

WAPA News

Wisconsin Chapter
American Planning Association

Spring 2002



On the Loss of a Dear Friend

Planners across Wisconsin have lost a great and good friend. Charles Causier, known to everyone as Charlie, died of cancer on April 28, 2002.

Charlie was an experienced and highly respected principal planner for HNTB, an engineering, design, and planning firm. Charlie joined HNTB immediately after receiving his planning degree from the University of Wisconsin – Milwaukee (UWM) in 1979. In 22 years of planning practice, most of it in Wisconsin, Charlie worked on transportation and transit planning, historic preservation, community planning and zoning, and downtown revitalization. He also had extensive experience in developing and leading public involvement processes on sensitive projects.

In addition to his work as a professional planner, Charlie was also a citizen planner. He was the longest-serving member of the Wauwatosa Plan Commission, and served on the Village Improvement District Task Force and the Wauwatosa Preservation Commission. Serving four terms as the Wauwatosa Historical Society president (with 21 years on its board), Charlie has been credited as the person most responsible for preserving the Kneeland Walker House in Wauwatosa, “the single most important building in the city.”

For this dedication to his community, Charlie received the 2001 Distinguished Citizen of the Year Award. Charlie attended the award ceremony, held just five days before his death. Although the weakness in Charlie’s body was apparent on this occasion, he addressed the audience with his typical wit and charm.

Charlie was also well-known and loved for his humor, winning personality, and good judgment through his work for APA and WAPA. Charlie’s service to WAPA predates institutional memory. He was treasurer of WAPA in 1983, when Roland Tonn first joined the board. Charlie served as president of WAPA from 1984 to 1989. He served as past-president of WAPA from 1989-1999, for which his APA friends and colleagues dubbed him the longest-serving past president in any APA chapter. At the 2002 National APA conference in Chicago, planners from across the country sported “Charlie for King” buttons on their lapels as they celebrated Charlie’s planning achievements and service to APA.

During Charlie’s presidency of WAPA, he became an active member of the Chapter Presidents’ Council where he made numerous friends across the country. Arlan Colton, of Tucson, Arizona, remembers, “When I walked into my first Chapter Presidents Council meeting in the late 1980s, I was greeted by Charlie Causier who in just a few words welcomed me, set me at ease, gave me the lay of the land, said I’d do just fine, and if I needed any assistance, he would be there

Continued on page 7

In this issue . . .

| | |
|----------------------------------------|----|
| Planner Collects Humorous Stories..... | 2 |
| Correction..... | 2 |
| WAPA Scholarship Endowment..... | 3 |
| Wisconsin Award Winners..... | 3 |
| “Smart Growth” in the Northwoods..... | 4 |
| Madison’s Central Park..... | 5 |
| Law Update..... | 7 |
| Environmental Doomsday..... | 8 |
| APA Smart Growth Study..... | 11 |
| Open Space Protection..... | 11 |
| Affordable Housing..... | 11 |

WAPANews is published 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:

Nancy Frank, *WAPA News* Editor
 Chair, Department of Urban Planning
 School of Architecture and Urban Planning
 University of Wisconsin--Milwaukee
 P.O. Box 413
 Milwaukee, WI 53201-0413
 (414) 229-5372
 (414) 229-6976 (fax)
 Email: wapa@csd.uwm.edu

Change of Address: *WAPA News* does not maintain the address lists for any APA publication. All lists are maintained at the national 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.

Professional Services Directory: Put your business in the newsletter. Advertising rates are \$25.00 per issue or \$150.00 per year. Send business card or camera-ready copy (2 inches wide x 3.5 inches long) to the newsletter editor at the address below. Digital copy may be sent as an attachment by email to wapa@csd.uwm.edu.

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.

Submission of articles in electronic formats: Articles may be submitted on 3.5 inch floppy disks or via email. If submitting the article electronically, please indicate the exact format in which it was produced (e.g., WordPerfect 5.0, Word 6.0, etc.).

Send Your Humorous Planning Stories

Have you ever experienced what you thought had to be the world's most bizarre request for a permit? Have you ever listened to someone make a really unbelievable statement while addressing a planning commission meeting? Have you ever wished you could hang that truly incomprehensible site plan above your desk as an example of how it should not be done? As planners we have all experienced our share of the bizarre, confused or laughable side of our profession. Help me in sharing those experiences with your fellow planners.

My name is Phil Kappen and I work as the Assistant Planning Director for the Minnehaha County Planning Department in Sioux Falls, South Dakota. I am putting together a collection of those humorous situations that make our occupation so interesting. Please send me copies of your funny anecdotes, oddball quotes, strange site plans, unusual requests, peculiar plats or curious photos that you have collected or experienced during your career as planners. I look forward to hearing from you about those items that you would like to share with other planners.

Thank you,

Phil Kappen, AICP
 2616 S. Mary Drive, Sioux Falls, SD 57105
 (605) 338-9478
 ratrace@dakota.net

Correction and Editorial Comments

Municipalities React to TND Ordinance

The Winter 2001 issue of *WAPA News* included a story summarizing the meetings conducted by Brian Ohm to talk about implementation of state's TND ordinance requirement and how communities have been using the model ordinance developed by Brian Ohm. In the story, we reported incorrectly that the developer of Middleton Hills had "struggled for two years to get approval for the development, fighting existing zoning laws that required larger lots, deeper setbacks, wider streets and greater separation of land use types." Street widths and other design features, and the way in which these features might create safety and service issues related to fire, snow removal, garbage pick-up, etc., were the principal regulatory issues, along with concerns about the timing of the development.

For more information and opinion about the Middleton Hills approval process and its relation to the current TND ordinance requirement for municipalities over 12,500, see Richard Lehmann's comment on the Bulletin Board on the WAPA website.

New WAPA Scholarship Endowment

1. **How do we plan to use our fund?** We will use 5% of the annual return on our donated money to provide scholarship funds to graduate Planning students at the University of Wisconsin-Madison and University of Wisconsin- Milwaukee.
2. **When do we plan to distribute funds?** We can begin in 2003 distributing funds; if we believe the amount to be distributed is sufficient to make a difference.
3. **Who can donate funds?** Anyone can donate. The Chapter donated \$15,000 in 2001 and will donate \$1,000 in 2002. An individual can donate in the form of a gift or as a memorial.
4. **What can we donate?** We can donate cash, real estate, publicly traded securities, insurance policies, closely held stock or any combination of the above.
5. **How do we donate?** Send a check or securities directly to the Madison Community Foundation as they administer our endowment. Make the check out to the Madison Community Foundation and mail to:

Madison Community Foundation
2 Science Court
P.O. Box 5010
Madison, WI 53705-0010

 Designate on the check that it is to be deposited in the Wisconsin Chapter of the American Planning Association Scholarship Fund. If it is a memorial or designated gift, so indicate.
6. **Is a donation a tax-deductible item?** Yes

WAPA Scholarship Fund (759)

Contributions welcome as memorials, gifts, and honorarium

New contributions:

Gary L. Peterson, AICP in memory of Sol Levin, a former Candeub, Fleissig and Associates employee and Community Development Director in Madison for many years.

The WAPA Scholarship Fund is at the Madison Community Foundation (2 Science Court, P.O. Box 5010, Madison, WI 53705-0010) and all contributions are tax deductible. To make contributions place our fund name on the memo line of your check. On an attached note place the name of the person to be recognized and if you would like the Foundation to mail an acknowledgment of your gift to the person or family provide the address of that person or family.

Green Bay Press-Gazette Takes APA Honors

The ties between city and suburbs engaged Wisconsin's *Green Bay Press-Gazette*, winner of the APA Journalism Award among medium-sized newspapers (circulation 50,000 to 100,000). In a seven-day series called "A Vision for Green Bay," the paper connected the dots between a declining downtown and a sprawling periphery. Metro editor Roger Schneider and eight writers contributed to the series.

Congratulations to LaCrosse!

The National Trust for Historic Preservation has named LaCrosse as a winner of its Great American Main Street Award. LaCrosse has been a finalist for the award in the past, but finally takes home the honors. Attendees at last year's Governor's Conference on Downtown Revitalization will remember LaCrosse's large historic district, vibrant downtown business community, and riverfront improvements, all factors in the city winning this prestigious award.



Village of Ashwaubenon Receives Two Awards for Park and Recreation Complex

The Wisconsin Park and Recreation Association awarded its Park Design Award to the Village of Ashwaubenon, Park, Recreation, and Forestry department. The village also received the 2002 Daniel L. Flaherty Great Lakes Region Park Excellence Award for the Ashwaubenon Sports Complex.

The main emphasis of the Park Design Award program is to recognize excellence in innovation, functionalism, aesthetics, community benefits, maintenance, and environmental stewardship. The Daniel L. Flaherty award program is to recognize innovative designs, functionalism, aesthetics, maintenance, community benefits, and environmental stewardship on park & recreations throughout the industry. Rettler Corporation served as the Landscape Architect Design Consultant for the Ashwaubenon Sports Complex.

“Smart Growth” Success Story in Wisconsin Northwoods

By BRAD DAVIS, VANDEWALLE AND ASSOCIATES

A few years ago, a recurring theme began to emerge as residents and landowners gathered in the old schoolhouses, metal storage buildings and rural fire stations that serve as town halls for this “northwoods” community in northern Wisconsin. They were meeting to talk about the changes taking place around them. How sections and quarter-sections of forestland were being fragmented into private hunting grounds. How acres of farmland and open space were slowly being converted into residential lots and roads. How properties along the community’s lakes, rivers, and streams were being bought up for seasonal home or cabin development. Things were changing in this rural community, and folks were no longer interested in just grappling with growth. They understood that it was time to start thinking, talking, sharing, and visualizing what the future of Lincoln County should look like through a comprehensive planning process.

Lincoln County (pop. 29,000) lies at the edge of Wisconsin’s “northwoods” region, a place where the rolling pattern of farm fields, wetlands, and woodlots from the south meet the lakes, bogs and forests from the north. The County is home to more than five hundred lakes and two hundred rivers and streams, with the biggest river of them all—the Wisconsin—flowing through the center. It is home to the city of Merrill, the county seat with about 10,400 residents, and the city of Tomahawk with about 3,500 residents. The County is divided into 16 unincorporated townships, and includes an assortment of crossroad hamlets or centers. It is a place where the tourism brochures tout images of pine trees, fishing boats, water skis, and snowmobiles. And it is a place where more and more people are calling home, whether it’s for the summer, the holidays, or all four seasons.

From 1990 to 2000, the County’s population grew by 8 percent, and the total number of new homes grew by 12 percent. Much of this development occurred along the County’s main waterfronts (in 1990, over a third of the County’s housing stock was classified as “seasonal homes”). Non-residential development also accelerated in the County over the past decade, primarily focused along or near U.S. Highway 51—an emerging four-lane highway running through the center of the county. The County’s proximity to the Wausau urban area, and to other resort areas around Rhinelander and Minocqua, is also propelling growth. Other factors, including changing national demographics and lifestyles, suggest that higher levels of development activity will continue in Lincoln County in the future.

To better manage this on-going development pressure and anticipated growth, Lincoln County embarked on a county-wide planning effort that would result in the first comprehensive plan ever prepared for the county, and the first county-wide “Smart Growth” plan ever prepared in Wisconsin.

The County began the process in 1999 by appointing a citizen advisory committee to help guide County staff through the process. A year later, the County hired Vandewalle & Associates to help this committee and staff members prepare the County’s comprehensive plan, noting that the preparation needed to incorporate a “bottom-up” approach where each Town was involved in the process. Bringing the town residents and elected officials on board early in the process was a critical element to the planning effort, according to Dan Miller, Lincoln County’s zoning administrator. “The towns need to feel vested in order for the process to work and if they are to support implementation of the plan,” says Miller.

A ‘Quilt-Work’ of Town Plans

Fourteen of the County’s town governments participated in the planning process. Each of these towns crafted their own individual land use plan. These plans were formulated through the work of Town Planning Committees that worked directly with the consultant to conduct surveys, prepare newsletters, and hold meetings and visioning workshops. During the summer of 2000, meetings were held in town halls throughout the County to identify the key issues and opportunities facing each community. At some of these meetings, town residents were given disposable cameras and assignments to photograph images that captured the character of the community. The result of this assignment was a collection of images showing lakes, deer, junk vehicles, abandoned homes, cabins, farm silos, and billboards; these photos were sometimes labeled “the good,” “the bad,” and “the ugly.” Other town planning committees provided preliminary thoughts on desired future land uses in their community by drawing “bubbles” of different uses, such as areas appropriate for residential, commercial, or tourism development or areas appropriate for long-term preservation. Each of these participation exercises conducted at the town level offered new insights into the core values worth protecting in the County and proved critical to ensuring the success of the plan. “Without taking the pulse of the communities relative to their feelings regarding the various elements, we would have been guessing and the Plan would have been doomed,” said Miller.

Once each town land use plan was prepared and adopted, all fourteen planned land use maps were compiled to form a mosaic of the desired land development pattern throughout the county, essentially becoming Lincoln County’s planned land use map. Because each town plan was prepared under a single land use classification system and within a similar time period, there were not the inconsistencies in recommended land use types or densities along jurisdictional boundaries that often plague other countywide, multi-jurisdictional plans. This “bottoms-up” approach was also an important cost-saving measure for the County. “Because (the County) had so few financial resources to use in the process, the many people who volunteered their opinions

and direction to the content of the Plan were incredibly important,” said Nic Sparacio, the County’s assistant zoning administrator.

Preserving Northwoods Character

In covering all of the nine required elements of Wisconsin’s Smart Growth legislation, a common theme running throughout the *Lincoln County Comprehensive Plan* is the celebration and preservation of the regions “northwoods” character. This theme is captured in the photographs, graphics, and images contained on its pages.

Next Steps

One of the more anticipated outcomes of the County’s planning process was to lay the groundwork for overhauling the County’s zoning ordinance, originally adopted in the 1930s and substantially revised in the 1960s. The existing ordinance was out-of-date and out-of-step with the type of development occurring in the community. “By and large the ordinance we have today, is the same one adopted by the County Board in 1968,” Miller wrote in an article of *Das Land Blatt*, a newsletter that was created during the planning process to specifically focus attention on land use-related issues in Lincoln County. “Our (zoning) regulations, although they once supported the goals and vision of our local communities, are falling short of what these communities wish to promote and protect today.” Many county staff members are hoping that the momentum gained during the comprehensive planning process will propel the County Board to move forward on efforts to re-codify the current zoning and land division ordinances.

Since the plan’s adoption in October 2001, staff members have noticed the results of the comprehensive planning process. “(Now) it seems to me that decisions regarding land use seem to have some systematic review and basis for the decision, rather than just who is applying and whether the proposal gets a lot of complaints or not,” said County administrator John Mulder. Sparacio agrees, “since adoption, we have included the relevant plan recommendations in our reports for conditional uses and rezones. The zoning committee has followed town land use recommendations, specifically regarding the density of residential lots in rural areas and in the establishment of new commercial uses.” Overall, the planning process seems to have built a new trust between the County and town governments, said Sparacio. “It is a fragile trust, but is a vast improvement over the former relationship. A relationship between towns and the county, between the public and the County offices, and between the public and their elected representatives.”

Madison’s East Rail Corridor—Future Central Park?

BY JASON VALERIUS

The East Rail Corridor is a 177-acre strip of land that runs along East Washington Avenue between Lake Mendota and Lake Monona in Madison’s near east side. A hundred and fifty years ago it was predominantly wetlands, but in the early 20th century the cattail marshes were filled and it became Madison’s first factory district. Fifty years ago it was still a thriving industrial and rail center, but by 1970 most of the railroad tracks had been removed and many of the manufacturers had left. Today the area hosts a mix of commercial and industrial uses, but it continues to be plagued by vacant and underutilized lots.

The Corridor is part of the Marquette Neighborhood, and local residents have been looking at those vacant lots as potential parkland since the 1970s. A neighborhood improvement plan implemented in the 70s was successful at restricting through traffic and revitalizing its commercial corridor, but activists ran out of steam before parks could be created. The issue remained on the back burner for nearly 30 years, until the city announced plans in early 2000 to build a municipal service building and large parking lot in the heart of these vacant lands.

Local activists began pushing again for park space, and they scored big when they got the Urban Open Space Foundation (UOSF) to champion their cause. UOSF, founded in 1996, works to “preserve and enhance critical neighborhood lands and waters through acquisition, citizen-based stewardship, public education and technical assistance.” The organization immediately recognized the potential to develop a large public park in the East Rail Corridor. The first step was to block the city’s building plans, which they were able to do by making the case for a park. The city agreed to sell the property to USOF if they could raise \$600,000 in 10 days. The Capitol Times’ Evjue Foundation stepped in with the funding and by May of 2000 UOSF was the proud owner of a plot of vacant land sandwiched between two train tracks and surrounded by factories, parking lots and more vacant land.

As the USOF began promoting the public park idea, the city decided to establish a formal planning process for the entire East Rail Corridor. Representatives of the city and USOF disagree about who’s idea it was to develop a master plan for the entire corridor, but all agree that it is a good idea. In the early stage of the city’s involvement, some concern arose among park advocates because the city seemed to be considering a number of options that did not include a large public park. Tim Kabat, team leader for this project from the Madison Planning and Development Agency, explains that his agency had to consider all possible options. To avoid further confusion, and to ensure the success of the eventual

Decisions seem to have some systematic review . . . rather than just who is applying and whether the proposal gets a lot of complaints or not.

plan, public participation became a vital component of the planning process.

The first major step taken by the city was the formation of an Advisory Committee. Formed in December of 2000, this committee is comprised of 18 members, each of whom represents a different organized interest. Represented groups include the Marquette Neighborhood Association, USOF, the Plan Commission, Friends of the Yahara River, the Chamber of Commerce, Madison Gas and Electric, the Parks Commission and 11 others. Together they adequately represent the diverse collection of stakeholders in this project.

While the Advisory Committee worked on the overall land use plan, UOSF continued to focus on the public park element. In an effort to build support for a park and begin formulating a design for that park, UOSF sponsored a series of visioning workshops. The workshops were conducted over a three-day period in November of 2001 by Jones & Jones, a firm that specializes in architecture and landscape architecture. USOF and Jones & Jones organized 8 sessions that varied by location and time of day, and they recruited participants by advertising in newspapers and other media, posting fliers in stores and churches, and by utilizing email lists for a wide range of community groups. The open invitation resulted in 150 participants, all of who were pleased to have the opportunity to contribute to the process.

The visioning workshops were a valuable activity for several reasons. In terms of parkland and open space, the workshops ensured that these elements continued to be an important element of the East Rail Corridor plan. In terms of public opinion, the workshops did something that public hearings often do not—provide a genuine opportunity to contribute to the planning process. The city conducted regular public hearings to share the work of the advisory committee, but such hearings typically do not leave room for new ideas to be presented. Whereas the public hearings allowed people to react to existing plans, the visioning workshops began with a blank slate, asking “What would you like to see?” The workshops focused primarily on the park, but the recommendations that resulted have implications for the redevelopment of the entire corridor.

The UOSF completed the workshops and quickly compiled the results so that the information could accompany the Advisory Committee’s basic land use plan as it made the rounds for approval. The Advisory Committee unanimously approved their plan in December of 2001, and it received Plan Commission approval in March of 2002. The committee’s next task is to get into the nitty gritty details of the project. By early 2003 they hope to have completed recommendations regarding housing density and character, building design standards, park and open space design, and implementation details such as zoning changes and financing. UOSF is expected to have a continued role, both as a source of funding for open space acquisition and as a source of information about what residents want. The Advisory Committee intends to utilize the UOSF visioning results and conduct further such public participation events as they develop the plan in detail.

In the end, the parkland planned in the East Rail Corridor is not likely to resemble a “Central Park” so much as a nice neighborhood park. The land use plan approved by the Plan Commission designates 24 acres of land as park and open space, and 10 of those acres are existing bike and pedestrian paths. The primary new addition will be a 10-acre park spanning two city blocks between Baldwin St. and Ingersoll St. At 6% of the total land in the corridor, this falls short of the grand park schemes some have proposed, but it accomplishes the goal proposed 30 years ago: abandoned lots reclaimed as parkland.

The Urban Open Space Foundation can also claim a secondary victory for demonstrating another successful application of participatory planning. Their work earned high marks from the general public, who appreciated the outreach effort. Further, the input they received carries the weight of legitimate public opinion—a useful tool for planners and stakeholders advocating a specific end, as was the case here. Finally, their efforts generated academic interest at UW-Madison. Assistant Professor Marcus Lane of the Department of Urban and Regional Planning developed a course focused on public participation in the East Rail Corridor planning process. His students have worked with UOSF to collect input from school-age children about how the corridor should be redeveloped.

Though the end form of the East Rail Corridor remains an unknown, the planning process has so far been a success. Next time you are in Madison take a few minutes to drive through the area so that you know what it looks like now. When you come back in a few years you’ll be able to see for yourself the power of good planning.

The author would like to thank Hal Cohen of the Urban Open Space Foundation and Tim Kabat of the Madison Planning and Development office for their contributions to this article. For more on the Urban Open Space Foundation and their visioning workshops see www.uosf.org. Nancy Frank, editor of WAPA News serves as president of UOSF.



HNTB announces the appointment of Tom Dabareiner, AICP, to the position of urban planning & design group director for HNTB’s Wisconsin operations.

Tom also serves as WAPA’s Southeast District rep.

Charlie Casurier: *Continued from page 1*

for me.” Classic Charlie. This same confidence-building technique served to make Charlie a valued teacher in the UWM urban planning program. He started teaching sometime shortly after graduating, developing the program’s



The “Charlie for King” button

first historic preservation course. He taught in the program every year since that time. In recent years, Charlie coached fourth semester graduate students through their final projects working with neighborhood organizations and local planning departments.

Charlie was also a devoted husband and father of two daughters and a son. At the memorial service on May 1, Charlie’s daughter, Beth, gave the eulogy. Tom Dabareiner has captured the spirit of her words: “Charlie’s daughter Beth gave a eulogy filled with fond, and some humorous, remembrances of her father. (Like how Charlie would take the family on vacation to Disney World, driving the entire way from Wisconsin to Florida himself, at the speed limit, driving his children nuts in the process.)

“She closed by saying that in the past days, the family had watched the city remove diseased trees from their street. Some of the trees were still budding out, and green, but she knew that the trees had died inside. It reminded her of Charlie, how active and alive he had been until the very end. And she observed that the city is replacing the trees—that life continues—as her father believed. As we left the nave of the church, she handed each of us a piece of a tree branch about the size of a quarter, as a memento of Charlie.”

Charlie was our mentor, our colleague, and our friend. His absence creates a hole that can never be filled. But the memory of his life, his devotion, and his kindness will always be with us.

Through Charlie’s generosity, an endowed scholarship has been created in the Urban Planning program at UWM. HNTB, APA, and UWM are working together to coordinate gifts to support planning scholarships. In addition, memorials may be sent to the WAPA endowment fund, the Wauwatosa Historical Society, or the Wauwatosa East High School Band. For more information, please visit the www.wisconsinplanners.org or call Nancy Frank at 414-229-5372.

Law Update

BY RICHARD LEHMANN
WAPA Legal Counsel
Boardman Law Firm
Madison, WI
rlehmann@bscf.com

MAJOR TAKINGS CASE ISSUED ON April 23 BY THE UNITED STATES SUPREME COURT

The case involves a takings challenge to a 32 month total moratorium on development in the Lake Tahoe basin while a regional plan could be prepared.

By a six to three margin, the Court upheld the moratorium, and did so in language that strongly endorses planning, the need for time for studies, etc.

Much of the majority opinion resembles an *amicus* (friend of the court) brief written by Attorneys Bob Freilich and Tyson Smith of Bob’s Kansas City firm on behalf of APA’s national Amicus Committee, on which Dick Lehmann, AICP, counsel to the Wisconsin Chapter serves.

This was a big ticket case, with high powered groups filing amicus briefs and is an important win for planning.

The case is named *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Planning Agency* and can be found immediately at <http://www.supremecourtus.gov>, then go to opinions. Then go to latest slip opinions.

Planning Victories in Supreme Court & Senate

FROM APA CHAPTER NEWSLETTER REPORT

On April 23, the U.S. Supreme Court, in a 6-3 decision, provided a solid win for the planning process in the case of *Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency*. The issue at hand was whether or not a temporary moratorium on land development constitutes a taking of property. In a far-reaching decision, the Court found that the use of moratoria, in this case, as part of the planning process does not constitute taking of property requiring compensation to the landowner. Rather than forcing landowners and planning officials to rush through the development process, the Court’s decision affirmed the need

for communities to take the time to think things through and make informed decisions before breaking ground. APA had filed an amicus brief stating the view that planners need to have the ability to use interim development controls and temporary moratoria to avoid making decisions that could adversely impact the natural environment and surrounding communities.

On April 25, the U.S. Senate Environment and Public Works Committee, by a vote of 12-7, gave final approval to S. 975, the Community Character Act. This legislation recognizes that the federal government can be a partner with localities in building vibrant, livable places without intrusive federal mandates. The Community Character Act, introduced by Rhode Island Senator Lincoln Chafee, would provide a much-needed incentive to help states and localities initiate and implement smart growth planning strategies.

Read more about the APA Amicus Curiae Committee and APA's *Tahoe* brief at www.planning.org/amicusbriefs

Read more about the Community Character Act at www.planning.org/legislation

ENVIRONMENTAL DOOMSDAY

Bad News Good, Good News Bad

By Gregg Easterbrook, who is a visiting fellow at the Brookings Institution, Washington, D.C., and a senior editor of New Republic and Beliefnet, a contributing editor of the Atlantic Monthly and author of the 1995 book, A Moment on the Earth; The Coming of Age of Environmental Optimism, Viking Press. His new book is The Here and Now, St. Martin's Press, fall 2002. The following article appears in the Spring 2002 Brookings Review magazine, is reprinted with permission by the Brookings Institution Press, and was submitted by Russell Knetzger, AICP, Milwaukee, Wisconsin, who generously arranged for the permission to reprint the article here.

The iron law of contemporary environmental understanding in the United States is: Bad News Good, Good News Bad.

Though by almost every measure the Western environment at least has been getting better for decades, voters, thinkers, and pundits have been programmed to believe the environment is getting worse. Thus conditioned, Americans greet environmental bad news with a welcoming sigh as confirming the expected, while regarding environmental good news as some kind of deception. Bad News Good, Good News Bad.

During the 2000 presidential campaign, for example, much was made of Houston becoming the "smog capital

of America." But Houston's overall air quality was improving at the time. Houston became the nation's smog capital only because Los Angeles's air improved even faster, passing Houston in a race of positives. Perhaps the commentators who spoke as though Houston's air were getting worse did not understand the issue. More likely they did not want to understand, for cleaner air would violate the rule of Good News Bad.

Environmental lobbyists intent on raising money have a stake in spinning everything in alarming terms. (Everyone is aware that corporate lobbyists have financial stakes in the positions they advocate. Why the same isn't understood about environmental lobbyists numbers among the small mysteries of our moment.) And when environmental lobbyists depict all news as bad, most of the media reflexively echoes this line.

Arguably the greatest postwar achievement of the U.S. government and of the policy community is ever-cleaner air and water, accomplished amidst population and economic growth. The environmental record to date shows that government programs can make the nation better and safer without harming prosperity, that industry can be regulated in ways that benefit everyone, that public policy can work. Past environmental successes give reason to hope that future initiatives, such as greenhouse gas controls, will succeed too.

Yet the false perception of environmental decline, a package of views I call "instant doomsday", is promoted assiduously by the very environmental activists and political liberals who would likely receive much of the credit for these accomplishments were they properly recognized. To boot, voters would be shown a reason to believe that government really can accomplish things. Wouldn't that be welcome all around? Ah, but it would violate the law of Bad News Good, Good News Bad.

Cleaner Air

Most, not all, environmental indicators are now positive, at least in the United States and other Western nations.

Air pollution has declined at a pace that would be a national cause for celebration, were it not for Good News Bad thinking. (Most of the following statistics are for 1976-97. Subsequent data, due from the Environmental Protection Agency soon, are expected to show more decline in all categories.) Since 1976, the aggregate U.S. level of urban ozone, the main component of smog, has declined 31 percent. Airborne levels of sulfur dioxide, the main component of acid rain, have dropped 67 percent. Nitrogen oxide, the secondary cause of urban smog and of acid rain, has fallen 38 percent. Fine soot ("particulates"), which causes respiratory disease, has declined 26 percent. Airborne lead, considered the most dangerous air pollutant when the EPA was founded in 1970, has declined 97 percent. The EPA's "Pollutant Standards Index," which measures days

when air quality is unhealthy, has fallen 66 percent since 1988 in major cities.

As analyst Steven Haywood of the Pacific Research Institute has pointed out, during 1976-97, while the United States was cleaning up its air, its population rose more than 25 percent, its gross domestic product more than doubled, and its vehicle-miles traveled grew about 125 percent, all developments that might have been expected to worsen air pollution. What kept that from happening was a web of ever-stricter anti-emission regulations, ever-better technology (today's new cars emit less than 1 percent as much pollution, per mile traveled, as 1970 cars), and smart use of market forces. For example, the 1990 Clean Air Act Amendments allowed electric-power utilities to trade acid-rain permits to help them meet tougher standards. As a result, acid-rain emissions fell 50 percent during the 1990s, even as more coal, the primary source of acid-rain chemicals, was being burned.

Especially spectacular has been the improvement of Los Angeles air. The summer of 2001 was its cleanest on record. Los Angeles County has not had a "stage one" ozone alert in two years; during the 1980s, it averaged 70 stage-one warnings annually. In 2001, Los Angeles violated the federal ozone standard 36 times; during the 1980s, it averaged 165 violations a year. L.A. County officials had to issue 18 ozone "health advisories" in 2001; during the 1980s, the average was 130 a year. (And L.A. smog figures for the 1960s and 1970s were worse.) Despite the popular impression of L.A. air getting ever worse, Los Angeles smog has been declining on a pretty much linear basis since the 1960s.

Denver, New York City, and other major urban areas have drastically reduced the incidence of carbon monoxide--sometimes called "winter smog" in the past decade, amidst a welter of claims by environmental activists that "more and more cities are violating air standards." As the EPA makes its air quality standards progressively more stringent, cities may violate standards even as pollution levels go down.

Related Progress

Most other environmental indicators are similarly favorable. In 1970, only one-third of American lakes and rivers were safe for fishing and swimming, the principal water-purity standard of the Clean Water Act. Today the proportion is about two-thirds, and rising. Toxic emissions from U.S. industry have declined 42 percent since 1988 and not because production fled offshore. Domestic output of the petrochemical industry, the main source of toxic emissions, grew during the period. During the past two decades municipal wastewater treatment has become universal, while the ocean dumping of sewage sludge has been banned.

Boston Harbor, a decades-old source of dirty-water jokes, is on such a clean binge, thanks to the world's most advanced municipal wastewater treatment plant, that the harbor is already sparkling again and will be safe to fish and swim in soon.

Land disposal of untreated hazardous wastes has been banned, and no Superfund sites today imperil public health. Energy consumption has become more efficient in almost every category with the annoying exception of the sport utility vehicle. A long-term trend of "decarbonization" characterizes energy use in the United States, the European Union, and affluent Asian nations. All these societies are burning steadily less fossil fuel per unit of energy produced.

Other improvements abound. The forested portion of the United States is increasing, not shrinking. Appalachian forests, once expected to be wiped out by acid rain, are the healthiest they have been since before the industry era, with browsing species, such as deer, thriving. Farm erosion and runoff are both trending down, even as agricultural production keeps rising. The American bald eagle, gray whale, and peregrine falcon have been "delisted" from the Endangered Species Act, while the oft-predicted wave of extinctions of U.S. plants and animals has yet to materialize.

All these gains have coincided with unprecedented economic growth and improved living standards, proof that environmental protection and prosperity are wholly compatible. Gross pollution was necessary for economic growth a century ago; now it is not, though power plants continue to hum and factories to churn out goods.

Lingering Problem Areas

Two environmental trends in the West remain worrisome, habitat loss and greenhouse gas emissions.

Prosperity expands to fill the space available for construction. Though the built-up area of the United States is still much smaller than most people would guess, about 6 percent of US. land, the developed "footprint" of the country continues to expand. It must expand another 50 percent or so to accommodate the 50 percent population increase that the Census Bureau projects before the American populace stabilizes around mid-century. This means more sprawl. Before you say "I don't like sprawl," remember that sprawl is caused by population growth and affluence, and which of these, precisely, do you propose to ban?

More development will inevitably put pressure on wild habitats. The scattershot approach of creating national parks now and then ought to be replaced with more methodical land protection. Modest proposal: legislation requiring that for every new acre developed, another be purchased and placed into preservation status. (Costs of this idea would not be onerous, as wild acres sell for far less than development-grade land.)

And the scientific case for artificial global warming continues to strengthen. Though the nightmare scenarios beloved by alarmists still seem improbable, the world has warmed slightly--9 of the 10 warmest years of the past century were in the past 11 years--and there is scientific near-consensus that warming is likely to continue. The warming so far has caused no harm, but further warming might disrupt

the agriculture on which the world depends or spread equatorial diseases to higher latitudes.

This makes it common sense for nations to buy insurance by slowing the accumulation of greenhouse gas in the atmosphere. Most of the ways to slow carbon buildup involve improving energy efficiency and developing nonfossil power--both reforms that are needed regardless of what happens to the climate.

Today affordable progress against global warming seems inconceivable; but a generation ago, commentators called the Los Angeles smog problem unsolvable. Today no one has a financial incentive to find ways to reduce greenhouse emissions. Create a market incentive, and engineers and business whizzes would likely be brimming with ideas. Financial incentives might happen under the beleaguered Kyoto treaty. If not, the United States could move on its own by creating a system of "carbon trading," similar to the acid-rain trading system that was both effective and affordable.

Developing Countries

The favorable environmental trends in the West do not extend to the developing world. Increasingly the United States and the European Union approach pristine, while the impoverished parts of the world grow more polluted.

Gross air pollution from unregulated industry, from cars and trucks without Western tallpipe controls, from dirty gasoline and diesel fuels, and worst of all from indoor smoke--more than a billion people worldwide heat and cook with indoor fires--make air pollution in Lagos, Delhi, and many other developing-world cities worse than anything in the West since London in the 1950s.

For a third of the world's population, safe drinking water is a rarity--or an expensive luxury. In Indonesia, for example, the poor spend a significant fraction of their income to buy a few liters of safe water from vendors. Here, we pay pennies per thousand gallons. Wastewater treatment is often unknown: I've seen boys in Pakistan swimming in open sewage canals that run down city boulevards. All told, the number of children under the age of five who die each year in the developing world from gross air pollution and unsafe drinking water--two causes of death essentially eliminated in the West-- is larger than the number of deaths at all ages from all causes each year in the United States and the European Union combined.

One reason Americans and Europeans need to shed the instant-doomsday misperception of their own environment is so that they can turn their attention to the genuine environmental troubles of the developing world. Americans and Europeans won't support environmental aid to the developing world if they falsely believe their own air and water imperiled.

But both citizenries are generous and might back international environmental initiatives if they understood, first, that their own environments are being protected and, second,

the degree of human suffering caused by ecological problems in the impoverished world.

Western environmental lobbyists tend to downplay developing-world issues, both for fundraising reasons, people scared about their backyards are more likely to donate, and because what's needed by the poor who heat with indoor fires is clean electricity, and what's needed by the poor who buy water by the liter is central reservoir and purification systems.

Western environmentalists who would never dream of going without unlimited electricity and clean water condemn such big infrastructure systems as "inappropriate" for the developing world, fulminating about the evils of power generation and dams. Few views are more detached from the reality of human needs.

General ecological need, in turn, is reflected by the threat of species loss in the developing world. For it is not the industrialized West but the developing world--where deforestation continues--that may lose species in the 21st century. And unlike pollution, which can be reversed, species loss is forever.

The International Union for the Conservation of Nature, the most credible organization in this field, lists 180 "critically endangered" mammal species and 182 bird species, more than enough to justify emergency efforts for species conservation. But most work must be done in the developing world, not the West.

What's Ahead?

Is more environmental progress practical? Absolutely.

In the United States and European Union, most environmental regulations may be characterized as effective but cumbersome--too complex and not sensitive enough to market forces. Replacing complex rules (the Clean Air Act imposes dozens of separate standards on industrial facilities) with simplified performance goals might speed the rate of pollution reduction. Environmentalists and editorialists have been conditioned to denounce any streamlining of EPA rules as a "rollback," but what's the goal, rules or pollution reduction? Many areas of environmental law offer opportunities to use streamlining and market forces to allow more progress at lower cost.

Environmental law could also benefit from greater use of risk analysis and trade-off thinking. Millions of dollars may be spent to, say, eliminate the last part per quadrillion of dioxin from the emissions of papermaking plants, even though there is no evidence such minute amounts cause harm, and there are many better ways the millions could be spent. EPA Administrator Christine Todd Whitman just imposed a \$500 million Hudson River-PCB dredging cleanup on General Electric, which caused the river's PCB problems. She took the step although the harm from Hudson River PCBs is comparatively small and declining naturally anyway, and despite the fact there is no guarantee a fleet-sized dredging project will even work. It might make the situation worse

by stirring up buried PCBs.

Posit that General Electric was guilty of behavior for which \$500 million is the proper penalty. The money could be far better spent buying land for preservation, housing the homeless, or perhaps protecting the watershed that provides New York City's water supply. But the Clean Water Act as written does not allow such utilitarian tradeoffs. Many highly prescriptive environmental laws could sensibly be supplanted by a few simplified statutes which grant regulators discretion to pursue the general good.

For the developing world, bad as conditions are, there is reason to hope. Air pollution in Mexico City, one of the World's most polluted urban areas, has declined for each of the past two years, mainly because Pemex, the Mexican petroleum concern, has begun reformulating gasoline to reduce its inherent pollutant content. Mexico City has a long, long way to go to clear its air. But just a few years ago the city's situation was commonly described as desperate; now there is guarded optimism. Developments of that sort might be seen as something to celebrate, if it weren't for Bad News Good, Good News Bad.

[Visit Brookings on line: at www.brookings.edu]

Reprinted with permission by the Brookings Institution Press.

Smart Growth Successful When Planning Laws Are Updated

WASHINGTON, D.C.—A new national report released by the American Planning Association (APA) today shows that smart growth measures are most successful in states where planning statutes have been modernized.

To date, almost half of the states in the country have made limited to substantial changes to their planning laws while the other 28 states still guide the planning process with laws from the 1920s.

The report, *Planning for Smart Growth: 2002 State of the States*, finds that in many cases outdated planning laws are preventing states from effectively implementing smart growth measures to address urban sprawl, scattered rural development, farmland protection and other issues. As a result, unmanaged development is costing states millions of dollars in wasteful and inefficient expenditures.

While state and local governments bear the primary responsibility for enacting planning reforms to allow for smart growth, federal assistance is also needed. Farmer said budget problems and shortfalls in the states are likely to be the single most significant impediment to further state planning reform in 2002.

One pending proposal in Congress that would provide needed assistance and incentives to states and communities for planning reform, while still protecting local land-use authority, is the Community Character Act (H.R. 1433 / S. 975).

Other findings of the report, released in conjunction with APA's *Growing SmartSM Legislative Guidebook* and accompanying *Growing SmartSM User Manual*, include:

* **DE, FL, GA, MD, NJ, OR, PA, RI, TN, VT, WA and WI** have made moderate to substantial changes to their planning laws and are the furthest along in terms of implementing smart growth measures

* **AZ, CA, HI, ME, NV, NH, NY, TX, UT and VA** are pursuing additional amendments to strengthen local planning requirements, or they are working to improve regional and/or local planning reforms already adopted;

* **AR, CO, CT, ID, IL, IA, KY, MA, MI, MN, MS, MO, NM, NC and SC** are actively pursuing their first major statewide planning reforms for effective smart growth;

* **AL, AK, IN, KS, LA, MT, NE, ND, OH, OK, SD, WV and WY** have not made significant statewide planning reforms; and

* Governors of all political parties are calling for smart growth measures and planning reform efforts. Last year 15 Republican, 10 Democrat and 2 Independent governors made specific planning and smart growth proposals.

To download a free copy (PDF format) of *Planning for Smart Growth: 2002 State of the States* please visit APA's web site at www.planning.org. For information about the *Growing SmartSM Legislative Guidebook* and the *User Manual*, please call Denny Johnson at (202) 872-8611 or e-mail djohnson@planning.org.

Open Space Protection: Conservation Meets Growth Management

This paper from the Brookings Center on Urban and Metropolitan Policy is a comprehensive review of existing federal, state, and local open space protection programs and their role in shaping metropolitan growth. The report primarily finds that, despite their widespread use, programs to protect and conserve open space are rarely integrated with strategies to manage growth.

The full report is available in PDF format at <http://www.brookings.edu/dybdocroot/es/urban/publications/hollisfultonopenspace.htm>

Increasing Access to Housing for Low-Income Families

A new Issue Brief from the National Governors Association (NGA) Center for Best Practices focuses on state efforts to improve access to affordable housing for low-income residents. States can use several tools to increase access to housing for low-income families and to increase the affordable housing stock. The Brief provides some options for states to subsidize families' rental costs, promote homeownership among low-income families, and provide incentives for developers to build and preserve affordable housing units.

The Issue Brief is available in PDF format at www.nga.org/cda/files/032902HOUSING.pdf