

## Regional Transit Authority: Full steam ahead?

*Draft legislation AB 75 holds no provision  
for a referendum; no money for roads*

*Kim Lamoreaux*

*Editor*

Whether it comes from sales tax or a funding source of another name, it's clear the creation of a Regional Transit Authority (RTA) is going to be funded by the taxpayers of Dane County.

The most recent draft of the legislation that would create RTA's around the state no longer contains the language that an RTA, a taxing authority, would require a referendum vote. The language now calls for an increase to the state's sale tax by a half percent, an action that requires no vote of the people, just a signature of the governor.

Even the name has changed from "Regional Transportation Authority" to "Regional Transit Authority."

It is the position of the Dane County Towns Association (DCTA) with increasing oil prices and growing populations, the expansion of mass transit alternatives is essential, virtually necessary.

But voters should have the right to vote, by binding referendum, (key word being binding) on the taxing authority required by the creation of this RTA and its modes of transportation, the necessary infrastructure, purchase of easements and rights-of-way, etc.

It's interesting that the Wisconsin State Journal last weekend in their full page spread endorsement of Dane County Executive Kathleen Falk reminded readers that among Falk's leadership

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## DNR sends Mazomanie's sewer service expansion application back to CARPC's drawing board

*Mark Hazelbaker*

*DCTA legal counsel*

In a decision that will have far-reaching impact on the future of land use planning in Dane County, the Wisconsin Department of Natural Resources (DNR) has directed the Capital Area Regional Planning Commission (CARPC) to reconsider the commission's rejection of a development proposed by the Village of Mazomanie. The DNR decision, issued March 18, indicated the commission should consider land use issues in deciding on sewer service expansion requests, but act only on the basis of water

quality. The decision could have a major impact on the future operations of the CARPC.

In an unprecedented move, the CARPC rejected Mazomanie's sewer service area expansion proposal last year. The commission refused to approve a request from the village to add a 140-acre development to the southeast side of the village. The commission concluded that the development was unwise for a number of reasons, including its impact on water quality. However, the commission addressed a large number of factors, including the appropriateness of the land use involved.

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## *Contact the Dane County Towns Association*

**Jerry Derr**, President, chair Town of Bristol 837-3407 [ghderr@verizon.net](mailto:ghderr@verizon.net)

**Steve Schulz**, Vice president, chair Town of Medina 655-1621

### **Directors**

**Pat Downing**, chair Town of Perry  
527-2472

**Milo Breunig**, chair Town of Middleton  
833-6594 [info@town.middleton.wi.us](mailto:info@town.middleton.wi.us)

**Harold Krantz**, chair Town of Cross Plains 798-2637

**Milt Sperle**, supervisor Town of Rutland  
873-3078

**Robert Lee**, chair Town of Dane

**Julie Gau**, Secretary 444-6667  
[dctasecretary@hotmail.com](mailto:dctasecretary@hotmail.com)

**Mark Hazelbaker**, legal counsel 663-9770  
[mhazel@hazelbakerlaw.com](mailto:mhazel@hazelbakerlaw.com)

**Renee Lauber**, planning consultant  
577-9997

**Kim Lamoreaux**, newsletter editor  
445-7557 [kimlamoreaux@gmail.com](mailto:kimlamoreaux@gmail.com)

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The Dane County Towns Association newsletter is produced once per month. Deadline for submissions is the second Wednesday of each month by 5 p.m.

Send any photo or copy submissions, to [kimlamoreaux@gmail.com](mailto:kimlamoreaux@gmail.com) or mail to or drop off hard copy at Mark Hazelbaker's office at 3555 University Ave. Madison, WI 53705 by the second Wednesday of the month.

## **President's Report**

### **Spread of stimulus dollars is top heavy in favor of urban areas**

**Jerry Derr**  
*DCTA president*

For the 31% of Wisconsin citizens who live in towns, the federal stimulus bill continues to widen the urban-rural gap. Based upon briefings I have heard on the stimulus bill, as well as information from public sources, it appears that the vast majority of the stimulus money is directed at projects affecting urban areas. We certainly don't begrudge assistance to the needy cities and villages around the country. The fact is local government throughout the United States has been in a recession for several years, largely as the result of punitive expenditure limits imposed by short-sighted legislators. But remedies for these broadly shared problems also need to be broad.

Rural communities have faced unique challenges in the past few years. Farmers and rural area residents were devastated by \$4.25 per gallon gas. It isn't that easy with \$2 gas. Rural schools suffer enormously under funding formulas that penalize them for being small. Our communities lag behind in broadband technology, telecommunications and maintenance of infrastructure.

Every town in Wisconsin, both as the result of revenue caps and huge increases in fuel costs, has greatly reduced the amount of infrastructure maintenance. Unfortunately, the disparity exists on many levels of government. Basic rights and authority that are taken for granted by people who live in villages and cities continued to be denied to town residents. There are instances in which villages with populations smaller than their neighboring towns nonetheless exercise statutory power to command the town on land-use and development issues.

I have come to believe that town residents have common interests with low income and minority residents of cities and villages. We are all disenfranchised by a system which makes decisions for us, often on the basis of false assumptions about our beliefs and needs. We are all threatened by denial of educational opportunity to our children and

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accomplishments is her part in the creation of a Dane County RTA.

The article states, *“Though the shape of an RTA depends on state legislation yet to be adopted, Falk is pushing for an RTA with authority to collect a half-cent sales tax -- but only if voters approve in a referendum. The tax would fund roads, buses and potentially a commuter rail line. The rail line would depend on obtaining federal money to help pay for it.”*

Is this just shoddy, unresearched journalism? It’s okay to endorse a particular candidate, but let’s get the facts straight. There is no referendum requirement, and RTA funds would not support road maintenance or construction.

At this writing, the Dane County board of supervisors was preparing a new resolution supporting a binding referendum as the next step toward creating any Dane County funded RTA.

Supervisor Eileen Bruskewitz is the representative for 19 towns on the Madison Area Transportation Planning Board, the federally designated Metropolitan Planning Organization (MPO). Bruskewitz said this week a resolution is being prepared for the county board calling for a binding referendum.

DCTA president Jerry Derr said this week he believes many member towns do not support the rail component of the RTA legislative proposal, and emphatically support a referendum vote on the RTA’s creation. The reason is simple: it will cost their taxpayers, and the benefits are unclear.

Derr served on the Legislative Council Study Committee assembled to come up with a reasonable proposal for a Dane County RTA. The committee agreed an RTA should come with a referendum vote,

and include funding for roads, streets and highways.

But according to the most recent draft of Assembly Bill 75, the budget bill that would authorize creation of RTA’s around the state, none of the funding mechanisms would help improve roads. In fact, local communities would get about ten cents on the dollar in additional road or street funding.

“It’s all trains, trolleys and buses now,” said Derr. “Among most towns, road maintenance budgets are among the highest of line items. What good is a taxing authority such as a Dane County RTA if it does not allow for local funding of the most fundamental of local transportation needs?”

According to Bob Schaefer who has served on Madison’s Pedestrian/ Bike/Motor Vehicle Commission, the Ad Hoc Inter City Rail Advisory Committee, the Stoughton Road Corridor Policy Commission, the I-39 Corridor Study Policy Commission, and is a current member of Madison’s Long Range Transportation Planning Commission (LRTPC). Schaefer said when the Dane County Board

and Madison City Council created and funded the Transport 2020 Implementation Task Force (ITF)

in 2003, the ITF’s purpose was to build on the original commuter rail study and further explore an alternative to implement the recommendations.

“After much rehashing and consideration on variations of the original plan, the ITF voted to move forward with a plan that closely approximates the original plan,” said Schaefer. “Intentionally excluding the cost estimates in the report is inconsistent with good financial planning when compared to best business practices. Is it perhaps

that there is a concern if the community knew what the proposed system would cost over time, the sticker shock would have a negative impact on implementation?”

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The village appealed the CARPC's decision to the DNR. After reviewing the decision, the DNR Division of Water Director, Todd Ambs, concluded that the RPC's decision must be based on water quality criteria, not land use goals. Accordingly, the DNR ordered the CARPC to revisit that decision.

The DNR decision addresses one of the longest-standing and deeply contested issues about the CARPC (and its predecessor DCRPC): the degree to which it has acted as a land use overseer. Indeed, the DCTA's initiative to dissolve the former RPC arose largely because of discontent over the manner in which the RPC had used the power to withhold sewer service expansions to control land use in Dane County.

For years, the RPC's criteria for

granting or denying sewer service areas mentioned water quality but focused on land use. The most significant requirement was that, with few exceptions, sewer service could be extended only to communities that deliver a "full range of urban services." Some of them addressed water quality, but others do not.

Certainly arguments can be made that urban service levels and land use affect water quality, but the criteria seemed to be applied arbitrarily to tilt growth away from towns to incorporated municipalities. Perhaps it could be said towns deliver fewer services than municipalities, but that wasn't true across the board.

When the Mazomanie application came before the CARPC last fall, the village found itself in the interesting

position of having significant opposition to its proposal based on land use grounds. The proposed sewer service expansion failed for much the same reason that towns found little support at the RPC in the 1970s and 80s. This time, the village decided to appeal the matter, and the DNR has agreed.

The DNR's decision has important implications for the future of the CARPC. One of the major issues involved in restructuring the former RPC was the role that factors other than water quality would play in sewer service decisions. Some interests involved in the discussions pushed strongly for the RPC to have a very central role in regional land use planning. Some, by contrast, want the CARPC to take a completely hands-off approach, simply follow adopted land use

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Schaefer said development of the start-up system would cost approximately \$242 million in capital expenditures in year 2000 dollars. This estimate includes the expansion of bus service, purchase and development of park and ride lots, and the costs of all elements of the initial commuter rail system. Operating the combined expanded bus and rail transit system would cost about \$39 million annually, or around \$10 million more than existing Madison Metro transit and paratransit services. The Transport 2020 Full System Vision would cost \$331 million with a total annual operating cost of around \$50 million (or more than \$20 million more than the operation of the existing system). The estimated costs for the Full System Vision do not include the cost of the proposed streetcar system and assumes the implementation of high speed rail service in the corridor.

Without a referendum, taxpayers could be

railroaded into paying those millions via property or sales taxes.

Schaefer said the purpose of the ITF's public meetings held in the last few months were to encourage the active participation of public interest groups and involved agencies early in the decision-making process. He said this element of the study was focused exclusively on providing the public with the opportunity to identify issues and concerns.

"Public input was invited and encouraged to help define the study area and design transportation alternatives before considerable time and effort was spent into developing alternatives and drafting an environmental document," said Schaefer. "This allowed the public, their elected officials, governmental agencies, and community groups to have information on the study, and provided them with an opportunity to help direct the study's course. The committee seldom discussed most of the comments presented by the

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**Stimulus continued from page 2**  
second-class funding of our needs for services.

Our country cannot turn its back on a substantial portion of its citizens and expect to succeed in this century. Just this week, General Electric Healthcare announced a new heart monitor system. This system will be more

portable, versatile and cost 80% less than its predecessor. This device is not just being made in India. It was designed and engineered in India, by Indian engineers. We have trouble making sure that our kids even graduate from high school, or that those who do, can do basic math.

People, when given the chance to improve themselves, generally

will. Perhaps the key to farmland preservation and healthy rural communities, as well as conditions in our inner cities, lies in finding ways to give those affected by policies a meaningful voice in making them. Otherwise, the divide will continue to grow.

## **Deadline for applications for federal stimulus dollars is April 1. See back page for more details.**

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plans for local communities, and evaluate the water quality implications of those plans. The CARPC's decision on Mazomanie certainly steered toward an expansive view of the CARPC's role. The DNR's rebuke would appear to limit the CARPC to a more modest role.

The decision comes as the CARPC's updated sewer service criteria have been approved by the DNR, but are about to be significantly modified as the CARPC moves toward updating the Dane County area water quality plan. Then, under the program adopted as part of the new CARPC's creation, the CARPC will plunge into preparing future urban development area plans for all the developing areas in Dane County.

**If the role of the CARPC is to be narrow, then the focus of land use will remain local. For towns, this means that city and village plans, together with their extraterritorial impact, will probably have the most significant impact on sewer service expansion decisions. As we have noted many times, sewer service expansion essentially equals annexation.**

**One of the reasons Dane County Towns Association went along with creating the new CARPC was a hope that the CARPC, under revised criteria, could help equalize the relationship between towns and their neighboring cities or villages. It appears that**

**the DNR decision undermines the potential of the CARPC to perform that function. However, as future discussions continue, there remains the possibility that the urban development criteria adopted by the CARPC may yet serve to encourage intergovernmental cooperation. The DCTA will continue to be highly active in these efforts to assure that towns in Dane County have as equal voice as possible in decisions affecting the region's future.**

*The Black Earth Creek flows along parts of the border of the Town of Maznmanie and the Village of Mazomanie. Mitigation of storm water runoff wa a significant component of the CARPC's deliberations before rejecting the village's sewer expansion last year. But apparently, not significant enough. DNR officials have told them to review it again--with a tighter focus on water quality data.*

Photo by John Donaldson

# Shining the light on government transparency

**Mark Hazelbaker**  
*DCTA legal counsel*

***Editor's Note: This month (March 15-21) marks the annual observance of Sunshine Week, celebrating open, transparent government on all levels. There is an abundance of information on the internet elected officials can use to educate themselves on open meetings and open records laws. We highlight those links at the end of this article. But as attorneys general on both the state and federal levels have said repeatedly, "error on the side of openness."***

A cautionary letter issued by the Wisconsin Department of Justice last year concerning non-compliance with the open meetings law by Dane County echoes concerns the Dane County Towns Association has expressed in the past. The issue today is a county board committee overseeing an audit of the 911 center. Several years ago, a similar audit of the Dane County planning and zoning department involved similar openness issues.

Assistant Attorney General Bruce Olsen wrote an advisory letter to the County Board informing the 911 audit committee that it is subject to the open meetings law. This committee, overseeing an audit commissioned in response to the controversy concerning 911

center operations, had been meeting with a consulting firm without posting public notices or permitting public attendance.

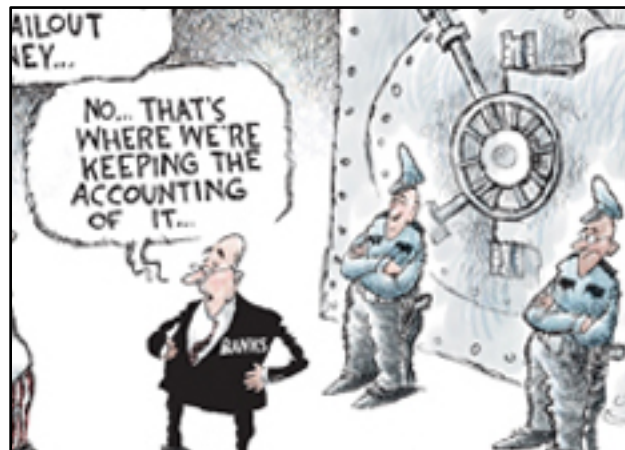
The exact same problem occurred back in 2005 when the issue was a performance review of the planning and zoning department. The County Board appointed a group to work with the consultant conducting the audit. I had heard that this group was meeting with the consultants. One of the committee members told me the date and time of the next meeting. So, I went to the City-County Building to attend what I expected be a posted public meeting. Surprisingly, no notice of the meeting was listed on the meeting schedule. After poking around the building, someone finally told me where the group was meeting. I entered the room and sat down. My entrance was

officially asked the group if there was any objection to me or Wendt remaining at the meeting.

After this meeting, I wrote an e-mail to the staff person reminding him that this group supervising the audit was, beyond question, a formally constituted group designated by the county board for a specific purpose. As such, it was subject to the open meetings law. Further, I noted, county board committees cannot exclude county supervisors, as his question suggested could be done.

I received a rather hostile response, indicating that perhaps the county needed to find some other way to get input.

Let me make it clear that I am not bringing this up to add fuel to the fire about the 911 center. I, for one, am tired of the political posturing, both defensive and offensive, about this issue.



noted by the presiding staff person, who rolled his eyes. Then-county supervisor Vern Wendt, not a member of this group, walked in right after me. The staff person presiding

What happened to Britney Zimmerman was horrible. But, it was one of many instances where local services fell short of meeting ideal expectations because public agencies have been asked to do far too much with far too little resources because state legislators have decided to make local government the whipping boy for the state's self induced fiscal problems.

Having said that, nothing is more prone to arouse suspicion than the deliberate attempt to hide

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#### **Shine the light continued from page 6**

something. Both the planning and zoning audit, and the 911 study show that Dane County officials are prone to do everything possible to delay, dissuade and dilute disclosure of the facts. We all know mistakes were made. We should be long past the need to point fingers, unless for selfish political reasons. It's time to openly discuss the remedy. Whether the issue is improving the zoning department, or fixing problems with the 911 center, openness is the key to restoring public confidence

Years ago, while sitting at the front table at a Manitowoc County Board meeting waiting for it to begin, I watched a large crowd fill the meeting room. I remember feeling a sense of irritation.

Then it hit me – the government belongs to the people. It's our job as public officials to be bitched at. Harry Truman said it best when he said "If you want a friend in Washington, get a dog."

There is no room in the discussion of public issues for private consultations. Trying to prevent the public from coming to the conclusion that county government makes mistakes is ridiculous. Everyone, starting with this writer, makes mistakes all the time. Sometimes, these mistakes are very serious. We deal with those consequences and move on. Avoiding it will make it no better. I hope that the cautionary letter from the assistant Attorney General is taken very seriously, and induces a major attitude adjustment in the City County building.

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public that opposed commuter rail. Some comments were occasionally referenced, but not in a manner for evaluation. On the other hand, comments supporting the committee's direction were frequently discussed."

It is imperative that elected officials lend their support to a growing effort to force a binding referendum before any such entity comes into being.



## **Private well testing and town ordinances on the agenda for April 15 general member meeting**

Water quality and new ordinances will be the topics for presentation at the DCTA general membership meeting on April 15 at 7 p.m. at the Burke Town Hall at 5365 Reiner Road in Madison.

Among the presenters scheduled for that night are Thomas Schlenker, MD, MPH. He has been the director of Public Health Madison-Dane County since December, 2005, and is an assistant professor in the department of preventive medicine at the Medical College of Wisconsin. Schlenker will discuss various types of well testing, the meaning

of the test results, and reasonable responses to identified problems.

DCTA legal counsel Mark Hazelbaker and Tom Harnish Wisconsin Towns Association education director and attorney will discuss ordinance development for town government.

The Dane County Board is in the process of revising a number of ordinances that will affect towns, particularly the Chapter 10 zoning ordinances that are in the process of being updated.



It's not every day that town elected officers of achieve a combined total of nearly 80 years of service. That's what Town of Cross Plains supervisor Harold Krantz, former clerk Ann Walden and former treasurer Rosie Farrell leave behind. Krantz is not seeking another term, and Walden and Farrell resigned late last year. At least 100 people gathered at the Pine Bluff Community Center Sunday, March 21 to wish them well. Town resident and friend Bill Herriges took this photo that day.

## **April 1 deadline approaches for federal stimulus money**

DOT Secretary Frank Busalacchi said recently local governments need to submit applications for federal eligible projects by April 1, 2009. WTA Executive Director Rick Stadelman suggests that town and village officials read this letter, view the websites listed in the letter and contact your county highway commissioner with questions about eligibility or other matters. "Time is of the essence," Rick notes, "but this Stage 2 process has some potential for local projects, especially bridge projects that can be designed and approved by December 1, 2009." Additional information is available on the DOT website at: [www.dot.wisconsin.gov/localgov](http://www.dot.wisconsin.gov/localgov)

Click on the link titled "Local recovery project application." From the home page of the DOT web site, follow the link for "Programs for Local Government."