

WAPA News

Wisconsin Chapter
American Planning Association

Winter 2006

Volume 2006, Number 1



April in the Dells

WAPA Partners with WASLA for 2006 Conference

WAPA has joined with the Wisconsin Chapter of the American Society of Landscape Architects for its spring conference in Wisconsin Dells, April 6-7. Highlights of the conference include a welcome from Nina Leopold Bradley, daughter of famed Wisconsin naturalist, Aldo Leopold; a plenary session on water resource issues in Wisconsin; a mobile workshop of Leopold's legacy in Sauk County, including a visit to the Leopold Shack and other resource preservation initiatives in the area; and a presentation by David J. Ward of Northstar Economics on regional economic development.

The collaboration with WASLA will allow WAPA to offer a greater number of breakout sessions. In the Landscape Architecture track, planners will be able to learn about artwork and other place identification in the built environment; issues in planning, implementation, and management of stormwater facilities; how to recognize and designate historical landmarks (including some that may not fit your stereotypes); and Wisconsin communities involved in the eco-municipality movement. Additional sessions will explore:

- Disaster-response planning
- Wisconsin's Green Tier and the Clean Waters Initiative
- APA white paper on planning for food systems
- Energy and planning
- Economic development
- Smart Growth and comprehensive planning
- Mixed use development
- Redevelopment
- Transportation planning

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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.

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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 in electronic formats: Articles may be submitted on 3.5 inch floppy disks, CD-ROM, or via email. If submitting the article by email, send it to wapa@uwm.edu.

Graphics: Graphics are encouraged for inclusion with the article in paper or electronic format. Please be sure that graphics submitted in paper format are crisp and clear.

Calendar listings: Although the WAPA News is published only 4 times annually, the web page at www.wisconsinplanners.org provides instant access to information about events of interest to planners. If you are aware of an event, please contact the editor as soon as possible, preferably at least 1 week before the event. If submitting calendar events by mail, email, or voicemail, please be sure to include the sponsor of the event, the date, time, and place, and the title of the event, along with a description including any admission fees or limitations in availability.

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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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SRF Consulting Opens Madison Office

SRF Consulting Group, Inc. has opened a new office in Madison in order to be more responsive to their Wisconsin clients. This expansion demonstrates SRF's commitment to providing the highest level of engineering, planning, and design services in Wisconsin.



Senior Associate Roland Hawk, a former Engineering Supervisor for the Wisconsin Department of Transportation, leads the Madison office. With 15 years of broad engineering experience, Roland specializes in transportation planning, preliminary and final design, project management, and community sensitive design. He has a thorough understanding of how to successfully implement projects and significant experience in coordinating agency

efforts. Contact www.srfconsulting.com.

EPA Releases Four New Smart Growth Publications

BY MARY KAY (SANTORE) BAILEY

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EPA has released the following four new smart growth publications:

Protecting Water Resources with Higher-Density Development (EPA publication 231-R-06-001)

This study intends to help communities better understand the impacts of higher and lower density on water resources. To more fully explore this issue, EPA modeled stormwater runoff from three different densities at three scales: "one-acre level, lot level, and watershed level" and at three different time series build-outs to examine the premise that lower-density development is always better for water quality. The findings indicated that low-density development may not always be the preferred strategy for protecting water resources. Higher densities may better protect water quality—especially at the lot level and watershed scale.

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In Memoriam:

Eugene Edward Molitor

Eugene Edward Molitor, 74, of Onalaska, died Sunday, Jan. 15, 2006, at his home. Eugene was born Dec. 13, 1931, in Milwaukee to Peter M. and Anna (Semrad) Molitor. Eugene served with the U.S. Navy during the Korean War as a medical corpsman.

He graduated from Marquette University with a bachelor's degree in business and economics and received his master's degree in urban and regional planning from the University of Wisconsin-Madison. Eugene worked as director of research for resource development for the state of Wisconsin in Madison and then as the chief planner for the Southeastern Wisconsin Regional Planning Commission in Waukesha.

He moved to La Crosse, where he worked as the executive director of the Western Wisconsin Health Planning Organization, and later moved back to Milwaukee, where he worked as assistant director of the Southeastern Wisconsin Health Systems Agency and then as director of planning and marketing for Children's Hospital. Eugene moved back to La Crosse and served as the vice president of planning and marketing for the Franciscan Skemp/Mayo Health Systems until his retirement in 1996.

Eugene was very involved in many civic activities including serving as village trustee for West Salem in 1977, interim director of the La Crosse Symphony in 1996, Onalaska Parks and Recreation Board member, committee member with Traditions Plus Health Insurance and was also a very active member of St. Patrick's Catholic Parish.

Eugene also enjoyed playing bridge and was active with several bridge groups and enjoyed ballroom dancing with his wife, Ione.

Eugene is survived by his loving wife of 53 years, Ione; nine children, Mary (Russ) Knutson of Cedarburg, Wis., John (Jean) Molitor of West Salem, Susan (Dave) Dahl of Hudson, Wis., Diane (Mark) McGeen of Waukesha, Wis., Nancy (Tom) Schomberg of West Salem, Sally Molitor of Random Lake, Wis., Jim (Misty) Molitor of Foot Hill Ranch, Calif., Janet Molitor of Exton, Pa., and Christine (George) Williams of West Salem; 38 grandchildren; eight great-grandchildren; two sisters, Audrey (John) Griebel of Brown Deer, Wis., and Patricia Molitor of Waukesha, Wis.; a sister-in-law, June Molitor of Milwaukee; and several nieces and nephews.

Eugene will be remembered by his family and friends as a man of great wisdom and integrity.

Memorials are preferred to the Franciscan Skemp Hospice Program, St. Patrick's Catholic Parish or the La Crosse Symphony.

David S. Boyd Admitted to FAICP

The Executive Board of the Wisconsin Chapter of APA is pleased to announce that David S. Boyd has been admitted to the College of Fellows of the American Institute of Certified Planners. David joins Wisconsin's current FAICP members, Jerome Kaufman and Michael Slavney. David will be formally inducted to the College at the APA conference in San Antonio in April.

David is Senior Planner for MSA Professional Services, Incorporated. David is responsible for leading MSA's Planning & Design Studio, based in MSA's Madison office. His areas of expertise include the design and implementation of community engagement and strategic planning programs, urban design, community development, and economic/demographic analysis.



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What do planners do? More on AB 946



BY BRIAN W. OHM
WAPA VICE PRESIDENT
FOR CHAPTER AFFAIRS

On January 30, 2006, Representatives Lothian, Owens, and Shilling introduced Assembly Bill 946 regarding the registration of landscape architects.

The bill attempts to define the practice of landscape architecture and require that if someone practices landscape architecture they must be a licensed landscape architect. The bill is meant in part as a consumer protection measure. For example, when the consumer hires a person to prepare a detailed landscape planting plan, the consumer should know that they are hiring someone with formal training and other qualifications in the field of landscape architecture.

The broad definition of the practice of landscape architecture in the bill touches upon many things that planners do. That raises the concern of planners about the impact of the bill on their ability to do the things that planners do. While the indications are that the bill is dead for the session, the issue of licensing the practice of landscape architecture may not go away.

This raises the question of how to recognize what planners do. The issue is currently not a cause for concern because current law only prohibits people from using the title "landscape architect" unless they are registered as a landscape architect under Chapter 443 of the Wisconsin Statutes or they fall under one of the exceptions in that Chapter. AB 946 would change current law by prohibiting any person from practicing "landscape architecture" unless they are registered by the state.

Current law also includes a more limited definition of "landscape architecture." Currently "landscape architecture" is defined as: "the performance of a professional service

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Law Update

BY MICHAEL R. CHRISTOPHER, WAPA LEGAL COUNSEL
DeWitt, Ross, and Stevens S.C.
Madison, Wisconsin

What Does a Municipality Have To Do To Enforce an Ordinance by Issuing a Citation?

In 1975, the Wisconsin Legislature established a statutory procedure which would allow municipalities to enforce local ordinances for which a statutory counter-part exists by issuing a citation as opposed to the normal procedure of having the District Attorney's office issue a summons and complaint. This represented a significant departure from the common law and gave municipalities a valuable tool to enforce their local ordinances.

However, some municipalities have not followed the procedural steps as outlined in § 66.0113, Wis. Stats., which allows for this streamlined method of prosecution. On November 16, 2005, the Court of Appeals decided the case of *County of Walworth v. Allen T. Ritchey*, which addressed one of these alleged procedural defects.

The facts were brief and undisputed. Ritchey owned a 5-acre parcel of land in Walworth County which is zoned C-2 – a zoning category that permits upland resource conservation uses. Three of the acres were dedicated to what Ritchey termed his "arboretum." He cultivated a collection of approximately 10,000 plants comprised of hundreds of varieties of hosta. He also maintained a website describing his hosta collection and advertising for an event he called "Hosta Fest." A Walworth County zoning official attended this event and documented temporary tents set up with plants in one and a cash register in another. It was clear that this was a commercial event due to the extensive advertising in the area and the activities occurring onsite. The zoning

official cited Ritchey for a number of zoning code violations relating to operating an unapproved business, maintaining illegal parking, and erecting signs in the right-of-way.

One part of Ritchey's challenges to the finding by the trial court that he had violated the zoning code had to do with the factual issue of whether his use constituted a commercial greenhouse, but the more important aspect of this case had to do with Ritchey's contention that the County did not follow the necessary procedures to enforce its zoning code by issuing citations.

The essence of his argument on this point was that the County was required to provide written notice of the violations before citing him. To support his position, he pointed to a specific provision of the Walworth County Zoning Ordinance which provided that it was the duty of the Zoning Administrator to provide notice of all violations of the ordinance to the owner. He contended that since the County failed to give him notice of the violations, it deprived him of the opportunity to correct the alleged violations before he was issued any citations.

However, the Appeals Court rejected his argument because it felt that the Legislature had determined that a citation for a zoning ordinance violation constituted adequate process so a preliminary written notice would have been superfluous. Because the Court determined that the plain language of the statute applicable to the undisputed facts resolved the issue, there was no need to pursue the matter further.

Although this case stands for the proposition that no separate written notice of code violations is required, it has been my experience that municipalities often do not fully comply with the statutory procedures. Specifically, what I have come across is that some municipalities do not establish a cash deposit schedule of a specified amount which must be provided to the alleged violator.

Thus, it is necessary for a municipality to specifically state in the ordinances that a violation of a particular local ordinance can be enforced by issuing a citation and the ordinances must establish a cash deposit schedule in order to inform the defendant of the maximum penalty if he or she is convicted of the ordinance violation. However, once municipalities comply with the procedural requirements of § 66.0113, Wis. Stats., the Ritchey case provided that no separate written notice is required.

What Is The Status Of Pier Rules In Wisconsin?

On December 7, 2005, the DNR Board took action on rules governing existing piers in Wisconsin which represented the next chapter of the existing piers controversy, but probably not the final word. Several alternatives were suggested for revising Wisconsin's system of pier regulations. Below is a summary of some of those alternatives and the reasons why the DNR did not ultimately recommend them:

- To now allow piers to be exempt in Areas of Special Natural Resources Interest ("ASNRI"). This alternative would have been extremely difficult and expensive to enforce in that ASNRI designations change over time and vary from waterway to waterway, and even affect section to section on a given waterway. To have a set of rules that would lead to different exemption standards across the state would be difficult to understand and enforce.

- To grandfather all existing piers regardless of size or location. The DNR rejected this alternative because there are some extremely large structures that would have negative impacts on public rights such as navigation and aquatic habitat or impede on neighbors' rights. It was felt that a blanket grandfather provision would not adequately protect the public trust rights of our waterways.

- To grandfather all existing piers without a permit. This alternative was rejected by DNR staff because they felt that there needed to be a fair and reasonable way to distinguish between pre-existing piers that exceeded the standard but are to be grandfathered and future piers that are illegally built that exceed the exemption standard.

- To support legislation introduced by Speaker Gard and Representative Gunderson. This legislation would allow considerable expansion of new piers statewide to keyholing and place no limit on the size of existing piers, leaving little protection for public navigation and the protection of aquatic habitat.

Therefore, the key features of the DNR Board revisions to the pier rules include the following:

- All new and existing piers would qualify for an exemption if they met size requirements formulated in the

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WAPA Legislative Update

BY BENJAMIN C. GRAW
DEWITT ROSS & STEVENS S.C.

New Legislation

AB 904. Representative Owens Introduces Legislation Changing the Procedures for Appointing Members to A Town Planning Commission

On December 29, 2005, Representative Owens introduced AB 904. This legislation alters the current method of appointing members to a town planning commission.

Under existing law, appointments to a town plan commission of a town that is authorized to exercise village powers must be made by the town board chairperson, who also selects the commission chairperson. The town chairperson may appoint himself or herself to the commission. This applies only to towns with a population of less than 2,500. Under AB 904, appointments to a town plan commission would still be made by the town board chairperson, but would be subject to confirmation by the town board. The town board chairperson would continue to select the commission chairperson. AB 904 would also authorize a majority of the town board to remove appointees from the town plan commission. All other current provisions relating to the appointment of citizen members of the commission, terms of the commission members, and authority of the commission remain unchanged and the bill also applies to towns with a population of at least 2,500.

AB 904 was read for the first time on December 29, 2005 and referred to Committee on Urban and Local Affairs. A fiscal estimate was received on January 10, 2006. To review a copy of AB 904, go to <http://www.legis.state.wi.us/2005/data/AB-904.pdf>.

AB 899. Representative Albers Introduces Legislation Expanding a Town's Authority to Create an Official Town Map

On December 29, 2005, Representative Albers introduced AB 899, legislation that extends a town's authority to create an official town map.

Current law allows a town to adopt an official map under certain situations if the town is located in a county that has not enacted a county zoning ordinance. AB 899 authorizes a town to adopt an official map at any time. It requires that a county development plan include both the official map of any town in the county that has adopted a comprehensive plan and the comprehensive plan, which is defined under current law as a plan that must contain planning elements including the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use. Also under AB 899, a city or village master plan and official map con-

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trol in the city's or village's extraterritorial zoning jurisdiction only if an official town map is not part of the county development plan.

AB 899 was read for the first time on December 29, 2005 and referred to the Committee on Property Rights and Land Management. A fiscal estimate was received on January 12, 2006. To review a copy of AB 899, go to <http://www.legis.state.wi.us/2005/data/AB-899.pdf>.

AB 896. Representative Nelson Introduces Legislation Increasing the Certification Period for Environmental Remediation Tax Incremental Financing Districts

On December 29, 2005, Representative Nelson introduced AB 896, legislation that expands the maximum life and expenditure period for environmental remediation tax incremental financing districts (ERTID).

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to defray the costs of remediating contaminated property that is owned by the political subdivision. If the remediated property is transferred to another person and is then subject to property taxation, environmental remediation tax incremental financing may be used to allocate some of the property taxes that are levied on the property to the political subdivision to pay for the costs of remediation. A political subdivision that has incurred "eligible costs" to remediate environmental pollution on a parcel of property may apply to the Department of Revenue (DOR) to certify the "environmental remediation tax incremental base" of the parcel. Currently, the maximum life of an ERTID is 16 years, which is the maximum allowable "period of certification." The period of certification is defined as the sooner of either a period beginning after DOR certifies the environmental remediation tax incremental base of a parcel of property or a period before all eligible costs have been paid. Also under current law, no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR.

AB 896 increases the maximum allowable period of certification to 27 years, and the maximum expenditure period to 20 years. This bill takes effect on October 1, 2006, and first applies to an ERTID that is in existence or that is created on that date.

AB 896 was read for the first time on December 29, 2005 and referred to the Committee on Ways and Means. To review a copy of AB 896, go to <http://legis.wi.state.us/2005/data/AB-896.pdf>.

SB 482 and AB 891. Representative Towns and Senator Olson Introduce Legislation Revising the Calculation of a School District's Special Adjustment Aid and Revenue Limit When Territory is Removed to Create a New School District

On December 20 and 21, 2005, Senator Olson and Representative Towns introduced, respectively, SB 482 and AB 891. Their legislation makes changes to the current calculation method for a school district's special assessment aid and revenue limits where territory from the school district has been removed to create a new school district.

Under current law, a school district is guaranteed to receive in each school year at least 85% of the amount of state aid that it received in the previous school year (special adjustment aid). For a school district from which territory is removed to create a new school district, this legislation revises the method for calculating special adjustment aid in the second and third school years after the reorganization takes effect using the ratio of retained pupils. Current law increases a school district's revenue limit if the average enrollment of the school district in the current and two preceding school years is less than the average enrollment in the three previous school years, by the additional amount that would have been calculated had the decline in enrollment been 25 percent of what it was. This legislation also revises the method for calculating the revenue limit of a school district affected by a reorganization described above for the three years immediately following the effective date of the reorganization.



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Attorney Schalig, Brookfield City Attorney for the past twelve years, has joined the firm of Schmidt, Rupke, Tess-Mattner & Fox, S. C., and will concentrate her practice in land use issues, including zoning, development, and commercial real estate.



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AB 891 was read for the first time and referred to the Committee on Education on December 20, 2006. SB 482 was read for the first time on December 21, 2005 and referred to the Committee on Education. Fiscal estimates were received on January 10 and 11, 2006, and a public hearing was held on January 10, 2006.

To review a copy of SB 482, go to <http://www.legis.state.wi.us/2005/data/SB-482.pdf> on the internet. To review a copy of AB 891, go to <http://www.legis.state.wi.us/2005/data/AB-891.pdf> on the Internet.

AB 886. Representative Albers Introduces Legislation Regarding the Use of Stewardship Funds for Acquisition of Land Around Military Bases

On December 20, 2005, Representative Albers introduced AB 886, legislation that would allow the use of environmental stewardship funds for acquiring land around certain military bases.

Current law authorizes the state to incur public debt, including bonds, for certain conservation activities under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program, which is administered by the Department of Natural Resources (DNR). One of the subprograms under the stewardship program is for property development and local assistance. Bonding under the property development and local acquisition subprogram may be used only for nature-based outdoor recreation, as defined in rules promulgated by DNR, with limited exceptions.

This bill creates an additional exception by allowing DNR to award grants to towns and counties under this subprogram to acquire land or development rights that are located next to certain military bases for the purpose of keeping the land free of development. To be eligible for a grant, a base commanding officer must make a recommendation to keep the land free of development to the town or county and the town or county must approve the acquisition for that purpose. The military base affected must have at least 200 assigned military personnel or must contain at least 2,000 acres. AB 886 requires DNR to give the highest priority to these grants under the property development and local assistance subprogram. The bill prohibits the acquisition of land if the development rights are not included in the acquisition. Matching funding is not required for these grants, and DNR may not award a grant if federal funding is available to the town or county for the acquisition.

AB 886 was read for the first time on December 20, 2005 and referred to the Committee on Natural Resources. A fiscal estimate was received on December 27, 2005. To review a copy of AB 886, go to <http://www.legis.state.wi.us/2005/data/AB-886.pdf> on the Internet.

SB 499. Senator Grothman Introduces Legislation on the Recording and Filing of Transportation Plats

On January 6, 2006, Senator Grothman introduced SB 499. This legislation makes certain changes to the recording and filing requirements for transportation plats.

Under current law, when the Department of Transportation (DOT) or a municipality acquires land, or interests or rights in land, for a public project, it files a plat describing the acquired land in the office of the register of deeds where the land is located. The plat depicts the order authorizing the acquisition of the land and may be referred to in legal documents to describe the land or interests in the land. SB 499 changes the way plats are filed and recorded. Under the bill, DOT or a municipality may file a plat describing land that is either acquired or disposed of for a project, and a plat may consist of a single sheet or a detail and title sheet that describes the limits of the project involving the land, a location map, and identification of plat symbols and abbreviations. SB 499 clarifies that an affidavit of correction may be filed to correct scrivener errors but may not be used to reconfigure land parcels or rights or interests that are required for a project. The bill also allows a plat to be used to delineate a right-of-way, and allows for more flexibility in the materials used for a plat and the size of an acceptable plat.

SB 499 was read for the first time on January 6, 2006 and referred to the Committee on Natural Resources and Transportation. To review a copy of SB 499, go to <http://www.legis.state.wi.us/2005/data/SB-499.pdf> on the Internet.

SB 498. Senators Leibham and Kanavas Introduce Legislation Regarding Excavation Notices and Installation of Utility Laterals

On January 6, 2006, Senators Leibham and Kanavas introduced SB 498, legislation clarifying utility excavation notices and creating additional installation requirements.

Current law requires all transmission facilities owners to ensure that a statewide communications system is in place to receive notices of proposed excavations and to forward the notices to owners of transmission facilities that may be affected by the excavations. Upon receiving a notice of a proposed excavation, the owner of transmission facilities must mark the area of the excavation described in the notice in such a way that the excavator will be able to locate the affected transmission facilities and perform the excavation without endangering the facilities or the public.

Under SB 498, any local governmental unit that receives such a notice relating to its sewer or water facilities must mark the location within the public right-of-way of all laterals connected to the sewer or water facilities at the area described in the notice. However, if the lateral was installed before January 1, 2007, instead of marking the location, the local government unit may provide the excavator with information on the location of the lateral as shown on maps, drawings, diagrams, or other records. If the local government has no such information regarding a lateral installed before January 1, 2007, the local government unit is not required to mark the location if the local government unit provides the excavator with a notice certifying that the local government unit has no such information. In addition, SB 498 requires local government units to require any person who, after December 31, 2006, installs a nonconductive water or sewer lateral in the local government unit's jurisdic-

tion to also install a locating wire or other equally effective means for marking the location of the lateral. This requirement does not apply to minor repairs to, or partial replacements of, laterals installed before January 1, 2007.

SB 498 was read for the first time on January 6, 2006 and referred to the Committee on Natural Resources and Transportation. To review a copy of SB 498, go to <http://www.legis.state.wi.us/2005/data/SB-498.pdf> on the Internet.

Update on Previously Introduced Legislation

Public Hearing Held on AB 657 – Prohibition of Condemnation of Property Under Certain Circumstances

Introduced by Representative Williams, AB 657 prohibits the condemnation of property that is not blighted if the condemnor intends to convey or lease the acquired property to a private entity. The bill defines “blighted property” and provides that property that includes one or more dwelling units is not blighted unless the property has been abandoned or the property has been converted from a single dwelling unit to multiple dwelling units and the crime rate in, on, or adjacent to the property is higher than in the rest of the municipality. The bill also requires a condemnor, before commencing the condemnation of property that the condemnor intends to convey or lease to a private entity, to make a written finding that the property is blighted.

A public hearing on AB 657 was held on January 11, 2006. To review a copy of AB 657, go to <http://www.legis.state.wi.us/2005/data/AB-657.pdf>.

Public Hearing Held on SJR 33/AJR 52 – Constitutional Amendment Prohibiting Partial Vetoes Creating New Sentences

Introduced by Senator Harsdorf, SJR 33 would prohibit gubernatorial partial vetoes from creating new sentences. A public hearing was held on January 12, 2006. To review a copy of SJR 33, go to <http://www.legis.state.wi.us/2005/data/SJR-33.pdf>.

Consideration of AB 558 – Limitation on Reasons for Which Local Government May Withhold Permit Approval

Introduced by Senator Brown on July 12, 2005, SB 283 provides that no zoning entity may condition or withhold approval of a permit that it may issue under its zoning authority based on the property owner entering into, discontinuing, modifying, extending, or renewing a contract with a third party under which the third party is engaging in a lawful use of the property.

SB 283 will be considered on January 17, 2006 before the Committee on Senate Organization. To review a copy of SB 283, go to <http://www.legis.state.wi.us/2005/data/SB-283.pdf>.

Governor Signs AB 464 Into Law – 2005 Wisconsin Act 93

As reported previously in the Update, AB 464 changes the definition of “brownfield” for reassignment of property subject to disclosure for delinquent taxes. Currently, a brownfield is any abandoned, underused or idle property that has not been expanded or redesigned due to perceived or real environmental contamination. AB 464 adds to that definition any abandoned residential property.

AB 464 was presented to Governor Doyle on January 3, 2006. The Governor signed the bill on January 4, 2006 (2005 Wisconsin Act 93). It is scheduled to be published on January 19, 2006. To review a copy of 2005 Wisconsin Act 93, go to <http://www.legis.state.wi.us/2005/data/acts/05Act93.pdf>.

Governor Signs AB 155 Into Law – 2005 Wisconsin Act 81

As reported previously in the Update, AB 155 placed restrictions on local government’s control over certain nonconforming uses. AB 155 extends current law to apply to structures and fixtures, and explicitly specifies that no municipality or county may require the removal of a nonconforming building, premises, structure, or fixture, which may be lawfully used under current law, by an amortization ordinance. The bill defines “amortization ordinance” as an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used, but only for a specified period of time, after which such lawful nonconforming use must be discontinued without the payment of just compensation.

AB 155 was presented to Governor Doyle on December 15, 2005. The Governor signed the bill on December 22, 2005 (2005 Wis. Act 81). It was published on January 6, 2006. To review a copy of 2005 Wisconsin Act 81, go to <http://www.legis.state.wi.us/2005/data/acts/05Act81.pdf>.

Governor Signs SB 4 Into Law - 2005 Wisconsin Act 100

As previously reported in the Update, SB4 addressed the size of county board of supervisors and common councils in cities. Under current law, generally a county board is required to redistrict its supervisory districts once every 10 years following the decennial federal census, through adoption of a decennial redistricting plan. SB 4 sets forth criteria and procedures under which either a county board, or the electors by petition and referendum, in counties other than Milwaukee and Menominee Counties, may decrease the size of the county board of supervisors one time only after the county board adopts its decennial redistricting plan. If the decrease affects a city entirely within a county that has aldermanic districts shared with the supervisory districts, the common council of the city may decrease the number of aldermanic districts and corresponding members of the

council to keep the boundaries coterminous.

SB 4 was presented to Governor Doyle on December 30, 2005. The Governor signed the bill on January 4, 2006 (2005 Wisconsin Act 100). It is scheduled to be published on January 19, 2006.

To review a copy of 2005 Wisconsin Act 100, go to <http://www.legis.state.wi.us/2005/data/acts/05Act100.pdf>.

(Note: There have been no other changes to introduced legislation described in previous issues of Update.)

Legal Update: *Continued from page 5*

2004 law. If the pier was a maximum of 6 feet wide, had up to two boats moored for the first 50 feet of shoreline frontage and one for each 50 feet thereafter, and extended out as far in order to moor the owner's boats, or to the 3 foot water depth, whichever was greater, the pier would need no permit.

- Based on a 2005 DNR study, 85% of existing piers would qualify under this exemption.
- All existing piers that are too big to qualify for an exemption, but have a deck that is 200 square feet or less, will be grandfathered in. Owners of these piers will not have to modify their piers but must go through a free registration process to document that their pier existed before the 2004 law. Based on the DNR study conducted last year, about 14% of existing piers would fall into this category.
- All existing piers with a deck that exceeds 200 square feet in size will be required to get an individual review and permit from DNR to assure that these piers don't harm the public interest. The outcome of the DNR review would be to issue the permit for the pier as it is, or to require the owner to downsize or otherwise modify the structure to minimize interference with navigation or damage to natural resources.
- Existing piers with the proper permit are not affected.

However, Republicans in the Legislature do not agree that only 1% of existing piers would have to go through an individual permit process so a bill has been introduced in the Legislature to exempt all existing piers. This question is certainly a political hot potato so the Doyle administration is quite anxious to put this issue to rest in early 2006. However, the Republican-dominated Legislature wants to keep this issue on the front burner since anti-DNR rhetoric in an election year is popular in many parts of the state.

For more information about the revised pier proposal, visit DRN's website: <http://www.dnr.wi.gov/org/water/fhp/waterway/pierrulesupdates.shtml>.

ProWalk/ProBike: Coming to Madison September 5-8, 2006

ProWalk/ProBike is North America's pre-eminent conference promoting bicycling and walking as modes of transportation and recreation. Attracting hundreds of elected officials, business leaders, planners, engineers, public health professionals, educators, advocates and community members simply interested in the physical and economic health of their neighborhoods, ProWalk/ProBike offers presentations, workshops, and local tours led by national and international experts.

Conference participants are leaders in their communities, especially with regard to bicycling and walking issues. They are involved with many public decisions regarding access to schools, creating and improving trails, installing traffic calming devices, placing bike racks on buses, and a host of similar improvements. These participants bike. These participants run.

Here is the link to the website for the conference. They are currently seeking proposals for presentations if you feel you can offer your expertise to present at the conference:

<http://www.bikewalk.org/PWPB2006/proposal.html>

IAP2: Training Planners for Public Participation

BY NANCY FRANK, AICP

WAPA PROFESSIONAL DEVELOPMENT OFFICER

Last year WAPA was awarded a grant from the APA President's Council to offer professional development programming for our planners. WAPA partnered with the International Association for Public Participation to increase the skills of Wisconsin's planners in doing public participation.

I was fortunate enough to be one of the planners to take advantage of this opportunity.

I have been aware of IAP2 for several years. I approached the upcoming two-day training session with a mixture of eager anticipation and trepidation. The anticipation came from my familiarity with some of their materials available on the web. I found their materials to be both conceptually sound and effective in communicating ideas about participation. So I looked forward to getting my hands on more of this good stuff. The trepidation—well, maybe it was arrogance. I worried that I would devote two days to this training session and not really learn anything new. I mean, two days!

It was worth it. Although many of the concepts, practices, and techniques were already familiar to me, the training deepened my understanding and sense of confidence. It carefully examined the challenges of doing public

Continued on page 13



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Landscape Architecture: *Continued from page 4*

involving conceptual land planning and conceptual design for integrated land development based on the analysis of environmental characteristics, operational requirements, land use or commensurate land values. "Landscape architecture" includes the investigation, selection or allocation of land or water resources for appropriate uses; the formulation of graphic or written criteria for a land planning or land construction program; the preparation, review or analysis of a master plan for land use or development; the production of a graphic land area, grading, drainage, irrigation, planting or land construction plan; and the planning of a road, bridge or other structure with respect to the aesthetic requirements of the area on which it will be constructed."

The bill would significantly broaden this by defining the practice of landscape architecture as:

"any professional service requiring the application of conceptual land planning and conceptual design for integrated land development based on the analysis of environmental characteristics, operational requirements, land use or commensurate land values. When related to land development, the practice of landscape architecture may include:

- (a) Consultation, research, analysis and assessment, selection, and allocation of land and water resources.*
- b) Formulation and graphic and written criteria to govern the planning and design of land construction and development plans pertinent to the practice of landscape architecture, including:*
 - 1. The preparation, review, and analysis of master and site plans, and the review and analysis of subdivision and land development plans at regional and urban scales.*
 - 2. Reconnaissance, planning, design, and preparation of drawings, construction documents, and specifications.*
 - 3. The preparation and submittal of storm water management plans and permit applications, environmental plans and permit applications, erosion control planning and design, resource conservation planning and design, and environmental mitigation plans consistent with applicable laws, rules, and regulations.*
- (c) Consultation, coordination, and review of technical submissions, plans, and construction documents prepared by persons working under the authority or supervision of a registered landscape architect.*

(d) Land and cultural landscape preservation, restoration, conservation, reclamation, rehabilitation, management, or development.

(e) Feasibility studies, site selection, cost estimates, and reports associated with the development and land and incidental water areas.

(f) Integration, site analysis, and determination of the location of buildings, structures, pedestrian systems, transportation systems, and environmental systems.

(g) Analysis and design of grading and drainage, storm water management, irrigation, systems for erosion and sediment control, stream and shoreline restoration planning and design, and pedestrian and vehicular circulation systems.

(h) Determination and placement of site improvements including the design of site amenities, accessibility components, plantings, and other tangible objects and features associated with the practice of landscape architecture.

(i) Analysis, design, construction, and management of wetlands, and river restoration planning.

(j) Wetland delineation and preservation planning and collaboration with other professionals in the design of roads, bridges, and structures regarding the functional, environmental, and aesthetic requirements of the areas in which these items are placed."

One approach for WAPA in trying to minimize the impact of AB 946 would be to push for a more refined definition of the practice of landscape architecture that does not include the things that planners do. Just so we know exactly what planners do, please email me with your take on the things listed above that planners do not do?

Another approach for WAPA in addressing the impact of AB 946 would be to push for an exemption for planners from the licensing requirement. This raises the issue of how do we define a "planner." Licensed professions have statutes or administrative rules that help define who they are and what they do. Wisconsin law currently does not provide a definition for planners. Should professional planners in Wisconsin be licensed? What is a professional planner? What is a "qualified" planner. How do citizen planners, such as those serving on plan commissions and helping prepare comprehensive plans and other planning tools, fit in? Please email me with your input at bwohm@wisc.edu.



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participation well and offered a range of strategies for doing it well without breaking your neck.

The course that WAPA targeted for its members through the grant program is the first in a three-course series leading to a certificate in public participation. Rather than focusing on techniques—like colored dot voting or sticky notes or nominal group process—the course focuses on how to think critically about what your objectives are in involving the public and how to achieve those objectives. The course materials, about 100 pages of clear and informative text and worksheets, are a valuable reference tool.

WAPA may be able to offer a reduced-cost registration to other WAPA members interested in pursuing this training. If you are interested, please do two things:

(1) Visit the IAP2 website—www.iap2.org—to learn more about the training programs that IAP2 offers. Additional sessions in Wisconsin should be scheduled later this year.

(2) Contact me to let me know that you are interested in taking this course. Nancy Frank, frankn@uwm.edu, 414-229-5372.

Finally, if you are a WAPA member who participated in the IAP2 training within the last nine months and registration was not paid for by your employer, please contact me.

Events at UWM Planning Program Spring 2005

Charles Causier Memorial Lecture, March 17 Room 170, School of Architecture and Urban Planning

Scott Bernstien, director of the Center for Neighborhood Technology will talk about cities and social justice. The Center for Neighborhood Technology works toward a just and sustainable world, where cities thrive because of the “urban advantage.”

Design Graphics for Planning AICP Webcast Workshop, April 12, 3 pm Room 345, School of Architecture and Urban Planning

Come join us. We already paid for the registration, so you don't have to. We'll pack the room.

For more information about the topics to be covered in the webcast, go to <http://www.planning.org/audioconference/>

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EPA Smart Growth Guides: Continued from page 14**Using Smart Growth Techniques as Stormwater Best Management Practices** (EPA publication 231-B-05-00)

To comply with the Clean Water Act, over 6000 communities across the nation are developing municipal stormwater permitting programs (also known as Phases I & II). Many of these communities are also implementing programs that encourage development in existing communities, redevelopment of vacant properties, promote transportation options and facilitate efficient use of land and infrastructure. "Using Smart Growth Techniques as Stormwater Best Management Practices" reviews nine common smart growth techniques and examines how they can be used to prevent or manage stormwater runoff. This publication will help communities encourage smart growth and meet the new regulatory requirements, <http://www.epa.gov/smartgrowth/stormwater.htm>

Growing Toward More Efficient Water Use: Linking Development, Infrastructure, and Drinking Water Policies (EPA publication 230-R-06-001)

This publication focuses on the relationship between development patterns, water use, and the cost of water delivery. It reviews literature that shows how large-lot, dispersed development patterns cost more to serve because of the length of pipe required, pumping costs, and other factors. The literature also shows that large-lot, dispersed development uses more water. "Growing Toward More

Efficient Water Use" concludes with policy options for states, localities, and utilities that directly reduce the cost and demand for water, while indirectly promoting smart growth. These policies offer opportunities for more efficient water use at a time when many communities face water shortages. http://www.epa.gov/smartgrowth/water_efficiency.htm

Parking Spaces / Community Places: Finding the Balance through Smart Growth Solutions (EPA publication 231-K-06-001)

This report highlights proven approaches that balance parking with broader community goals. Current codes typically apply inflexible minimums that ignore community and developer priorities including environmental quality and human health. An oversupply of unnecessary parking wastes money and creates places that degrade water quality and encourage excess driving and air emissions. The highlighted solutions cover a range of supply management, demand management, and pricing strategies. Communities have found that combinations of parking pricing, shared parking, demand management, and other techniques have helped them create vibrant places while protecting environmental quality and still providing for necessary vehicle storage.

<http://www.epa.gov/smartgrowth/parking.htm>

For FREE HARD COPIES of any of these publications, please send an e-mail to ncepimal@one.net or call (800) 490-9198.

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Boyd Earns FAICP: *Continued from page 3*

With approximately 22 years of planning experience, David has undertaken a number of challenging professional positions throughout his career. Prior to joining MSA, David served as the Director of Citizen Engagement for FOCUS St. Louis, a regional “think tank” located in St. Louis, Missouri. His other professional experiences include: Director of Planning, Information & Environmental Services, East-West Gateway Coordinating Council (St. Louis, MO); Executive Director, Ithaca-Tompkins County Transportation Council (Ithaca, NY); Planning Manager, Lafayette Areawide Planning Commission (Lafayette, LA); Transportation Planning Analyst, North Central Texas Council of Governments; and Administrative Project Assistant, South Central Library System (Madison, WI). David has held adjunct faculty appointments in the urban and regional planning programs at Cornell University, St. Louis University, and at the University of Wisconsin.

David has been an active member of APA/AICP since 1986. Last fall he was elected to the WAPA Board of Directors to serve as the At-Large Representative for Membership. Some of his other activities with APA/AICP include: Chapter President (Missouri), Section President (St. Louis), Secretary of the Transportation Division, PAB Site Visitor, APA & AICP National Nominating Committees, JAPA Editorial Advisory Board, AICP Casebook & Multi-Media Committees, Professional Development Officer (Louisiana Chapter), Awards Chair (Louisiana Chapter), and Student Planning Association President (Arlington, TX).

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David holds a dual Bachelor's degree (Political Science and History) from the University of Wisconsin and a Masters in City and Regional Planning (Economic Development/Public Administration) from the University of Texas at Arlington.

WAPA/WASLA Joint Conference: *Continued from page 1*

Open space preservation
Legal issues update

WAPA is also offering two pre-conference workshops. Brian Ohm will offer his introduction to Wisconsin land use laws, entitled “What You Always Wanted to Know About Wisconsin’s Planning Laws But Were Afraid to Ask.” This pre-conference session will provide a practical overview of the legal framework for planning in Wisconsin. It is intended for newer planners, municipal attorneys, and other planning professionals, including recent transplants to Wisconsin who are trying to make sense of Wisconsin’s laws.

The second pre-conference workshop will focus on the Economic Development element in comprehensive planning, with emphasis on state agency data and information resources that communities can consider when preparing this element. The session will be conducted by staff from various state agency programs.

Early registration continues until March 24. Conference registrants are encouraged to register online through the APA’s conference registration service. To register online, go to www.planning.org/chapters/conferences.html.

The conference location in Wisconsin Dells offers a great opportunity to combine professional development sessions with a recreational getaway. The Wisconsin Dells is a national leader in the concentration of indoor and outdoor water parks. With unique scenery, Sauk County also offers a winding river flanked by ancient rock formations, woods, serene lakes, and state parks and hiking trails.

The conference will be held at the Chula Vista Resort, located on the Wisconsin River about two miles north of downtown Wisconsin Dells. Its facilities include a 30,000 square foot water park and 300 guest rooms and suites. The conference room rate is \$85 per night, and an extended stay rate of \$99 per night will be offered for WAPA members electing to stay over Friday and Saturday night after the conference.



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