally track the bills that they are interested in following more closely.

2009 - 2010 Wisconsin Legislative Session Bill Tracking

The Legislative Session has wrapped up for this year and will resume January.

Regional Transit Authorities

RTAs are likely to remain a high priority in the coming legislative session. The Governor’s plan for an RTA in south-east Wisconsin continues in negotiations. Meanwhile, a new bill authorizing the Fox Valley to create an RTA will likely be introduced in the next several days. Speaker Sheridan continues to champion legislation that would authorize any community in the state to join with neighbors to form an RTA. Advocates for RTAs are working hard to see the legislation through this session.

Global Warming Legislation

The legislation containing the recommendations of the Governor’s Global Warming Task Force are likely to be introduced during the week of December 7th. The legislation is going to be expansive, so reviewing the text and moving it forward through both houses in the

remaining time left in the legislative session will be a significant challenge. Nevertheless, the legislation remains a high priority for the Doyle Administration and it will be the focus of several hearings and votes this spring.

New LEGISLATIVE PROPOSALS of interest

SB 398 – Relating to privatization of certain municipal water utilities

11/18/2009 – Introduced by Senator Sullivan, cosponsored by Representatives Sinicki, A. Williams and Danou.

Under current law, a city, village, or town (municipality) that owns or operates a public utility is allowed to sell or lease the utility only if the municipality follows specified procedures, including obtaining the approval of the Public Service Commission. This bill prohibits a first class city that owns or operates a water utility from selling or leasing the utility to a private person, or otherwise arranging for a private person to operate the utility, unless the requirements under current law are satisfied and the senate approves the sale, lease, or other arrangement. The bill does not affect current law regarding a sale or lease to a person that is not a private person.

Referred to Committee on Commerce, Utilities, Energy, and Rail.

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SB 399 – Relating to authorizing two or more cities, villages, towns, or counties, or a combination of such political subdivisions, to create a commission to issue conduit revenue bonds and exercise eminent domain authority and exempting from taxation interest on such bonds

11/18/2009 - Introduced by Senators Kreitlow, Plale, Hopper, Darling, Taylor, Schultz, Hansen and Olsen; cosponsored by Representatives Seidel, Hilgenberg, Dexter, Fields, Berceau, Jorgensen, Petrowski, Smith, Staskunas, Benedict, Hintz and Hraychuck.

This bill authorizes two or more political subdivisions to enter into an agreement to create a commission to issue a type of municipal bonds referred to as conduit bonds. A commission is created using the current law procedures for intergovernmental or interstate cooperation agreements. Generally, conduit bonds (bonds) are bonds issued by a unit of government under which the proceeds of the bond sale are transferred to a private entity (the borrower), who must be “qualified” under federal law. The borrower uses the proceeds to finance a project that has a public benefit as authorized under state or federal law. In effect, the unit of government serves as a conduit between the borrower and the bond purchaser.

Generally, the borrower pays a lower interest rate on the bond proceeds than it would have paid if it had borrowed the money on the open market because the bonds issued by a unit of government may be exempt from federal or state taxation.

Under this arrangement, the borrower is solely responsible to repay the bonds and interest on the bonds from revenue generated by the project financed by the bond sale. Security for the bonds is supported by collateral or revenues of the borrower who receives the proceeds from the bond sale. Collateral for the bonds may be a building, equipment, or a revenue stream generated by the borrower’s construction or remodeling of a project. The borrower, not the unit of government that issues the bonds, is responsible for all debt service payments to the bondholders. And the borrower, not the unit of government that issues the bonds, is liable to the bondholders if the bonds are not paid off.

A commission created as authorized under the bill is a unit of government and a body corporate and politic that is completely separate from the creating political subdivisions and from the state. The bill defines political subdivision to mean any city, village, town, or county in this state or any city, village, town, county, district, authority, agency, commission, or similar governmental entity in

another state. A political subdivision that is a party to an agreement is considered to be a member of a commission. Before an agreement may take effect, it must be approved by the attorney general.

A commission is governed, under the bill, by a board and the board members are appointed under the terms of the agreement creating the commission. The agreement may also provide for an additional political subdivision to become a member of a commission, or for a member to withdraw from a commission. At all times, however, at least one member of a commission must be a political subdivision that is located in this state.

Unless the bond resolution states otherwise, bonds issued by a commission are the obligation of the commission, to be paid solely out of amounts received by the commission from revenues derived from the project that is financed or refinanced, or by another agreement entered into or investment made that relates to, and is pledged to, the bonds. The state, and the political subdivisions who are parties to the agreement creating the commission, are not liable on the bonds or other contracts entered into by a commission, nor are any of the commission’s board members personally liable on the bonds unless the personal liability or accountability is the result of willful misconduct.

The bill authorizes a commission to be dissolved, according to the terms of the agreement under which it was created, if the commission provides for the payment of its bonds, including interest, and the performance of its other contractual obligations. The attorney general must approve the dissolution of a commission. The bill also contains a state pledge under which the state agrees and pledges that it will not limit, impair, or alter the rights and powers of a commission before the commission has met and discharged the bonds, including interest, and has fulfilled its contractual obligations.

Any interest that is generated by the bonds is exempt from taxation. The method of issuing bonds and entering into of contracts related to those bonds that is created in the bill is a complete alternative method to all other methods under current law which authorize the issuance of bonds by a unit of government. Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

Referred to the Joint Survey Committee on Tax Exemptions

Updates on previously reported LEGISLATIVE PROPOSALS

(+ before the line indicates a change in the bill's status since the last report)

Assembly Bills

Assembly Joint Resolution 65

To renumber and amend section 1 of article VIII; and to create section 1 (1) (e) of article VIII of the constitution; relating to: different property tax levy rates for parts of cities, villages, towns, counties, and school districts added by attachments to school districts, consolidations, and boundary changes under cooperative agreements (first consideration).

7/28/2009 - Referred to committee on State Affairs and Homeland Security.

9/15/2009 - Public hearing held.

9/22/2009 - Executive action taken.

AB 18 – Tax Credit for Historic Rehabilitation

4/23/2009 – Passed in Assembly and sent to the Senate

4/26/2009 - Referred to Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief and Revenue.

AB 25 Relating to school board approval of subdivision plats

2/5/2009 - Referred to committee on Urban and Local Affairs

AB 90 – The operation of motorboats, other than personal watercraft, at slow-no-wake speed within a given distance of the shoreline of a lake.

2/24/2009 Referred to committee on Natural Resources

3/4/2009 – Fiscal Estimate Received

AB 92- The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.

(AB 92 is a Companion Bill to SB 55)

2/24/2009 - Referred to committee on Jobs, the Economy and Small Business

3/25/2009 – Fiscal Estimate received

AB 109 - Relating to authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.

3/4/2009 - Referred to the Committee on Housing

3/19/2009 – Fiscal Estimate received

4/15/2009- Public Hearing held

AB 113 - Relating to changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

Consolidation of economic development zone programs

3/4/2009 - Referred to committee on Jobs, the Economy and Small Business

4/30/2009 – Fiscal Estimate received

AB 165 - Relating to expanding the types of property that may be specially assessed by a neighborhood improvement district.

5/13/09 – Passed in the Assembly and sent to the Senate

Referred to the Senate Committee on Labor, Elections & Urban Affairs.

9/2/2009 - Public hearing held.

AB 174 –Authoring sharing of tax increments by certain remediation tax incremental districts.

Referred to Committee on Urban and Local Affairs

5/8/09 – Recommended passage and referred to Rules Committee.

10/29/09 – Passed in the Assembly and sent to Senate.

+ 11/12 – Report approved by Governor – Act 66.

AB 180 – changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

Companion bill to SB 126

5/6/09 – Public Hearing held.

AB 205 – adopting changes to the Internal Revenue Code for state income tax purposes related to deductions for energy efficient commercial building.

Referred to Committee on Jobs, Economy and Small Business.

5/12/09 – Public Hearing held.

6/16/2009 – Passed in Committee 13-0 and referred to Joint Finance.

AB 213 - relating to establishing and changing compensation for city and village elective offices; signing village contracts; bidding procedure for village public construction contracts; officer-of-the-peace status of village officers; publication by the city clerk of fund receipts and dis-

bursements; village and 4th class city regulation of political signs; liability of counties and cities for mob damage; means of providing police and fire protection by cities and villages; holdover status of appointed city and village officers; use of the s. 32.05 procedure in villages for certain housing and urban renewal condemnation; and application of public contract bidder prequalification to 1st class cities.

Referred to Urban and Local Affairs Committee

5/5/09 - Public Hearing held.

6/16/2009 – Passed out of committee and referred to Rules.

10/20/09 – Passed in the Assembly and sent to the Senate.

10/21/09 - referred to committee on Ethics Reform and Government



AB 243 - relating to delaying the implementation date of the comprehensive planning statute for certain local governmental units.

4/30/2009 - Referred to Committee on Urban and Local Affairs.

5/27/2009 – Fiscal Estimate received.

+ 11/17/2009 - Public hearing held.



AB 256 – relating to the regulation of wind energy systems.

5/5/09 - Referred to Committee on Energy & Utilities

5/12/09 – Public Hearing held.

7/8/09 – Substitute Amendment 1 adopted.

7/8/09 – Passed

out of committee 11-1

7/8/09 – Referred to Rules committee

9/10/09 - Placed on calendar 9-16-2009 by committee on Rules.

9/15/09 - Assembly substitute amendment 2 offered by Representative Soletski

9/15/09 - Assembly amendment 1 to Assembly substitute amendment 1 offered by

Representative Wood

9/20/09 - Tabled



AB 260 – related to extraterritorial plat approval on basis of land's use.

5/8/09- Referred to Committee on Renewable Energy and Rural

Affairs.

9/23/09 - Public hearing held.

+ 11/16 – Passed committee 14-0 and referred to Rules.

AB 270 - relating to utility aid payments to towns and counties for production plants that generate electricity from wind power.

5/19/2009 – Referred to Committee on Energy and Utilities.

5/27/2009 – Assembly Amend 1 offered.

AB 271 - relating to professional land surveyors, the practice of professional land

surveying, surveying land abutting navigable waters, and granting rule-making authority.

5/19/2009 – Referred to the Consumer Protection committee.

7/01/2009 - Public Hearing held.

8/26/2009 – Senator Schultz

removed from sponsorship list.

10/28/2009 – Passed in the Assembly and sent to the Senate

10/29 – Referred to the Senate Committee on Economic Development



AB 282 – relating to the creation of regional transit authorities and making appropriations.

5/27/09 – Referred to Committee on Transportation.

AB 288 – Relating to education and work experience requirements for registration as a professional engineer and examinations for professional engineering credentials.

6/2/2009 – Referred to Committee on Labor, Elections and Urban Affairs.

6/15/2009 – Fiscal Estimate received.

10/29/09 – Passed in the Assembly as amended and sent to the Senate

+ 11/2/2009 - Referred to Senate Committee on Labor, Elections & Urban Affairs

AB 338 – relating to retaining the real estate transfer fee.

7/8/2009 – Referred to Committee on Urban and Local Affairs.

7/31/2009 – Fiscal Estimate Received

AB 399 – Relating to costs eligible for reimbursement under the Local Roads Improvement Program administered by the Department of Transportation.

8/26/2009 – Referred to Committee on Transportation.

AB 408 - Relating to financial assistance related to bioenergy feedstocks, biorefineries, and conversion to biomass energy.

8/31/2009 – introduced by Joint Legislative Council

8/31/2009 – Referred to Committee on Renewable Energy & Rural Affairs.

9/14/09 - Fiscal estimate received.

10/07/09 – Public hearing held.

10/22/09 – Amendments offered in Committee.

AB 426 - Relating to authorizing the designation of a tax incremental district as distressed and expanding the use of donor tax incremental districts.

9/22/2009 - Read first time and referred to committee on Ways and Means

9/23/2009 - Withdrawn from committee on Ways and Means and referred to committee on Jobs, the Economy and Small Business

10/12/09 – Fiscal Estimate received.

10/13/09 – Public hearing held.

10/20/09 – Passed in Assembly (84-14) and sent to Senate.

10/21/09 – Referred to Senate Committee on Economic Development

AB 451 - Relating to registration of construction contractors.

This bill eliminates the provisions of Act 28 that require that construction contractors be

registered by Commerce.

9/22/2009 - Read first time and referred to committee on Labor.

AB 501 - relating to attachment of territory to public inland lake protection and rehabilitation districts and changing boundaries of proposed public inland lake protection and rehabilitation districts.

10/15/2009 - Referred to Committee on Natural Resources.

+11/16/2009 – Fiscal Estimate received.

Under current law, a county may change the boundaries of a lake district that is being established. This bill repeals this provision.

AB 516 - relating to requirements for approval of construction of nuclear power plants.

10-23-09. Read first time and referred to committee on Energy and Utilities

This bill eliminates the additional findings required under current law for a proposed nuclear power plant.

Senate Bills

SB 47 - Designating portions of the Totogatic River as a wild river

2/26/2009 Recommended by committee on Transportation, Tourism, Forestry, and Natural Resources. Available for scheduling.

SB 50 - Legislative oversight of expenditure of federal economic stimulus funds

2/11/2009 - Referred to committee on Ethics Reform and Government Operations

2/23/2009 – Fiscal Estimate received

SB 55 - The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.

State Historic Building Code
Historic buildings used as multifamily dwellings

Historic rehabilitation tax credit
Certification and promotion of down-

towns

Referred to Committee on Economic Development.

3/31/09 – Public hearing held.

10/22/09 – Passed out of Committee

SB 77 - Changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of

rule-making authority.

Consolidation of economic development zone programs

2/18/2009 - Referred to Committee on Economic Development

5/7/2009 – Fiscal Estimate received.

SB 78 - Protections for tenants in foreclosure actions

2/18/2009 - Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing

SB 81 - Authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.

2/18/2009 - Referred to committee on Ethics Reform and Government Operations

4/29/2009 – Public hearing held.

6/3/2009 - Passage recommended by committee 4-1.

Available for scheduling.

SB 117 -- Relating to extraterritorial plat approval on basis of land's use.

3/17/2009 - Referred to committee on Rural Issues, Biofuels, and Information Technology

9/23/09 - Public hearing held.

SB 131 - Relating to authorizing the cities of Cudahy and Oak Creek to use environmental remediation tax increments generated by one environmental tax incremental district to benefit another environmental remediation tax incremental district.

3/24/2009 - Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

SB 132 - Relating to expanding the life of a tax incremental district in the city of Racine.

3/24/2009 - Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

4/14/09 - Public Hearing held.

10/27/09 - Passed in Senate (27-5) and sent to Assembly.

10/29/09 -Passed in Assembly (58-36)

+11/10 – Report Approved by the Governor – Act 67

SB 144 – Authorizing sharing of tax increments by certain environmental remediation tax incremental districts.

3/31/2009 – Referred to committee on Health, Health Insurance, Privacy, Property Tax

Relief, and Revenue.

(Companion bill to AB 174)

4/13/2009 – Fiscal estimate received.

10/28/09 – Public Hearing held.

SB 145 – determining the value of billboards for personal property tax purposes.

3/31/2009 - Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

5/12/2009 – Fiscal Estimate received.



SB 172 – Relating to limiting a city's and village's use of direct annexation and authorizing limited town challenges to an annexation.

4/23/2009 - Referred to Committee on Labor, Elections, and Urban Affairs.

5/8/2009 – Fiscal Estimate received.

+11/17 - Fiscal Estimate received.

SB 173 – relating to the removal of nonconforming outdoor advertising signs.

4/23/2009 - Referred to committee on Transportation, Tourism, Forestry, and Natural

Resources

5/21/09 – Public Hearing held.

9/17/09 - Executive action taken.

9/21/09 - Report passage recommended by committee on Transportation, Tourism, Forestry, and Natural Resources, Ayes 7, Noes

9/21/09 - Available for scheduling.

SB 185 – relating to the regulation of wind energy systems.

10/1/09 – Approved by the Governor Wisconsin Act 40



SB 205 - relating to the creation of regional transit authorities and making appropriations.

05-18 - Introduced by JOINT LEGISLATIVE

COUNCIL.

05-18 - Referred to committee on Transportation, Tourism, Forestry, & Natural Resources

(AB 282 is companion bill.)

6/9/2009 – Fiscal Estimate received.

SB 270 - Relating to limiting the searchability of a governmental Internet listing of property taxes assessed.

8/21/2009 - referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue .

9/9/09 - Fiscal estimate received.

SB 276 - Relating to requiring governmental bodies of school districts and certain political subdivisions to post meeting notices and minutes on their Web sites.

8/26/2009 - referred to committee on Rural Issues, Biofuels, and Information Technology

9/3/09 - Senate amendment 1 offered by Senator Kreitlow

SB 277 - Relating to costs eligible for reimbursement under the Local Roads Improvement Program administered by the Department of Transportation.

8/26/2009 - referred to committee on Transportation, Tourism, Forestry, and Natural Resources.

9/17/09 - Public hearing held.

9/23/09 - Fiscal estimate received.

Companion Bill to AB 399

SB 279 - Relating to financial assistance related to bioenergy feedstocks, biorefineries, and conversion to biomass energy.

Companion Bill to AB 408 (see above)

8/28/2009 - Introduced by JOINT LEGISLATIVE COUNCIL. (This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels.)

8/28/2009 - Referred to committee on Rural Issues, Biofuels, and Information Technology

9/23/09 - Fiscal estimate received.

10/07/09 – Public Hearing held.

SB 291 - Relating to authorizing the designation of a tax incremental district as distressed and expanding the use of donor tax incremental districts.

SB 291 is a companion bill to AB 426.

9/16/09 - Read first time and referred to committee on Economic Development

10/19/09 - Fiscal estimate received

10/22/09/ - Public Hearing held.

SB 300 - Relating to certain areas of land subject to managed forest land orders that were part of a parcel of land under single ownership that exceeded 8,000 acres in size.

9/23/2009 - Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

10/02/09 - Fiscal estimate received.

10/27/09 – Passed in Senate as amended (23-9) and sent to Assembly.

10/29/009 – Referred to Assembly

Committee on Forestry.

+11/18/2009 – Public Hearing held.

SB 301 - relating to the application of shoreland zoning ordinances to certain unincorporated areas.

09-23-2009 - Read first time and referred to committee on Transportation, Tourism, Forestry, and Natural Resources



SB 314 - relating to traditional neighborhood development ordinances, mixed-use zoning, and the state housing strategy plan.

Introduced by JOINT LEGISLATIVE COUNCIL.

Read first time and referred to committee on Commerce, Utilities, Energy, and Rail .

This bill was prepared for the Joint Legislative Council's Special Committee on

Performance-Based Disease Management Programs for Large Populations.

Subsequent to the committee's approval of preliminary drafts upon which

this bill is based, the 2009–11 biennial budget bill (2009 Wisconsin Act 28) was enacted. This bill reconciles the provisions of the committee's bill drafts with current law as affected by the biennial budget.

SB 343 - relating to the rail passenger service assistance and promotion program.

10-09-09- Read first time and referred to committee on Transportation, Tourism, Forestry, and Natural Resources.

This bill eliminates the exception allowing DOT to contract, without competitive bidding or competitive sealed proposals, for rail passenger service or support services, equipment, or facilities for rail passenger service, including the sale or lease of equipment or facilities acquired by DOT for the purpose of providing rail passenger service or support services for rail passenger service.

SB 348 - relating to declarations creating marina condominiums and technical corrections to the laws governing marina condominiums.

10-14-09 - Referred to committee on Transportation, Tourism, Forestry, and Natural Resources

Are "Open House" or "Open Forum" Hearings in Legal Jeopardy?

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<http://www.bdlaw.com/assets/attachments/244.pdf>

A September 14, 2009 decision of the US District Court for the Eastern District of Wisconsin, Highway J Citizens Group v. US DOT, Case No. 05-C-0212, Document 167, finds that "open house" style hearings do not satisfy the FHWA administered "public hearing" requirements of 23 USC § 128(a). The statute does not define "public hearing." The Court described the seven-hour, "open house" hearing it disapproved as follows:

WisDOT provided attendees with a handout that included a summary of project purpose and need; alternatives and their impacts; information about upcoming activities and contacts; frequently asked questions and responses; and a comment form. Attendees could also

walk around the room and view exhibits about the project. Representatives from WisDOT attended the open house and were available to explain project alternatives, answer questions, and explain procedures for providing testimony. However, the format that WisDOT used did not permit members of the public to publicly express their views directly to WisDOT representatives or to other members of the public. Rather, WisDOT required those who wished to express an opinion or make a suggestion to either dictate their comments in private to a court reporter or complete written comment forms.

The Court rejected the *Sierra Club v. U.S. Dep't of Transp.*, 310 F. Supp. 2d 168, 1207-1208 (D. Nev. 2004) holding that an open house style hearing was reasonably considered a public hearing within the meaning of 23 USC 128(a) based on a 1987 FHWA memorandum expressing that view. FHWA based this conclusion on a study of open house hearings conducted in three states. The study concluded the open house format results in a variety of benefits over the traditional public hearing format, including the opportunity for citizens to get specific answers to specific questions, a greater number of comments from attendees, and increased convenience in meeting times as open houses are spread out over several hours rather than

according to a rigid start time. The study also noted other benefits, such as shortening the length of a traditional meeting, limiting “emotionally charged” comments, and preventing hearings from being dominated by one individual or group.

The Court continued that 23 CFR § 771.111(h), describing what is required to satisfy the public hearing statute is not comprehensive and does not expressly indicate an agency can satisfy the public hearing requirement by means of an open house. It discarded the USDOT “Public Involvement Techniques for Transportation Decision-Making” document available at <http://www.fhwa.dot.gov/reports/pittd/cover.htm> that discusses open house and open forum style hearings as not a standard, specification or regulation of USDOT indicating approval as a form of public hearing. The Court relied on a statement in a House Public Works Committee report on the public hearing provisions of Section 128(a). See H.R. No. 91-1554, at 4-5 (1970). “The hearing itself was meant to be a ‘town hall’ type meeting in which people are free to express their views . . . [I]ts purpose is to encourage public comment and discussion”

A Motion for Reconsideration filed by USDOJ/USDOT and WisDOT on September 24, 2009, Document 169, is pending.



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