

**CITY OF MENASHA
SUSTAINABILITY BOARD
Council Chambers
140 Main Street, Menasha**

Tuesday, June 15, 2010

6:30 PM

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE SUSTAINABILITY BOARD
(five (5) minute time limit for each person)
- D. MINUTES TO APPROVE
 - 1. [Sustainability Board minutes, 4/20/10](#)
- E. COMMUNICATIONS
 - 1. [Safe Routes to School update from Melissa Kraemer Badtke](#)
 - 2. [Best Practices of Sustainability Decision-Making and Planning for the Municipal Sector from Linda Stoll](#)
- F. Discussion
 - 1. [Develop list of ordinances, policies, and plans and assign work items](#)
 - 2. Project Planning: Goals for energy ([8-1-6](#), [8-1-7](#), [13-1-82](#), [13-1-83](#), [13-1-84](#)), transportation, waste management, purchasing
 - 3. [Open meetings law requirements as related to Board member interactions](#) –CA/HRD Pamela Captain
(Postponed until July 20, 2010 meeting)
 - 4. Municipal recycling collection (Kathy Thunes)
 - 5. Request for direction to New North Sustainability Committee (Linda Stoll)
- G. Action Items
 - 1. None
- H. Reports
 - 1. "Do Not Mail" Resolution (Earl Gustafson)
 - 2. Education of Municipal Staff (Greg Keil)
 - 3. Baseline Study (Greg Keil)
 - 4. Local Food Initiatives
 - a. [Farmers Market \(Greg Keil\)](#)
 - b. Community Gardens
 - 5. Transportation
 - a. Community Walk/Bike Committee (Linda Stoll)
 - b. Safe Routes to School (Greg Keil)
 - c. [Public Transit \(Roger Kanitz\)](#)
 - 6. Economic Development
 - a. First Impressions (Linda Stoll)
 - 7. Stormwater Management
 - a. Rain Garden Project (Greg Keil)
 - 8. Energy
 - a. Energy Conservation Challenge (Roger Kanitz)
- I. Adjournment

**CITY OF MENASHA
SUSTAINABILITY BOARD
1st Floor Conference Room
140 Main Street, Menasha**

DRAFT

Tuesday, April 20, 2010

Minutes

A. CALL TO ORDER

Meeting called to order at 6:35 by Chairperson Linda Stoll

B. ROLL CALL/EXCUSED ABSENCES

Present: Becky Bauer, Roger Kanitz, Sadie Schroeder, Linda Stoll, Kathy Thunes, Chris Bohne, Mike Dillon

Excused: Trevor Frank, Jill Enos

Also Present: CDD Greg Keil, Earl Gustafson, Ed Kassel

C. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE SUSTAINABILITY BOARD

(five (5) minute time limit for each person)

No one spoke.

D. MINUTES TO APPROVE

1. [Sustainability Board minutes, 3/16/10](#)

Motion made by Roger Kanitz and seconded by Chris Bohne to approve minutes of 3/16/10

Motion carried.

E. COMMUNICATIONS

1. [Global Conservation Act – Linda Stoll](#) Linda reported that she had received an email from Alderman Roush alerting her to the proposed act. Linda did not have time to fully evaluate the proposals contained in the act, and requested that this item be placed on the next Sustainability Board agenda.
2. Kathy Thunes distributed information concerning the availability of the St. John's convent for potential use by a nonprofit housing organization.

F. DISCUSSION ITEMS

1. [Open meetings law requirements as related to Board member interactions](#) Greg Keil reviewed the open meetings law summary prepared by the League of Municipalities. Board members had many questions concerning the law's applicability as related to information sharing. There was consensus to invite the City Attorney to the next Board meeting for clarification.
2. Leadership in Energy and Environmental Design (LEED) information - Chris Bohne
Chris presented an overview of the recently upgraded LEED for Existing Buildings and Green Building Operations and Maintenance Reference Guide. Chris stated that the City of Appleton is saving an estimated \$300,000 per year as a result of following these guidelines. Board members discussed potential application of these standards to City of Menasha municipal buildings.

3. 2010 Work Program/Project Planning
 - a. [Comments from Linda Stoll](#)

Board members discussed priorities including:

- Completion of Baseline Energy Audit
- Continuation of Department Head/Supervisor training on sustainability practices
- Conducting a sustainability review of municipal ordinances, operations and practices
- Incorporating sustainability goals into the Comprehensive Plan
- Creating a means of measuring progress on sustainability initiatives
- Completion of the First Impressions program
- Maintaining/enhancing the Farm Fresh Market

Greg Keil is to compile a preliminary listing of city ordinances and related practices that should be assessed against sustainability goals for improving operations and outcomes.

- b. [Comments from Jill Enos](#)

This item was held as Jill was not able to attend this meeting.

4. Home and building energy conservation initiatives. (See Discussion Item 7)

5. [Sustainability Board input on Comprehensive Plan Review](#)

Roger Kanitz proposed that the Comprehensive Plan be amended to incorporate goals for reduced energy consumption.

Motion made by Roger Kanitz and seconded by Mike Dillon to recommend to the Plan Commission that goals for sustainable municipal practices be incorporated into the comprehensive plan.

The motion carried.

6. ["Do not mail" resolution](#)

Sadie Schroeder summarized the Forest Ethics position supporting the adoption of a "Do Not Mail" resolution. Earl Gustafson from the Wisconsin Paper Council commented on the paper industry's interest in this topic as it relates to potential impacts on the industry he represents. Earl offered to provide information supporting the industry's point of view for the Board's consideration at its next meeting.

7. [Biggest Loser Energy Conservation Challenge – Roger Kanitz](#)

Roger reported that he had been working with Larry Roth, who originated an effort to promote a residential "Biggest Loser" competition as related to residential energy consumption. A meeting was held with Menasha Utilities to discuss implementing such a program in the city. This effort is to be continued.

G. ACTION ITEMS

1. [Resolution supporting "Active Community Transportation Act of 2010" \(Rails to Trails campaign\)](#)

Greg Keil summarized the provisions of the act that if adopted, will create funding opportunities for enhancing walking/bicycling/transit facilities in communities.

Motion made by Kathy Thunes and seconded by Roger Kanitz to recommend Active Community Conservation Act 2010 to the Common Council.

Motion carried.

2. Set next regular meeting date
Next meeting set for May 18, 2010

H. REPORT OF COMMISSIONERS & STAFF

1. Valley Transit Update (Roger Kanitz)

Roger reported on ongoing efforts as related to the authorization of Regional Transit Authority legislation.

2. Department TNS presentations/Sustainability training

3. Safe Routes to School update

Kathy Thunes stated that bike helmets are to be offered as part of the Bike to Work Week promotion.

4. Rain Garden demonstration project update

Becky Bauer offered to have High School students involved in the planting of the rain garden. The date is to be determined.

5. Office of Energy Independence Energy Efficiency & Conservation Block Grant update

Greg Keil reported that the City of Menasha was awarded \$208,000 for HVAC upgrades at the Public Protection Facility and for street lighting efficiency upgrades.

I. ADJOURNMENT

Motion made by Mike Dillon, seconded by Roger Kantiz to adjourn at 8:45PM.

Minutes respectfully submitted by Community Development Director Greg Keil

Greg M. Keil

From: Melissa Kraemer Badtke [mbadtke@eastcentralrpc.org]
Sent: Monday, May 10, 2010 2:47 PM
To: Melissa Kraemer Badtke
Cc: Mike Patza
Subject: Safe Routes to School Updates

Good morning~

I hope that everyone has been able to get out and enjoy the weather. Please see the following updates on the Regional Safe Routes to School Program.

Reminder on the Parent and Student Surveys

Just a reminder that the parent and student surveys should have been completed the week of April 19th. You can return the surveys to East Central and we will send them in to be tallied. We will be dropping of Bike to School Day kits through out this week and we can collect the surveys at that time. Please remember that if you do not have your surveys done ***you will not receive a bike to school day kit (Note: If you have completed the National SRTS parent surveys in the last year, you do not have to do those. We are asking that all schools complete the student surveys. Thank you).*** If you have questions regarding the surveys, please contact Melissa Kraemer Badtke at 920.751.4770.

Bike to School Day - May 20, 2010

Bike to School Day is Thursday, May 20, 2010. The Bike to School Day Kits are now available and we will be dropping them off within the next two days. You will find a variety of materials in your kit including bicycle helmets, water bottles, a bike to school day guidebook, WisDOT bicycling materials, and a few other things. ***Please let us know what activities you are planning on doing for Bike to School Day. We are trying to coordinate some media and newspaper coverage with local television stations and newspapers.***

Bike Giveaway - Bike to School Day - Evaluation

We will be sending out a survey to see what activity or activities your school participated in. We are also going to ask you to evaluate the kit and please let us know what you would like to see in the kits or if there are any other resources/activities you would like to have for next year. Schools filling out a survey will be entered in to a drawing for a bike. We will be giving away 6-10 bikes.

WisDOT Safe Routes to School and Transportation Enhancement Grant Update

WisDOT Safe Routes to School and the Transportation Enhancement Grants will be released after Memorial Day (early June). The application period will be open for 6-8 weeks and it is anticipated that all grant awards will be announcement in the Fall of 2010. I will send out an email when the applications are available. For more information, please visit the WisDOT's website <http://www.dot.wisconsin.gov/localgov/aid/saferoutes.htm>.

Mark your Calendars - Regional SRTS Stakeholders Meeting

The next Regional SRTS Stakeholders meeting will be held on ***Tuesday, August 17th, 2010***. The location and the agenda will be forthcoming.

If you have any questions, please do not hesitate to give me a call (920.751.4770).

Melissa Kraemer Badtke
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Safe Routes to School Coordinator
East Central Wisconsin Regional
Planning Commission
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Best Practices Scan of Sustainability Decision-Making and Planning for the Municipal Sector

Summary Report
May 2009

Prepared by
Pong Leung of The Natural Step Canada
Design by Sean Rioux

Background

Under the Federal Gas Tax Agreement, municipalities are required to develop an Integrated Community Sustainability Plan (ICSP) to accelerate the shift in local planning and decision making toward a more long-term, coherent and participatory approach. An ICSP is a strategic business plan for the community that identifies short, medium, and long term actions for implementation, tracks and monitors progress, and is reviewed and revised regularly.

In preparation for the development of its ICSP, the City of Saskatoon, Canada asked The Natural Step to perform a scan of the best practices of leading municipalities with respect to integrating sustainability into governance and decision making.

This document contains excerpts from The Natural Step's Best Practices Report.

Approach and Process

The work was guided by two well researched and proven frameworks for sustainability, strategic planning and governance. The first is Doppelt's Wheel of Change, which outlines best practices in sustainability and governance¹. The second is the Framework for Strategic Sustainable Development, commonly known as The Natural Step Framework www.thenaturalstep.org/en/canada/applying-framework.

For the external scan, three municipalities were selected based on their successful work with integrating sustainability into decision making and governance systems. These were:

- Halifax Regional Municipality (Nova Scotia)
- The District of North Vancouver (British Columbia)
- The Region of York (Ontario)

Key staff in these municipalities were asked to fill out a questionnaire, which was followed by interviews to learn more about their work.

¹ Doppelt, Bob (2003) Leading Change Toward Sustainability: A Change-Management Guide for Business, Government and Civil Society. Greenleaf Publishing.

This section provides a summary of best practices for integrating sustainability into decision making and governance.

The best practices are presented in a loose chronological order to help provide guidance to the reader; however, they should not be considered steps in a process.

- The first four best practices speak more to leadership commitment and elements that need to be in place to successfully integrate sustainability into governance systems.
- The next four speak more to engaging the rest of the organization in the sustainability efforts and integrating sustainability into governance systems.
- The last two speak to engaging the broader community and the process of continuous learning.

Best Practice #1: Create a shared understanding of sustainability that can be integrated into the long term goals of the community.

- In the early 2000's, HRM identified "a Healthy, Sustainable, Vibrant" community as one of its four major corporate themes. They felt that using an independent group like The Natural Step (TNS) and its Sustainability Principles was helpful because of its tried and proven rigour to help build a common understanding of sustainability.
- Prior to 2006, the Region of York produced a long term vision document, *Vision 2026: Towards a Sustainable Community*, that outlines the sustainability vision for the community and signals the commitment of the organization. In addition to staff dialogues, the Region held a multi-stakeholder sustainability symposium with 120 community leaders to learn about and explore sustainability from a broader community context. This was done to include the public in the dialogue, and a Towards Sustainability Advisory

Group was established to provide ongoing input from community leaders. The Region also spent considerable effort in engaging Council to raise awareness and its understanding of sustainability. This included discussing sustainability in reports to Council, and showing how it would help address key issues within the Region, (e.g. in the context of ongoing growth management). It was important to increase awareness and understanding of sustainability among all three stakeholders (i.e. the public, Council and staff) at the same time because engaging one makes it easier to engage the others.

- At DNV, Council adopted The Natural Step Framework as a policy to guide long-term strategic planning in 2004. This provided a strong policy to help with decision making and planning and sent a signal in terms of leadership and intention. They also identified a vision to "become one of the most sustainable communities in the world by 2020". The TNS Framework was considered useful, but alone was not sufficient in their context. Specifically, they found that they needed to put sustainability into the context, language and culture of DNV, and they worked quite hard on that aspect of it. It was important to have a "foundation" (e.g. having a vision, mission, values) to build upon where sustainability could be integrated, rather than having sustainability treated as "another issue" to deal with. To assist with this, they engaged the organization in developing a set of core values.

* Please note that interviewees noted the importance of not only having a shared with 'definition of sustainability, but, more importantly, providing the training, decision-making support and incentives for people to take meaningful steps to apply that definition to their work. Otherwise people may be confused by or even resistant to sustainability because they don't know how it relates to their jobs.

Best Practice #2: Establish sustainability as a corporate strategic priority, meaning it is a priority of the Council / CAO, signaling that all departmental business plans need to reflect how they address it.

- At HRM, Environmental Sustainability has been identified as a one of six corporate strategic priority areas set by the Chief Administrative Officer (CAO), meaning that all departmental business plans need to explain how they are helping to achieve it in support of the Regional Council's priorities. This is critical because it sends a message to the entire organization that sustainability is important and that resources should be dedicated to it.
- At the Region of York, in 2006, Council adopted a sustainability strategy with over 100 actions. All strategies and documents are analyzed from a sustainability perspective to develop a series of sustainability principles for major plans. Plans need to demonstrate how they are complying with these principles in order to be in line with the community's longer term sustainability vision, including the transportation master plan, water master plan and so on. Staff reports to Council also include their progress on sustainability.
- At DNV, strong emphasis has been placed on having sustainability integrated into everyone's job and woven into the corporate culture (i.e. "the way we do business") rather than having it be a standalone issue that is part of only one or a few people's jobs. Key to this was senior level support and messages from the Mayor and senior management to reinforce that sustainability is part of everyone's job. The "foundation", from above, acts as a guide to help people integrate sustainability into corporate work plans.

Each of the municipalities who took part in the surveys and interviews also took steps to understand sustainability in the context of their own operations by creating corporate action plans in order to better understand sustainability and demonstrate a leadership role to the rest of the community. This is further elaborated upon in the following sections.

Best Practice #3: Constantly and persistently communicate the sustainability need, vision, strategies, priorities, etc.

Ultimately, communication is linked very closely to senior commitment, both by Council and Senior Management. All survey and interview participants commented on the importance of knowing that "the top" sees sustainability as important, in particular via actions that demonstrate this.

- HRM has created visible ways to communicate the "why" and "how" of sustainability. For example, HRM uses its "Naturally Green" brand to communicate its sustainability initiatives. A number of newspaper special features each year, websites, newsletters, public workshops, T.V. and radio ads are branded through Naturally Green. In addition to media-related communication, the sustainability message was also communicated in other highly visible ways, for example, the CAO's Award of Excellence (a very visible and prestigious event) was given to three people for their sustainability work. The top priorities identified in their corporate sustainability analysis (see below) were constantly communicated to and by leadership and staff via newsletters, internal websites, and conversations to keep people engaged. It was important to focus on only a few priorities, because having too many makes it difficult to communicate.
- At DNV, there is a constant need to communicate the rationale and strategies for sustainability to Council. For example, staff reports to Council often try to connect to sustainability objectives. They discuss sustainability-related topics during "policy nights" (time for open dialogues with Council about policy). These discussions include the corporate sustainability plan, sustainability at the municipal level, new ways to report and communicate, official community plan review, etc.
- At the Region of York, to communicate the importance of sustainability and show leadership support, the CAO weaves sustainability into his presentations and discussions. Having corporate leaders on Council and staff is critical.

Best Practice #4: Establish the sustainability initiative within a part of the organization that has credibility with the rest of the organization to lead it, so the sustainability initiative is not seen as “one department telling another what to do”.

- At HRM, the development of the corporate analysis was coordinated out of the Sustainable Environment Management Office (SEMO) which serves as a coordination body for HRM’s sustainability initiatives. This office was set up on behalf of the CAO to provide corporate leadership and direction on environment and sustainability related policy, strategy and meaningful actions, including an integrated systems approach to clean air, land, water and energy issues. It is headed by a former GM of Parks and Natural Services who has credibility with departmental staff, and headquartered in the Infrastructure and Asset Management Department. It frequently reports to both the deputy CAO and Council on sustainability matters, although it officially reports to the director of the department.
- At DNV, responsibility for their corporate sustainability initiative currently resides in the CAO’s office with the Manager of Corporate Planning and Projects, because the DNV sees sustainability as part of its corporate long-term strategy and integrated into all functions of the municipality. Cross division leadership and coordination is done at the highest level within the Senior Management Team.
- At the Region of York, the coordination of the sustainability project is steered by both the office of the CAO and the planning department, who in turn report to the Senior Management Team. There is also a cross-departmental technical group who coordinate the many activities across the organization.

Best Practice #5: Conduct a corporate-wide sustainability analysis to identify key priorities and cross-cutting

themes that act as a focus for multi-departmental initiatives.

- In 2004, HRM performed a corporate-wide sustainability analysis to identify gaps and opportunities at the municipality. 25 managers from 13 departments were involved in the analysis to learn about use of energy, water, land, materials, transportation and about social sustainability. A total of 14 different recommendations were identified, and staff prioritized three key recommendations around procurement, buildings and corporate culture. The top priorities were constantly communicated to and by leadership and staff via newsletters, internal websites, conversations and so on to keep people engaged. It was important to focus on only a few priorities, because having too many priorities makes it difficult to communicate.
- At DNV, one of the key early steps was to develop a framework where the organization could simply understand all the activities it was working on and how each was helping the municipality to meet its sustainability objective, because they have a rich staff history and experience in sustainability. Subsequently, they have performed a corporate sustainability analysis using The Natural Step Framework to better understand their current performance and how current initiatives help them meet their objectives. The baseline analysis was used to help generate actions and identify priorities and recommendations for Council. In addition, the DNV continues to perform more specific analyses such as energy audits, a water balance audit and a pilot green building program analysis that complement and dig deeper than the broader baseline analysis.
- In the Region of York, in 2006, over 90 members of its management team including the CAO and senior managers participated in a sustainability think tank to deepen their understanding of sustainability and to explore how the region could become a more sustainable community. This was also complemented by additional training sessions.

Best Practice #6: Establish teams consisting of people across the organization and from different levels of management to support the analysis and its implementation.

- At HRM, to support the development of actions in the key priority areas, a cross-departmental Sustainability Transition Team of 20 was created including members of senior management, middle management, and “rising stars” in the organization. This has helped to facilitate faster decision making, cross pollinate information and knowledge, and support and promote sustainability throughout the Corporation.
- At DNV, to perform the corporate sustainability analysis and action plan, cross-division project teams were established with 45 people in the organization, including senior staff and managers in all divisions and departments. These people went through training, both online and in-person (three workshops), and also worked on the analysis and action plan. A “core team” of 17 people did further work to go deeper in the analysis work. Beyond this project, cross-division leadership and coordination is done at the higher level, i.e. within the Senior Management Team. Cross-divisional teams were found more useful when there was a project to support their work.
- At York, the coordination of the sustainability project is steered by both the office of the CAO and the planning department, who in turn report to the Senior Management Team (SMT). There is also a cross-departmental technical group who coordinate the many activities across the organization.

Best Practice #7: Establish a sustainability training program to help people understand what sustainability is, why it is important and how to integrate it into their work.

- Recently at HRM, 200-300 people from several departments participated in a series of training sessions to further integrate sustainability into HRM’s corporate culture, including both in-person workshops and online training. A common language around sustainability was mentioned as an important outcome of the training. All sessions provided training at the introduc-

tory level, mainly via online learning. This is followed by training more tailored to staff members’ functions. (e.g. green procurement training was provided to all procurement staff in the form of workshops, webinars, and informal “lunch and learns”. Procurement department training has contributed to empowering staff to seek out information on eco-labels, ask related questions of vendors, and look for more sustainable options.

- At the DNV, as part of the suggested next steps from the corporate sustainability analysis and action plan for their sustainability initiative, they will be recommending a broader training program to raise awareness.
- As part of the strategy to create a corporate culture around sustainability the Region of York has launched a broad employee training program on sustainability. So far, 120 staff have taken the 1.5 day course, and another 120 are planning to in the future. This course was developed in conjunction with York University, with help from The Natural Step.

Best Practice #8: Integrate sustainability into policies and procedures so that sustainability becomes “the way things are done”.

- Currently, HRM is developing, piloting and refining a “sustainability filter” to integrate sustainability into ongoing decision-making that can be applied to different types and scales of decisions within HRM. The fundamental purpose of the filter is to provide a science-based, easy-to-use and understand tool / protocol to help assess the sustainability of major corporate decisions, actions, purchases, etc. This tool is being developed via pilot initiatives throughout HRM to make sure that it is a tool that reflects the needs of the municipality. Pilot projects exist with capital projects, cleaning supplies, and so on. The goal is to develop one tool that can be used in all situations. In addition, their procurement policy, which currently clearly directs and empowers the municipality to procure goods and services in a sustainable manner, will be updated this year to include more current guidance and relevant language regarding sustainability.

- The Region of York has been increasingly integrating sustainability into annual business plans of 15 to 16 business units. Sustainability targets will also be incorporated into performance agreements of senior staff.
- At DNV, to help with prioritizing and decision making, they have developed a simple tool to act as a decision-making filter that asks the user to explain how the action helps the municipality achieve its sustainability vision. They have used this tool to scan over 300 proposed actions and have narrowed them down into 16 priority actions to move forward. They will continue to develop additional filters to help in decision making. They are exploring strategic planning and reporting software to help link their high-level vision and foundation pieces to departmental business plans via policy goals and measures.

Best Practice #9: Connect with stakeholders outside of the municipality to create a critical mass of people engaged in sustainability.

- In 2007, HRM joined 13 other municipalities, organizations and businesses from across Atlantic Canada in the Atlantic Canada Sustainability Initiative (ACSI). HRM was a founding member of this collaborative initiative, which was launched to help build a critical mass towards local and regional sustainability by establishing a sustainability learning community throughout the Atlantic region. As well, the procurement department often works with and empowers vendors to help with identifying solutions and options, by asking relevant questions and being open to new possibilities. They also collaborate with the provincial procurement department to develop joint product specifications for janitorial products and services. This met resistance at first from suppliers, but then the “market adjusted”. This approach ensures consistency and fairness in expectations of the market.
- In 2006, the Region of York held a multi-stakeholder sustainability symposium with 120 community leaders

to learn about and explore sustainability from a broader sustainability context. This was done to include the public in the dialogue. A Towards Sustainability Advisory Group was established to provide ongoing input from community leaders.

- At DNV, they are currently preparing for a review of their official community plan (OCP) in the form of an ICSP, and hope to start with the development of a community vision in the spring. Currently they are working with group of 30 community leaders to give advice to help develop the process for the OCP review process. In addition, cross divisional multi-disciplinary teams will be established to undertake planning analysis and policy development and gear up for the public engagement process.

Best Practice #10: Report on progress and learn from the journey.

- The Region of York has a report card, *Vision 2026: Towards a Sustainable Region*, which measures and demonstrates progress towards their sustainability goals to help them celebrate success around sustainability and to inform a continuous improvement process. As well, they have invited a number of outside organizations (e.g. York University, The Natural Step, local stakeholders, etc.), to review their sustainability work to see if they have missed something and to continually improve their work.
- To measure and report progress, HRM uses a wide range of tools such as their *State of the Environment (Sustainability) Performance Report* and ecological footprint reporting. They also participate in national surveys such as the Corporate Knights National Sustainable Cities Survey.
- At DNV, one of the key lessons shared is that there is no prescribed path for the sustainability journey and that you learn along the way.

Discussion on Common Barriers

This section provided a summary of common barriers that are often encountered by municipalities looking to integrate sustainability into decision-making and governance.

- The presence of skeptics about the need for sustainability in an organization may act as a barrier, in particular if they are in senior positions. To overcome this, there needs to be lots of discussion to understand what people's concerns are and to address them.
- The relative lack of understanding of the more integrated, more complex nature of sustainability. This reinforces the importance of training, education and awareness building.
- The perception that sustainability is "another thing that I need to do" rather than seeing it as an integrated part of the way that the municipality does business. This speaks to the importance of leadership commitment and integrating sustainability into policies and procedures to provide rewards and incentives to pursue sustainability.

Discussion on Lessons Learned

This section provided a summary of the lessons learned by municipal officials based on their experiences with integrating sustainability into decision making and governance.

- It is a journey that you can't specifically prescribe and a path that takes many turns, but overall the main thing is to feel that it is going in the direction you want to go. It is really a lesson in adaptive management and is sometimes messy. We are all learning along the way.
- The importance of communicating specific benefits to people, community, and council. This must be done simply and in a manner that individuals can easily relate to. Explain what the problem is and how it can be solved in a manner that will make their lives more 'full'. Visually

communicating things is also important.

- Need champions from council, staff and community levels. Senior leadership is critical.
- You do need a good foundation (i.e. current vision, mission, current set of broad corporate goals), because it is much easier to layer richer ideas on top of that.
- While taking a broad approach in building the corporate culture, and encouraging bottom-up generated growth and change, the organization must identify priorities and ensure that resources are allocated appropriately to ensure larger opportunities are captured. Stay focused on key priorities.
- You have to keep communicating on sustainability and need to be very persistent and keep peeling down to deeper levels of understanding. This holds true for all stakeholders.
- Initiatives need to be action oriented, so don't get caught debating the rhetoric. A helpful method is to approach it from the business case perspective for sustainability, i.e. sustainability will help us make better business decisions.
- Sustainability can provide a greater profile for the community. This helps the municipality with its visibility and promotion and gives a much deserved pat on the back to councilors. Ultimately it helps them to better compete on a national and global stage.

Conclusion



This report is an excerpt from The Natural Step's Best Practices Scan of Sustainability Decision-Making and Planning Report, originally prepared for The City of Saskatoon to support their ICSP process. For more information on the municipalities described in the Best Practices section, please visit the links below.

District of North Vancouver

www.district.north-van.bc.ca/

www.thenaturalstep.org/en/district-north-vancouver-bc

Halifax Regional Municipality

www.halifax.ca/

www.thenaturalstep.org/en/city-halifax-ns

Region of York

www.york.ca/





The Natural Step Canada is a national not-for-profit organization that provides training, coaching and advice on how to advance the practice of sustainability. Our mission is to connect every leader in Canada with the inspiration and education they need to integrate economic, environmental and social priorities into their planning and decision making. We offer a clear, compelling, science-based understanding of sustainability and a practical strategic planning framework to help organizations make the choices that will move them toward sustainability.

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CAMIROS

#35

CONSULTANTS IN PLANNING, ZONING, ECONOMIC DEVELOPMENT AND LANDSCAPE ARCHITECTURE

IN THIS ISSUE...

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- Staff News 5
- Project Updates 6

Old green roof in Romania



New green roof in Chicago

What goes around comes around! Sustainable concepts such as green roofs aren't necessarily new. Many have been forgotten during our embrace of technology, only to be rediscovered as our needs and values change.

SUSTAINABILITY AUDITS FOR RESPONSIBLE ZONING

It seems that “sustainability” is in the air. Every planning and design article argues for sustainability. Every plan that we draft or read includes sustainable actions. Sustainability is important. But how do we go about making city development sustainable? We suggest that sustainable development is the way we manage our policies and our regulations to improve the quality of human life so as to live within the carrying capacity of our environmental systems.

Ethically, urban planning and development policy has always been concerned with sustainability. What planner thinks of their work as purposefully depleting or permanently damaging natural and human resources? What planning professional or civic leader purposefully supports a pattern of sprawling urban development? But if these concerns remain only a policy, it is difficult to assure that sustainable objectives can be

achieved. To do so we need to look to regulation, and no one set of regulations offers more potential to positively address sustainability than the zoning ordinance.

While traditionally developed for the purpose of regulating land use impacts and achieving specific community land use policy, the requirements of municipal ordinances impact the natural environment and the type and amount of energy consumed within a community. For example, zoning and subdivision regulations structure a community's pattern and style of housing development, its level of walkability, the demand upon its natural systems, and the type of transportation services required. From this perspective, it is clear that development regulations, and the policies that undergird its structure, represents a potent tool to help a municipality create an energy efficient, and more sustainable, community.

(continued on page 2)

(continued from page 1) The assessment of a zoning ordinance for sustainability policies is a complex endeavor. We are all familiar with the notion of unanticipated consequences, and nowhere does it play out as completely as in zoning. A change in one regulation may inadvertently affect another. For example, in order to accommodate parking, we tend to excessively pave areas resulting in increased runoff. We limit the types of accessory uses permitted on a lot, which often restricts the use of renewable energy devices and technologies. We do not include flexibility in ordinance regulations that would allow for adaptive reuse of existing structures. These requirements were not established to purposefully conflict with sustainability goals, but they resulted from trying to meet specific community goals. However, creating sustainable, energy efficient places requires us to test the impact of commonly held assumptions to be sure that our plans and ordinances do not produce such unanticipated consequences.

To that end, sustainable development policy, and the resulting regulation, needs to comprehensively address all quality of life issues within an ordinance. And, sustainable development regulations need to reach beyond direct environmental impacts to consider how land use regulation:

- Accommodates alternative energy sources
- Increases walkability, encourages biking and fosters choice in transportation
- Provides public transit linkages
- Allows for and incentivizes green building techniques
- Incorporates sustainable landscaping and stormwater management
- Protects natural resources

One way to make this assessment is to undertake a “sustainability audit” of the development regulations. The audit reviews all of the community’s ordinances and assesses the roadblocks and omissions to renewable energy and broader issues of sustainability by uncovering those regulations that can be labeled “unsustainable.” The ordinance is reviewed through

the lens of sustainability, and a series of potential revisions and additions is compiled. Once the audit is complete, one can suggest how to best tackle the issues identified through changes in regulation or in broader community policy.

The core of the audit process is a broad review of the ordinance to assess how regulations should allow for and encourage a variety of sustainable and green development techniques, improve opportunities for renewable energy, and take advantage of existing resources. This can range from large-scale development concepts like traditional neighborhood development and conservation design to regulations and permissions for site-specific elements like solar panels, wind turbines and the use of pervious pavers. Sustainable ordinances should:

1. Reduce barriers to sustainable development
2. Create incentives for new development, as well as flexibilities for the retrofitting of existing development, to incorporate sustainable design and technologies
3. Set standards for these techniques that make permissions clear and address potential impacts
4. Measure and quantify the results of implementation over time

More specifically, a sustainability audit focuses on the following areas:

1. Permitted accessory structures, including alternative energy technologies
2. Emerging “green” principal uses
3. Permitted densities
4. Sustainable development techniques, both small-scale and large-scale
5. Adaptive reuse and retrofitting of existing structures
6. Incorporating green building techniques, including the ability to incentivize their use and monitor their efficiency
7. Landscaping and stormwater management

(continued on page 4)

(continued from page 2) Camiros has developed the following checklist for an ordinance audit. The product of this audit should be a list of changes or additions to an ordinance, or a guide to drafting a new one. This evaluation often suggests

ways to restructure broader urban development policy as well as the details of ordinance regulation. The audit is a practical way to address community-wide goals to improve the quality of life for all citizens.

Focus	Strategies	Examples of Actions
Accessory Structures	<ul style="list-style-type: none"> Allow for various sustainable accessory structures and alternative energy solutions Retrofit existing ordinances to accommodate these uses Create standards to mitigate their impact, both performance-based and aesthetically-based 	<ul style="list-style-type: none"> Solar panels Geo-thermal energy systems Wind turbines Cisterns and rain barrels Exterior lighting standards to minimize light pollution Recycling bins
Emerging "Green" Principal Uses	<ul style="list-style-type: none"> Allow for new principal uses related to emerging alternative energy Retrofit existing ordinances to accommodate these uses Define the balance between development policy within districts & the impacts of these uses Create standards to mitigate their impact, both performance-based and aesthetically-based 	<ul style="list-style-type: none"> Solar and wind farms Geothermal plants Recycling facilities Composting facilities Community gardens and urban agriculture Local food production facilities Farmer's markets
Permitted Densities	<ul style="list-style-type: none"> Evaluate the permitted density in all districts to see if they match what can be accommodated or should be allowed Assess whether there are older development policies in the current ordinance that do not reflect an existing denser pattern of development 	<ul style="list-style-type: none"> Increase the permitted density where a range of services are available, creating a mixed-use environment Implement "minimum" densities for new development in certain areas Density bonuses for incorporating sustainable development techniques
Sustainable Development Standards: Small-Scale	<ul style="list-style-type: none"> Evaluate current standards to assess if key aspects of sustainable development are addressed Incorporate new standards for alternate modes of transportation Revise parking standards to reduce auto-orientation and auto-dependence where appropriate 	<ul style="list-style-type: none"> Impervious surface and lot coverage requirements Pervious materials permissions Building siting requirements for passive solar access Parking alternatives: shared parking, cross-access agreements, land banking Parking maximums and parking prohibitions Car-sharing permissions and incentives
Sustainable Development Standards: Large-Scale	<ul style="list-style-type: none"> Include development requirements that take advantage of existing services Create protections for natural resources Evaluate subdivision regulations to eliminate unsustainable requirements and incorporate flexibilities Encourage innovative development practices 	<ul style="list-style-type: none"> Requirements for mixed-use, TOD or TND development in key areas Requirements for conservation design for areas where natural resource preservation is needed Incorporate "complete streets" design
Adaptive Reuse of Existing Structures	<ul style="list-style-type: none"> Encourage the reuse of older buildings through zoning flexibilities Eliminate ordinance provisions that encourage teardowns 	<ul style="list-style-type: none"> Nonconformity flexibilities for reuse of existing older buildings including elimination of required variances for reuse Flexible parking & loading standards for existing older buildings
Green Building Techniques	<ul style="list-style-type: none"> Encourage new construction that takes advantage of green building techniques Allow for energy efficient retrofitting of existing structures 	<ul style="list-style-type: none"> Building code obstacles to green building Creating incentives that encourage green building and LEED certified structures
Landscaping & Stormwater Management	<ul style="list-style-type: none"> Require comprehensive landscaping standards Incorporate sustainable stormwater management practices Include incentives for sustainable stormwater management practices 	<ul style="list-style-type: none"> Native landscaping & low water landscaping Parkway tree requirements Tree preservation ordinance Stormwater management practices: Permeable pavers and porous paving

SEC. 8-1-6 DESTRUCTION OF NOXIOUS WEEDS.

- (a) The City Clerk shall annually on or before May 15 publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Section 66.96 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (c) As provided for in Sec. 66.96(2), Wis. Stats., the City shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-1-8, shall include but not be limited to the following:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)
Cirsium vulgaries (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)
Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago lanceolata (English Plantain)
Sow Thistle
Wild Mustard
Burdock
Poison Ivy
Poison Oak
Golden Rod
Beggars Ticks

Noxious grasses, as defined in this Section and in Section 8-1-8, shall include but not be limited to the following:

Agrostia alba (Redtop)
Dactylis glomerata (Orchard)
Phleum pratensis (Timothy)
Poa pratensis (Kentucky Blue)
Sorghum halepense (Johnson)
Setaria (Foxtail)

State Law Reference: Section 66.96, Wis. Stats.

SEC. 8-1-7 REGULATION OF LENGTH OF LAWN AND GRASSES.

- (a) **PURPOSE.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Menasha.
- (b) **PUBLIC NUISANCE DECLARED.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land which exceeds eight (8) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area.
- (c) **NUISANCES PROHIBITED.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him within the City.
- (d) **INSPECTION.** The Weed Commissioner or his designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **ABATEMENT OF NUISANCE.**
- (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he shall immediately cause written notice to be served that the City proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-6.
- (2) The notice shall be served at least five (5) days prior to the date of the hearing and shall be mailed or served on the owner of the lot or parcel of land or, if he is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.
- (f) **DUE PROCESS HEARING.** If the owner believes that his grasses or weeds are not a nuisance, he may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a Twenty-five Dollar (\$25.00) bond. If a decision is rendered in the property owner's favor, the Twenty-five Dollars (\$25.00) will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Common Council, or its designee, shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the City until such time as the hearing is held by the Council. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts and conclusions. If the Common Council determines that a public nuisance did exist, the Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.
- (g) **CITY'S OPTION TO ABATE NUISANCE.** In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:
- (1) Written notice shall be personally served, delivered or mailed informing said person of his or her failure to abate the nuisance, the City's intention to abate the same and the potential costs thereof, no less than twenty-four (24) hours prior to the City's cutting of the lawn, grass or weeds.
- (2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Section 66.615(3)(f), Wis. Stats.

66.0405 Removal of rubbish. Cities, villages and towns may remove ashes, garbage, and rubbish from such classes of places in the city, village or town as the board or council directs. The removal may be from all of the places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property. The cost of removal may be funded by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village or town. If a city, village or town contracts for ash, garbage or rubbish removal service, it may contract with one or more service providers.

History: 1993 a. 246; 1999 a. 150 s. 119; Stats. 1999 s. 66.0405.



66.0407 Noxious weeds. (1) In this section:

(a) “Destroy” means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.

(b) “Noxious weed” means Canada thistle, leafy spurge, field bindweed, any weed designated as a noxious weed by the department of natural resources by rule, and any other weed the governing body of any municipality or the county board of any county by ordinance or resolution declares to be noxious within its respective boundaries.

(3) A person owning, occupying or controlling land shall destroy all noxious weeds on the land. The person having immediate charge of any public lands shall destroy all noxious weeds on the lands. The highway patrolman on all federal, state or county trunk highways shall destroy all noxious weeds on that portion of the highway which that highway patrolman patrols. The town board is responsible for the destruction of all noxious weeds on the town highways.

(4) The chairperson of each town, the president of each village and the mayor or manager of each city may annually on or before May 15 publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds, as defined in this section, on lands in the municipality which the person owns, occupies or controls. A town, village or city which has designated as its official newspaper or which uses for its official notices the same newspaper as any other town, village or city may publish the notice under this subsection in combination with the other town, village or city.

(5) This section does not apply to Canada thistle or annual noxious weeds that are located on land that the department of natural resources owns, occupies or controls and that is maintained in whole or in part as habitat for wild birds by the department of natural resources.

History: 1975 c. 394 s. 12; 1975 c. 421; Stats. 1975 s. 66.96; 1983 a. 112, 189; 1989 a. 56 s. 258; 1991 a. 39, 316; 1997 a. 287; 1999 a. 150 ss. 617 to 619; Stats. 1999 s. 66.0407; 2009 a. 55.

66.0409 Local regulation of firearms. (1) In this section:

(a) “Firearm” has the meaning given in s. 167.31 (1) (c).

(b) “Political subdivision” means a city, village, town or county.

(c) “Sport shooting range” means an area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.

(2) Except as provided in subs. (3) and (4), no political subdivision may enact an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(3) (a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subch. V of ch. 77 on any firearm or part of a firearm, including ammunition and reloader components, sold in the county.

(b) Nothing in this section prohibits a city, village or town that is authorized to exercise village powers under s. 60.22 (3) from enacting an ordinance or adopting a resolution that restricts the discharge of a firearm.

(4) (a) Nothing in this section prohibits a political subdivision from continuing to enforce an ordinance or resolution that is in effect on November 18, 1995, and that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, if the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(am) Nothing in this section prohibits a political subdivision from continuing to enforce until November 30, 1998, an ordinance or resolution that is in effect on November 18, 1995, and that requires a waiting period of not more than 7 days for the purchase of a handgun.

(b) If a political subdivision has in effect on November 17, 1995, an ordinance or resolution that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, and the ordinance or resolution is not the same as or similar to a state statute, the ordinance or resolution shall have no legal effect and the political subdivision may not enforce the ordinance or resolution on or after November 18, 1995.

(c) Nothing in this section prohibits a political subdivision from enacting and enforcing a zoning ordinance that regulates the new construction of a sport shooting range or when the expansion of an existing sport shooting range would impact public health and safety.

(5) A county ordinance that is enacted or a county resolution that is adopted by a county under sub. (2) or a county ordinance or resolution that remains in effect under sub. (4) (a) or (am) applies only in those towns in the county that have not enacted an ordinance or adopted a resolution under sub. (2) or that continue to enforce an ordinance or resolution under sub. (4) (a) or (am), except that this subsection does not apply to a sales or use tax that is imposed under subch. V of ch. 77.

History: 1995 a. 72; 1999 a. 150 s. 260; Stats. 1999 s. 66.0409.

This section does not prohibit municipalities from enacting and enforcing zoning ordinances that apply to sport shooting ranges. Town of Avon v. Oliver, 2002 WI App 97, 253 Wis. 2d 647, 644 N.W.2d 260, 01–1851.

66.0410 Local regulation of ticket reselling. (1) DEFINITIONS. In this section:

(a) “Political subdivision” means a city, village, town, or county.

(b) “Ticket” means a ticket that is sold to an entertainment or sporting event.

(2) RESELLING OF TICKETS. (a) A political subdivision may not enact an ordinance or adopt a resolution and the Board of Regents of the University of Wisconsin System may not promulgate a rule or adopt a resolution prohibiting the resale of any ticket for an amount that is equal to or less than the ticket’s face value.

(b) If a political subdivision or the Board of Regents of the University of Wisconsin System has in effect on April 22, 2004 an ordinance, rule, or resolution that is inconsistent with par. (a), the ordinance, rule, or resolution does not apply and may not be enforced.

History: 2003 a. 191.

66.0411 Sound-producing devices; impoundment; seizure and forfeiture. (1) In this section, “sound-producing device” does not include a piece of equipment or machinery that

3-1-82 SPECIAL USE PERMITS REQUIRED--WIND ENERGY SYSTEMS.

- (a) **APPROVAL REQUIRED.** No owner shall, within the City, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **SEPARATE PERMIT REQUIRED FOR EACH SYSTEM.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **BASIS OF APPROVAL.** The Plan Commission shall base its determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **FEES.** The Common Council shall, by resolution, establish fees for the processing and issuance of wind energy special use permits under this Article.
- (e) **DEFINITIONS.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

SEC. 13-1-83 PERMIT PROCEDURE--WIND ENERGY SYSTEMS.

- (a) **APPLICATION.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be 113094 1 : 10 accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Zoning Administrator may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Plan Commission.
- (b) **HEARING.** Upon referral of the application, the Plan Commission shall schedule a public hearing thereof as soon as practical and the Plan Commission shall notice said hearing as deemed appropriate.
- (c) **DETERMINATION.** Following public hearing and necessary study and investigation, the Plan Commission shall, as soon as practical, render its decision in writing and a copy made a permanent part of the Commission's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Plan Commission may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.

- (d) **TERMINATION.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Plan Commission following a public hearing thereon.
- (e) **CHANGES.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and if, in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given.
- (f) **APPROVAL DOES NOT WAIVE PERMIT REQUIREMENTS.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

3-1-84 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.

- (a) **ADDITIONAL STANDARDS.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **APPLICATION.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If 113094 1:11 the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **CONSTRUCTION.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **NOISE.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **ELECTROMAGNETIC INTERFERENCE.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is cause subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **LOCATION AND HEIGHT.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **FENCE REQUIRED.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **UTILITY COMPANY NOTIFICATION.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

cal subdivision with which the council is affiliated on its own or after receiving any of the following:

1. A written suggestion regarding delegating a governmental service to a private person.
2. A written complaint that a governmental service provided by the political subdivision is competing with the same or a similar service provided by a private person.
3. A written suggestion by a political subdivision employee or political subdivision employee labor organization to review a governmental service delegated to a private person.

(b) After receiving a suggestion or complaint under par. (a), the council shall meet to decide whether an analysis of the governmental service indicated in the suggestion or complaint is necessary. The council may hold hearings, conduct inquiries, and gather data to make its decision. If the council decides to analyze a governmental service under this paragraph, the council shall do all of the following:

1. Determine the costs of providing the governmental service, including the cost of personnel and capital assets used in providing the service.
2. Determine how often and to what extent the governmental service is provided and the quality of the governmental service provided.
3. Make a cost–benefit determination based on the findings under subds. 1. and 2.
4. Determine whether a private person can provide the governmental service at a cost savings to the political subdivision providing the service and at a quality at least equal to the quality of the service provided by the political subdivision.
5. If the council decides that a governmental service is not suitable for delegating to a private person, determine whether the governmental service should be retained in its present form, modified, or eliminated.

(c) After completing an analysis under par. (b), the council shall make a recommendation to the political subdivision providing the governmental service analyzed under par. (b) and publish the council's recommendation. The recommendation shall specify the recommendation's impact on the political subdivision and the political subdivision's employees.

(6) **TRAINING AND ASSISTANCE.** The board of regents of the University of Wisconsin System shall direct the extension to assist councils created under this section in performing their duties under subs. (4) and (5). The board of regents shall ensure that council members are trained in how to do all of the following:

- (a) Conduct an analysis of a governmental service.
- (b) Determine ways to improve the efficiency of delivering a governmental service.
- (c) Establish, quantify, and monitor performance standards.
- (d) Prepare the reports required under sub. (7) (a) and (b).

(7) **REPORTS.** (a) On or before June 30, 2002, each council shall submit a report to the department describing the council's activities.

(b) On or before June 30, 2003, each council shall submit a final report to the department describing the council's activities and recommendations and the extent to which its recommendations have been adopted by the political subdivision with which the council is affiliated. A report submitted under this paragraph shall provide a detailed explanation of all analyses conducted under subs. (4) and (5).

(c) On or before July 31, 2003, the department shall submit a report concerning the activities and recommendations described in the reports submitted under pars. (a) and (b) to the legislature under s. 13.172 (2) and to the governor. The department's report shall describe ways to implement such recommendations statewide.

History: 2001 a. 16.

66.0317 Cooperation region. (1) DEFINITIONS. In this section:

(a) "Cooperation region" means a federal standard metropolitan statistical area. For purposes of this section, if only a part of a county is located in a federal standard metropolitan statistical area the entire county is considered to be located in the federal standard metropolitan statistical area.

(b) "Governmental service" has the meaning given in s. 66.0316 (1) (e).

(c) "Metropolitan service delivery" means any governmental service provided to a city that is provided by the city or by another city or by a town, village, or county and provided on a multijurisdictional basis.

(d) "Municipality" means any city, village, or town.

(2) **AREA COOPERATION COMPACTS.** (a) 1. Except as provided in subd. 3., beginning in 2003, a municipality shall enter into an area cooperation compact with at least 2 municipalities or counties located in the same cooperation region as the municipality, or with any combination of at least 2 such entities, to perform at least 2 governmental services.

3. A municipality that is not adjacent to at least 2 other municipalities located in the same cooperation region as the municipality may enter into a cooperation compact with any adjacent municipality or with the county in which the municipality is located to perform the number of governmental services as specified under subd. 1.

(b) An area cooperation compact shall provide a plan for any municipalities or counties that enter into the compact to collaborate to provide governmental services. The compact shall provide benchmarks to measure the plan's progress and provide outcome-based performance measures to evaluate the plan's success. Municipalities and counties that enter into the compact shall structure the compact in a way that results in significant tax savings to taxpayers within those municipalities and counties.

History: 2001 a. 16, 106; 2005 a. 164.

SUBCHAPTER IV

REGULATION

66.0401 Regulation relating to solar and wind energy systems. (1e) DEFINITIONS. In this section:

(a) "Application for approval" means an application for approval of a wind energy system under rules promulgated by the commission under s. 196.378 (4g) (c) 1.

(b) "Commission" means the public service commission.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Wind energy system" has the meaning given in s. 66.0403 (1) (m).

(1m) **AUTHORITY TO RESTRICT SYSTEMS LIMITED.** No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

(2) **AUTHORITY TO REQUIRE TRIMMING OF BLOCKING VEGETATION.** Subject to sub. (6) (a), a political subdivision may enact an ordinance relating to the trimming of vegetation that blocks solar

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energy, as defined in s. 66.0403 (1) (k), from a collector surface, as defined under s. 700.41 (2) (b), or that blocks wind from a wind energy system. The ordinance may include a designation of responsibility for the costs of the trimming. The ordinance may not require the trimming of vegetation that was planted by the owner or occupant of the property on which the vegetation is located before the installation of the solar or wind energy system.

(3) **TESTING ACTIVITIES.** A political subdivision may not prohibit or restrict any person from conducting testing activities to determine the suitability of a site for the placement of a wind energy system. A political subdivision objecting to such testing may petition the commission to impose reasonable restrictions on the testing activity.

(4) **LOCAL PROCEDURE.** (a) 1. Subject to subd. 2., a political subdivision that receives an application for approval shall determine whether it is complete and, no later than 45 days after the application is filed, notify the applicant about the determination. As soon as possible after receiving the application for approval, the political subdivision shall publish a class 1 notice, under ch. 985, stating that an application for approval has been filed with the political subdivision. If the political subdivision determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the political subdivision has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application for approval. If the political subdivision fails to determine whether an application for approval is complete within 45 days after the application is filed, the application shall be considered to be complete.

2. If a political subdivision that receives an application for approval under subd. 1. does not have in effect an ordinance described under par. (g), the 45-day time period for determining whether an application is complete, as described in subd. 1., does not begin until the first day of the 4th month beginning after the political subdivision receives the application. A political subdivision may notify an applicant at any time, after receipt of the application and before the first day of the 4th month after its receipt, that it does not intend to enact an ordinance described under par. (g).

3. On the same day that an applicant makes an application for approval under subd. 1. for a wind energy system, the applicant shall mail or deliver written notice of the application to the owners of land adjoining the site of the wind energy system.

4. A political subdivision may not consider an applicant's minor modification to the application to constitute a new application for the purposes of this subsection.

(b) A political subdivision shall make a record of its decision making on an application for approval, including a recording of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the political subdivision in connection with the application for approval. The political subdivision's record shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 2.

(c) A political subdivision shall base its decision on an application for approval on written findings of fact that are supported by the evidence in the record under par. (b). A political subdivision's procedure for reviewing the application for approval shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 3.

(d) Except as provided in par. (e), a political subdivision shall approve or disapprove an application for approval no later than 90 days after the day on which it notifies the applicant that the application for approval is complete. If a political subdivision fails to act within the 90 days, or within any extended time period established under par. (e), the application is considered approved.

(e) A political subdivision may extend the time period in par. (d) if, within that 90-day period, the political subdivision authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for

all extensions granted under this paragraph may not exceed 90 days:

1. An extension of up to 45 days if the political subdivision needs additional information to determine whether to approve or deny the application for approval.

2. An extension of up to 90 days if the applicant makes a material modification to the application for approval.

3. An extension of up to 90 days for other good cause specified in writing by the political subdivision.

(f) 1. Except as provided in subd. 2., a political subdivision may not deny or impose a restriction on an application for approval unless the political subdivision enacts an ordinance that is no more restrictive than the rules the commission promulgates under s. 196.378 (4g) (b).

2. A political subdivision may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under s. 66.1001 (2) (b) and (f), before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under s. 66.1001 (2) (i). This subdivision applies to a wind energy system that has a nominal capacity of at least one megawatt.

(g) A political subdivision that chooses to regulate wind energy systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive than the applicable standards established by the commission in rules promulgated under s. 196.378 (4g).

(5) **PUBLIC SERVICE COMMISSION REVIEW.** (a) A decision of a political subdivision to determine that an application is incomplete under sub. (4) (a) 1., or to approve, disapprove, or impose a restriction upon a wind energy system, or an action of a political subdivision to enforce a restriction on a wind energy system, may be appealed only as provided in this subsection.

(b) 1. Any aggrieved person seeking to appeal a decision or enforcement action specified in par. (a) may begin the political subdivision's administrative review process. If the person is still aggrieved after the administrative review is completed, the person may file an appeal with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the political subdivision has completed its administrative review process. For purposes of this subdivision, if a political subdivision fails to complete its administrative review process within 90 days after an aggrieved person begins the review process, the political subdivision is considered to have completed the process on the 90th day after the person began the process.

2. Rather than beginning an administrative review under subd. 1., an aggrieved person seeking to appeal a decision or enforcement action of a political subdivision specified in par. (a) may file an appeal directly with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the decision or initiation of the enforcement action.

3. An applicant whose application for approval is denied under sub. (4) (f) 2. may appeal the denial to the commission. The commission may grant the appeal notwithstanding the inconsistency of the application for approval with the political subdivision's planned residential or commercial development if the commission determines that granting the appeal is consistent with the public interest.

(c) Upon receiving an appeal under par. (b), the commission shall notify the political subdivision. The political subdivision shall provide a certified copy of the record upon which it based its decision or enforcement action within 30 days after receiving notice. The commission may request of the political subdivision any other relevant governmental records and, if requested, the political subdivision shall provide such records within 30 days after receiving the request.

(d) The commission may confine its review to the records it receives from the political subdivision or, if it finds that additional

information would be relevant to its decision, expand the records it reviews. The commission shall issue a decision within 90 days after the date on which it receives all of the records it requests under par. (c), unless for good cause the commission extends this time period in writing. If the commission determines that the political subdivision's decision or enforcement action does not comply with the rules it promulgates under s. 196.378 (4g) or is otherwise unreasonable, the political subdivision's decision shall be superseded by the commission's decision and the commission may order an appropriate remedy.

(e) In conducting a review under par. (d), the commission may treat a political subdivision's determination that an application under sub. (4) (a) 1. is incomplete as a decision to disapprove the application if the commission determines that a political subdivision has unreasonably withheld its determination that an application is complete.

(f) Judicial review is not available until the commission issues its decision or order under par. (d). Judicial review shall be of the commission's decision or order, not of the political subdivision's decision or enforcement action. The commission's decision or order is subject to judicial review under ch. 227. Injunctive relief is available only as provided in s. 196.43.

(6) APPLICABILITY OF A POLITICAL SUBDIVISION OR COUNTY ORDINANCE. (a) 1. A county ordinance enacted under sub. (2) applies only to the towns in the county that have not enacted an ordinance under sub. (2).

2. If a town enacts an ordinance under sub. (2) after a county has enacted an ordinance under sub. (2), the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(b) 1. Subject to subd. 2., a county ordinance enacted under sub. (4) applies only in the unincorporated parts of the county.

2. If a town enacts an ordinance under sub. (4), either before or after a county enacts an ordinance under sub. (4), the more restrictive terms of the 2 ordinances apply to the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(c) If a political subdivision enacts an ordinance under sub. (4) (g) after the commission's rules promulgated under s. 196.378 (4g) take effect, the political subdivision may not apply that ordinance to, or require approvals under that ordinance for, a wind energy system approved by the political subdivision under a previous ordinance or under a development agreement.

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

This section is a legislative restriction on the ability of municipalities to regulate solar and wind energy systems. The statute is not superseded by s. 66.0403 or municipal zoning or conditional use powers. A municipality's consideration of an application for a conditional use permit for a system under this section must be in light of the restrictions placed on local regulation by this section. *State ex rel. Numrich v. City of Mequon Board of Zoning Appeals*, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00–1643.

Sub. (1) requires a case-by-case approach, such as a conditional use permit procedure, and does not allow political subdivisions to find legislative facts or make policy. The local governing arm must hear the specifics of the particular system and then decide whether a restriction is warranted. It may not promulgate an ordinance in which it arbitrarily sets a "one size fits all" scheme of requirements for any system. The conditions listed in sub. (1) (a) to (c) are the standards circumscribing the power of political subdivisions, not openings for them to make policy that is contrary to the state's expressed policy. *Ecker Brothers v. Calumet County*, 2009 WI App 112, ___ Wis. 2d ___, 772 N.W.2d 240, 07–2109.

66.0403 Solar and wind access permits. (1) DEFINITIONS. In this section:

(a) "Agency" means the governing body of a municipality which has provided for granting a permit or the agency which the governing body of a municipality creates or designates under sub. (2). "Agency" includes an officer or employee of the municipality.

(b) "Applicant" means an owner applying for a permit under this section.

(c) "Application" means an application for a permit under this section.

(d) "Collector surface" means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, supports and mounting hardware.

(e) "Collector use period" means 9 a.m. to 3 p.m. standard time daily.

(f) "Impermissible interference" means the blockage of wind from a wind energy system or solar energy from a collector surface or proposed collector surface for which a permit has been granted under this section during a collector use period if such blockage is by any structure or vegetation on property, an owner of which was notified under sub. (3) (b). "Impermissible interference" does not include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially interfere with absorption of solar energy by a solar collector or does not substantially block wind from a wind energy system.

2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under sub. (3) (b).

3. Blockage by any vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b) unless a municipality by ordinance under sub. (2) defines impermissible interference to include such vegetation.

(g) "Municipality" means any county with a zoning ordinance under s. 59.69, any town with a zoning ordinance under s. 60.61, any city with a zoning ordinance under s. 62.23 (7), any 1st class city or any village with a zoning ordinance under s. 61.35.

(h) "Owner" means at least one owner, as defined under s. 66.0217 (1) (d), of a property or the personal representative of at least one owner.

(i) "Permit" means a solar access permit or a wind access permit issued under this section.

(j) "Solar collector" means a device, structure or a part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(k) "Solar energy" means direct radiant energy received from the sun.

(l) "Standard time" means the solar time of the ninetieth meridian west of Greenwich.

(m) "Wind energy system" means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.

(2) PERMIT PROCEDURE. The governing body of every municipality may provide for granting a permit. A permit may not affect any land except land which, at the time the permit is granted, is within the territorial limits of the municipality or is subject to an extraterritorial zoning ordinance adopted under s. 62.23 (7a), except that a permit issued by a city or village may not affect extraterritorial land subject to a zoning ordinance adopted by a county or a town. The governing body may appoint itself as the agency to process applications or may create or designate another agency to grant permits. The governing body may provide by ordinance that a fee be charged to cover the costs of processing applications. The governing body may adopt an ordinance with any provision it deems necessary for granting a permit under this section, including but not limited to:

(a) Specifying standards for agency determinations under sub. (5) (a).

(b) Defining an impermissible interference to include vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b), provided that the permit holder shall be responsible for the cost of trimming such vegetation.

(3) PERMIT APPLICATIONS. (a) In a municipality which provides for granting a permit under this section, an owner who has installed or intends to install a solar collector or wind energy system may apply to an agency for a permit.

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(b) An agency shall determine if an application is satisfactorily completed and shall notify the applicant of its determination. If an applicant receives notice that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand a notice to the owner of any property which the applicant proposes to be restricted by the permit under sub. (7). The applicant shall submit to the agency a copy of a signed receipt for every notice delivered under this paragraph. The agency shall supply the notice form. The information on the form may include, without limitation because of enumeration:

1. The name and address of the applicant, and the address of the land upon which the solar collector or wind energy system is or will be located.
2. That an application has been filed by the applicant.
3. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.
4. The telephone number, address and office hours of the agency.
5. That any person may request a hearing under sub. (4) within 30 days after receipt of the notice, and the address and procedure for filing the request.

(4) **HEARING.** Within 30 days after receipt of the notice under sub. (3) (b), any person who has received a notice may file a request for a hearing on the granting of a permit or the agency may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the agency determines that a hearing is necessary, the agency shall conduct a hearing on the application within 90 days after the last notice is delivered. At least 30 days prior to the hearing date, the agency shall notify the applicant, all owners notified under sub. (3) (b) and any other person filing a request of the time and place of the hearing.

(5) **PERMIT GRANT.** (a) The agency shall grant a permit if the agency determines that:

1. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the municipality;
2. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sub. (3) (b), has expended at least \$500 on planning or designing such a structure or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference; and
3. The benefits to the applicant and the public will exceed any burdens.

(b) An agency may grant a permit subject to any condition or exemption the agency deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may include but are not limited to restrictions on the location of the solar collector or wind energy system and requirements for the compensation of persons affected by the granting of the permit.

(6) **RECORD OF PERMIT.** If an agency grants a permit:

(a) The agency shall specify the property restricted by the permit under sub. (7) and shall prepare notice of the granting of the permit. The notice shall include the identification required under s. 706.05 (2) (c) for the owner and the property upon which the solar collector or wind energy system is or will be located and for any owner and property restricted by the permit under sub. (7), and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector or wind energy system which is the subject of the permit unless the permit affecting the property is terminated under sub. (9) or unless an agreement affecting the property is filed under sub. (10).

(b) The applicant shall record with the register of deeds of the county in which the property is located the notice under par. (a) for each property specified under par. (a) and for the property upon which the solar collector or wind energy system is or will be located.

(7) **REMEDIES FOR IMPERMISSIBLE INTERFERENCE.** (a) Any person who uses property which he or she owns or permits any other person to use the property in a way which creates an impermissible interference under a permit which has been granted or which is the subject of an application shall be liable to the permit holder or applicant for damages, except as provided under par. (b), for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:

1. The building permit was applied for prior to receipt of a notice under sub. (3) (b) or the agency determines not to grant a permit after a hearing under sub. (4).
2. A permit affecting the property is terminated under sub. (9).
3. An agreement affecting the property is filed under sub. (10).

(b) A permit holder is entitled to an injunction to require the trimming of any vegetation which creates or would create an impermissible interference as defined under sub. (1) (f). If the court finds on behalf of the permit holder, the permit holder shall be entitled to a permanent injunction, damages, court costs and reasonable attorney fees.

(8) **APPEALS.** Any person aggrieved by a determination by a municipality under this section may appeal the determination to the circuit court for a review.

(9) **TERMINATION OF SOLAR OR WIND ACCESS RIGHTS.** (a) Any right protected by a permit under this section shall terminate if the agency determines that the solar collector or wind energy system which is the subject of the permit is:

1. Permanently removed or is not used for 2 consecutive years, excluding time spent on repairs or improvements.
2. Not installed and functioning within 2 years after the date of issuance of the permit.

(b) The agency shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under par. (a).

(c) If the agency terminates a permit, the agency may charge the permit holder for the cost of recording and record a notice of termination with the register of deeds, who shall record the notice with the notice recorded under sub. (6) (b) or indicate on any notice recorded under sub. (6) (b) that the permit has been terminated.

(10) **WAIVER.** A permit holder by written agreement may waive all or part of any right protected by a permit. A copy of such agreement shall be recorded with the register of deeds, who shall record such copy with the notice recorded under sub. (6) (b).

(11) **PRESERVATION OF RIGHTS.** The transfer of title to any property shall not change the rights and duties under this section or under an ordinance adopted under sub. (2).

(12) **CONSTRUCTION.** (a) This section may not be construed to require that an owner obtain a permit prior to installing a solar collector or wind energy system.

(b) This section may not be construed to mean that acquisition of a renewable energy resource easement under s. 700.35 is in any way contingent upon the granting of a permit under this section.

History: 1981 c. 354; 1983 a. 189 s. 329 (14); 1983 a. 532 s. 36; 1993 a. 414; 1995 a. 201; 1999 a. 150 s. 82; Stats. 1999 s. 66.0403; 2007 a. 97; 2009 a. 40.

The common law right to solar access is discussed. *Prah v. Maretti*, 108 Wis. 2d 223, 321 N.W.2d 182 (1982).

The owner of an energy system does not need a permit under this section. Barring enforceable municipal restrictions, an owner may construct a system without prior municipal approval. This section benefits and protects the owner of the system by restricting the use of nearby property to prevent an interference with the system. *State ex rel. Numrich v. City of Mequon Board of Zoning Appeals*, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00–1643.

Wisconsin recognizes the power of the sun: *Prah v. Maretti* and the solar access act. 1983 WLR 1263.



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Open Meetings Law FAQ 4

Can members of a governmental body violate the open meeting law by communicating regarding city or village business via telephone or e-mail?

Yes, members of a governmental body can violate the open meeting law by communicating regarding city or village business if there is communication amongst a sufficient number of the members. The Wisconsin Supreme Court has held that the open meeting law applies whenever members of a governmental body meet to engage in government business, whether it's for purposes of discussion, decision or information gathering, if the number of members present are sufficient to determine the parent body's course of action regarding the proposal discussed at the meeting. *State ex rel. Showers*, 135 Wis.2d 77, 398 N.W.2d 154 (1987). In *Showers*, the court recognized that members of a governmental body can violate the open meeting law by participating in what is called a "walking quorum." A walking quorum is a series of gatherings among separate groups of members, each less than quorum size, who agree, tacitly or explicitly, to act and vote in a certain manner in numbers sufficient to reach a quorum. See Informal Op. Att'y Gen to Paul Kritzer dated August 20, 1996; 69 Op. Att'y Gen. 143 (1980); and League opinion Governing Bodies 339.

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Memorandum

To: Sustainability Board
From: Deputy Clerk Kristin Sewall
Date: 5/18/10
RE: Menasha's Farm Fresh Market

All 21 available vendor stalls are full for the season! Due to the overwhelming interest from farm market vendors, we have decided to entertain a fun, new idea.

The market will expand the last Thursday of June, July, August and September into the square for the "Bazaar on the Square." It will run the same time as the regular market (2-6 p.m.) and be advertised with the market. It is comprised of the vendors on the waiting list for the market. We currently have 13 interested vendors with products ranging from jewelry and handmade crafts to sweets and banana ice cream.

From: Kanitz, Roger [mailto:Roger.Kanitz@kcc.com]
Sent: Thursday, June 10, 2010 10:39 AM
To: Greg M. Keil; Don Merkes
Cc: Kristin Sewall; roger.kanitz@gmail.com
Subject: 6/9 Transit Meeting Up-Date

Main topic of interest at this meeting was that VT developed a cell phone and personal election device (PED) policy for its drivers and staff to improve the safety aspects of transit bus operation. It was approved by the commission with one modification to make it more restrictive; basically no cell phone usage while driving for staff or drivers.

It was noted that the City of Appleton itself has been discussing this topic at its council related meetings also. If the City develops a policy, it will supersede the policy that we approved.

Roger

From: Kanitz, Roger
Sent: Thursday, May 27, 2010 10:27 AM
To: 'Greg M. Keil'; 'Merkes, Don'
Cc: 'Kristin Sewall'; 'roger.kanitz@gmail.com'
Subject: 5/26 Transit Meeting Up-Date

I attended this meeting for Menasha. Main points of interest were:

- 1) The survey of Transit ridership and needs continues. It was noted that we can fax ideas on route changes and improvements to the survey group at #719-633-5430 until the end of this month. I suggested that the survey be extended to businesses, schools and such that are currently outside of the transit network so that other comments for change and improvement get added to the survey report/plan. VT will be looking at that as this will require extra \$ for more surveys to be taken, but it will be of value in the overall survey effort.
- 2) The report is likely to be ready for presentation at the June 23rd meeting. One of you might wish to plan to attend that one as I will likely be on a road trip for that meeting.
- 3) The Appleton school district work with Transit continues to be a success, with some 38,000 trips taken by students in a four month length of time. Transit has an arrangement with AASD where they pay a fee (\$9000 per semester) and students can ride anywhere in the system using their student ID.
- 4) The trolley service for Appleton was again being set up for this year. Working with Lamer's and ADI, the basic cost to the business district is \$67.50 per hour and has become a part of the marketing for the businesses in that area. This was again part of my suggestion for the Neenah/Menasha area in the survey discussion.
- 5) Lastly, Transit is making great use of twitter and face book in selling Transit ridership to the youth segment I here in the Valley. It keeps making me think that these may be tools that the city can employ to other areas of communication and advertising like Menasha businesses, farmer market, etc... We may want to review this marketing effort with VT just to understand the opportunity.

Regards...Roger
