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BRIDGING THE GREAT DIVIDE: SEWRPC, POLITICS, AND REGIONAL COOPERATION

JAMES J. CASEY, JR., ESQ.*

I. INTRODUCTION

Every urbanized region in the United States faces a combination of economic, political, and socio-cultural problems.¹ Southeastern Wisconsin in particular faces the following problems, to name a few:

1. Traffic congestion.²
2. Land use sprawl.

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1. For an in-depth, informative look at the various dimensions of urban geography, see MARTIN CADWALLADER, *URBAN GEOGRAPHY: AN ANALYTICAL APPROACH* (1996). The topics of land use, urban social, retail and industrial structures, residential mobility and neighborhood structure, interregional migration, and urban planning are covered. This reflects the interdisciplinary nature of urban issues and how to attack the problems primarily unique to urban areas. This interdisciplinary context demands a unified, strategic approach to solving urban problems.

2. It has been observed that "the Milwaukee Metropolitan Expressway Commission was created in 1953 because it had been proven that the various Milwaukee municipalities could not agree on the routes for co-operatively planned expressways which would cross their borders." Richard W. Cutler, *Can Local Government Handle Urban Growth?*, 1959 WIS. L. REV. 5, 18. At least in the area of transportation planning, cooperation has not always been present. Given the current differences of opinion between the city of Milwaukee and the suburbs regarding the alleviation of traffic congestion, perhaps it is time to resurrect this public entity.

3. Environmental degradation.
4. Hypersegregation.³
5. The inability of political leaders to solve problems on a regional level.
6. Loss of well paying jobs in the central city of Milwaukee.
7. Expansion of poverty and blight out of the central city of Milwaukee.
8. Income stagnation.⁴
9. Rapid demographic change, including teenage pregnancy and the substantial rise in single parent families.
10. Excessive debate over large public works projects, including light rail and freeway reconstruction.

Given these challenges, it is patently clear that politics as usual must be replaced by a true regional consensus in battling these problems. As will be discussed, local responses to regional problems have generally proven insufficient over the long run to arrest the expansion of these problems. The lack of federal resources at the present time also makes local action imperative. A local consensus can be formulated only after sufficient local discourse has taken place.⁵

In seeking to contribute an *interdisciplinary* analysis of SEWRPC within legal and political contexts, this article does the following: (1) describe the development of Regional Planning Commissions (RPCs) in the United States; (2) provide an overview of the statutory and political development of RPCs in the state of Wisconsin; (3) provide a detailed look into SEWRPC from legal and political perspectives; and (4) consider whether and to what extent regional planning and cooperation can bridge political, economic, and socio-cultural divides in southeastern Wisconsin.⁶

3. See HENRY MAIER, THE MAYOR WHO MADE MILWAUKEE FAMOUS 259 (1993) (stating, "[t]he Metropolitan Milwaukee area still holds the record for the most segregated suburbs in the United States (according to the 1970 and 1980 federal censuses)").

4. See James R. Donoghue, *County Government and Urban Growth*, 1959 WIS. L. REV. 30 (for a dated, but lengthy, discussion of the issues and challenges facing the county government in Wisconsin and in the rest of the United States).

5. In a similar vein, it should be noted that the State of Wisconsin Department of Transportation has been involved in recent efforts to consider the nature, role, and future of land use and transportation priorities in southeastern Wisconsin and elsewhere in the state. See WISCONSIN DEPARTMENT OF TRANSPORTATION, TRANSPORTATION AND LAND USE; DESCRIPTION & REVIEW OF ALTERNATIVE POLICIES FOR DEPARTMENTAL CONSIDERATION, WISCONSIN TRANSLINKS 21 (Nov. 1993); WISCONSIN DEPARTMENT OF TRANSPORTATION, STATEWIDE LAND USE TASK FORCE: FINAL REPORT (Apr. 1993).

6. Throughout this article, the term "regional planning commission" will be used in place of "metropolitan planning organization." Although the terms are similar in purpose,

This paper is the second in a series of journal articles dedicated to addressing important issues in southeastern Wisconsin. The first considered transportation problems facing the region and placed within an interdisciplinary context possible steps that could be taken.⁷ This article takes a broader approach, focusing on the regional context of planning and its preeminent structure—SEWRPC—in the hope of strengthening regional cooperation and planning. A future paper will again address transportation issues in southeastern Wisconsin. Building upon the prior two efforts, this article will deal with the now defunct entity known as the Milwaukee County Expressway and Transportation Commission, consider its place within local and regional contexts, and consider whether it is time to resurrect the Commission as a viable political and planning organ to address transportation issues.

II. THE DEVELOPMENT AND ROLE OF REGIONAL PLANNING COMMISSIONS

A. General Overview

RPCs advise local units of government on the planning and delivery of public services to citizens of a defined region, and prepare/adopt master plans for the physical development of the regions they serve.

(i.e., planning activities for a defined region), the latter term more precisely identifies the urban context. Regional planning commissions exist within areas that cannot be defined as urban.

7. James J. Casey, Jr., *The Politics of Congestion and Implementation: Milwaukee's Freeways and the Proposed Light Rail and Transit System*, 78 MARQ. L. REV. 675 (1995). This article utilized an interdisciplinary analysis to consider pressing transportation issues in southeastern Wisconsin. The failure to complete the Milwaukee County freeway system is an example of solid public planning in spite of miserable policy implementation. It has been observed that a major weakness of SEWRPC has been its lack of implementation power under state statute. See Letter from Frank P. Zeidler, former Mayor of Milwaukee, to James J. Casey, Jr., (Mar. 6, 1996) (on file with the author) [hereafter Letter from Zeidler]. The *Marquette Law Review* article discussed the "politics of congestion and implementation," which can be defined as follows:

Based upon the premise that automobiles are inherently responsible for all pollution and congestion in the Milwaukee area, as well as a host of economic and social problems, policymakers adopt a transportation public policy that is grounded in short term political benefits, not long term regional gain. These policies seek to *unrealistically* restrict the use of automobiles by the general populace and pursue political strategies that shift public funds from highway construction and maintenance to mass transit and light rail alternatives. In essence, policymakers force congestion upon the general populace in order to shift the tenor of the public debate to alternative sources of transportation.

Casey, *supra*, at 727 n. 170.

Regional planning provides a way to discuss problems that transcend local government boundaries and offers joint solutions that could not be achieved without intergovernmental cooperation. These commissions may conduct research studies; make and adopt plans for the physical, social, and economic development of the region; provide advisory services to local government units and other public and private agencies on regional problems; and coordinate local programs that relate to their objectives.⁸ RPCs differ from other planning devices, such as zoning ordinances/controls and official maps, in that territorial scope is not limited to unincorporated areas or arbitrary distance.⁹ Its frame of reference is the region. However, unlike these devices, RPCs are merely advisory. They have no power or authority of implementation. RPCs differ from the local planning commission/board in terms of geographical focus,¹⁰ though clearly the political, social, and cultural dimensions may be similar.

Among the many categories of projects developed or assisted by regional planning commissions are rail and air transportation, waste disposal and recycling, highways, air and water quality, zoning and farmland preservation, outdoor recreation, grant writing for financial assistance programs, parking and lakefront studies, and land records modernization. Many commissions serve as a one-stop source for statistical information for the local governments of their area, a useful function for municipalities that lack the facilities and funds for such functions.¹¹

While the Wisconsin structure will be discussed shortly, the membership of regional planning commissions generally varies according to conditions defined by statute. These statutes define the term of office for a commissioner, the composition of the commission itself and associated advisory bodies, and the financial mechanisms through which the commission is funded. One must look to state statute to ascertain the structural basis for these organizations. Given the fact that these entities are relatively recent in origin, their presence in the common law is scarce and their impact in local communities varies over time.¹²

8. Casey, *supra* note 8, at 727.

9. Marygold S. Melli & Robert S. Devoy, *Extraterritorial Planning and Urban Growth*, 1959 WIS. L. REV. 55, 67.

10. *Id.*

11. *Id.*

12. For a solid introduction into the contemporary dimensions of urban planning, see JOHN M. LEVY, *CONTEMPORARY URBAN PLANNING* (1997). This book covers the most salient perspectives of the urban planning function, including the legal perspectives of plan-

B. Role in the U.S. Political System

In order to understand the role of RPCs within the U.S. political system, it is important to give a brief outline of this system.

The political system in the United States is *federalist* in nature, a multilayered system of governments with constantly changing relationships. This consists of local units of government (towns and townships, villages and cities), the county-level unit of government, the 50 state governments (plus territories), and the federal government. The laws governing these relationships derive from the U.S. and state Constitutions; federal and state statutes; municipal and county ordinances; court decisions; customs; and a multitude of political, social, cultural, and economic forces that pressure all levels of government. Based upon the concepts of limited federal government and separation of powers, the U.S. political system is quite complex. The Founding Fathers endeavored to disperse political power, a significant point pertinent to this paper.

Just as state law authorizes the creation of local units of government, it creates special entities with quasi-municipal powers, such as RPCs. These entities, through their enabling statutes, are given specific powers and duties and cover specific geographical areas. Like special tax units and metropolitan port and sewerage districts, they are in essence a new layer of government and governance in the political arena. Counties and local governments have the power to appoint representatives to RPCs, including those in the state of Wisconsin.

Therefore, we actually have 5 layers of government: (1) the national government; (2) the state; (3) the county; (4) the local units; and (5) special quasi-government units. Each new layer of government introduces greater complexity into the political process.

The presence and activity of RPCs means that local government units, local citizens, community-based organizations, religious groups, corporations, and other non-governmental organizations may influence the activities of these commissions through a variety of tactics. Conversely, these commissions may influence other actors in the political arena. Nevertheless, the *advisory* nature of these commissions in the state of Wisconsin limits that capability. Consistent with the federalist model, however, these commissions have the potential to influence political activity and, as a result, political influence flows in all directions.

ning, the political and social perspectives of planning, land use, capital facilities design, urban renewal/community development, transportation design, economic development, growth management, and environmental planning.

The practical need for these commissions stems from the major political, social, cultural, and economic changes the U.S. has witnessed during this century. Over the past 50 years, we have seen the increasing prevalence of a fourth branch of government—the administrative branch—at all levels of government.¹³ One of the legacies of the New Deal was the proliferation of planning agencies to conduct public infrastructure projects, partially out of necessity and partially to bring the country out of the Great Depression. After World War II the pent-up demand for goods, services, and “good clean living outside the city,” resulted in Americans moving out of the city. The first suburbs started shortly after 1946. By the 1950s, this tendency was coupled with the immigration of the poor and minorities from the South to the industrialized North.¹⁴

These fundamental changes placed increasing strain on public infrastructure, particularly roads, sewers, and utilities. RPCs such as SEWRPC were created to handle the major demographic, economic, and structural changes affecting America after World War II.¹⁵ It has also been recognized that local units of government did not have the capacity to handle and solve regional issues. As a result, entities such as SEWRPC occupy a unique place in the American political system and have a unique influence upon other levels of government.

C. Unique Considerations

1. The Role of Regional Economics

One of the important dimensions of regional planning is the increasing dominance of regional economics, which coincides with so-

13. *See id.* at 67.

14. On the related issue of urban blight, see John F. Cook, *The Battle Against Blight*, 43 MARQ. L. REV. 444 (1960) (discussing Wisconsin laws relating to the removal of urban blight and the statutory creation of municipal redevelopment authorities). The first two urban renewal projects in the city of Milwaukee were initiated in 1949—the Lower Third Ward Redevelopment Project and the Hillside Project. *Id.* at 449. The discussion of redevelopment authorities in this article predates the impact of the Redevelopment Authority of the City of Milwaukee (“RACM”) and the Housing Authority of the City of Milwaukee (“HACM”) on redevelopment in the city. *Id.* at 452.

15. At the time the Wisconsin regional planning statute was being drafted, a state-wide governor’s committee on Problems of Urban Expansion was created in 1957 to conduct studies, of problems confronting municipal governments—with the exception of Milwaukee—as a result of urban expansion. 1957 Wis. Laws ch. 544. At the same time, the Metropolitan Study Committee was created to study problems in Milwaukee. 1957 Wis. Laws ch. 421.

cial/cultural, political, transportation, and land use issues.¹⁶ Regional economics is an important aspect of regional policy in a changing world because it helps us understand our environment and assists us in finding solutions.¹⁷ It has been argued that the national economy is a bundle of regional economies. Therefore, any analysis of these is more similar to biomedical research than deductive physics-inspired models of neoclassical economic theory.¹⁸ According to Hanson, Higgins, and Savoie, this results in three propositions:¹⁹

A. Regional policies need to be viewed in the context of changing economic structures and changing determinants of location of economic activity.

B. Regional policies reflect the mutual interaction between the socioeconomic evolution of a nation and the prevailing economic and social philosophy of the time.

C. Regional policy reflects both what is happening within a national society and economy at any particular time and the prevailing economic and social philosophy of the time, with constant interaction the rule and not the exception. Furthermore, regional policy includes all deliberate actions by governmental entities to alter the spatial distribution of economic and social goods, including but not limited to population, income, governmental revenues, production of goods and services, transportation facilities, other social structures, and political power.²⁰

The reasons for regional policy can be stated in a number of ways. In general, regional policy is used to promote *social justice* in terms of greater equality, reduce unemployment where it is most severe, eliminate pockets of poverty, promote structural development of the econ-

16. For an introduction to regional economics, see EDGAR M. HOOVER, AN INTRODUCTION TO REGIONAL ECONOMICS (2nd ed. 1975). In the context of southeastern Wisconsin, former Milwaukee Mayor Frank Zeidler states, "There are differences in the governments in the region based on economic and class status, special types of needs for municipal services such as water and sewage disposal, competition for industrial development, and so on." Letter from Frank P. Zeidler, *supra* note 7. These differences have made, and will continue to make, true regional cooperation problematic.

17. See NILES HANSEN ET AL., REGIONAL POLICY IN A CHANGING WORLD (1990). This book uses a comparative method to ascertain regularities in the development of regional economies, the development of regional problems, the policies for dealing with these problems, and the consequences of such policies. The countries examined were Canada, Post-War France, Great Britain, the United States, Australia, Malaysia, and Brazil. *Id.* at 2.

18. *Id.* at 1. If the national economy is nothing more than a bundle of regional economies, true regional cooperation in southeastern Wisconsin is more urgent than ever.

19. *Id.* at 4-5.

20. *Id.* at 2.

omy, and realize development potential more fully.²¹ These concerns for social justice within the context of regional policy give way to specific objectives:

1. [R]eduction of regional economic disparities, whether for reasons of economic efficiency, political stability, or social justice.
2. Redistribution or change in growth patterns of population and economic activity.
3. Development of new resource frontiers.
4. Improvement in resource allocation by reducing unemployment and low-productivity employment.
5. Promote entrepreneurship and relatively rapidly growing sectors.²²

Taking into consideration the massive economic, political, social, and cultural changes that have occurred in the United States since the end of World War II, Hansen, Higgins, and Savoie have concluded the following:

1. There has been a dramatic rise in regional planning since the 1960s, as a response to interrelated social, political, demographic, and economic problems.
2. Physical planning played a major role. Little effort was made to apply economic or development theory to regional planning in practice.
3. The motives for regional planning differs across regions, with social, economic, demographic, and political dimensions. These include rural to urban migration, development plans for areas experiencing outmigration, creation of larger urban areas, and underutilization of infrastructure in areas experiencing stagnation or loss.²³

As this article will illustrate, all three of these conclusions have appeared at one time or another in southeastern Wisconsin.²⁴ Along with

21. *Id.* at 279. This book also concluded that regional planning councils in Great Britain had mixed results. *Id.* at 102.

22. *Id.* at 3-4.

23. HANSEN, *supra* note 17, at 279.

24. It should be noted, additionally, that considerations of economics exist at the city and suburban level, not only at the regional level. As illustrated in WILLIAM THOMAS BOGART, *THE ECONOMICS OF CITIES AND SUBURBS* (1998), the role of economics at the city or suburban level has significant impact on what that jurisdiction does at the regional level, or how responsive that jurisdiction is to regional problem solving. The power of local economics assumes greater importance where the regional governing body is advisory in nature and has no powers of implementation or enforcement.

The city of Milwaukee, for example, has avoided improving its highway system to relieve congestion on the grounds that the prior freeway program decimated the city's tax base

considerations of regional economics, the role of environmental issues in the regional context occupy a central role.

2. Environmental Considerations

Among regional issues, the impact and role of environmental issues has been a prominent consideration since the modern environmental movement began in the late 1960s. In this regard, the federal push toward uniform national laws has been particularly effective in cleaning up the environment.²⁵ It goes without saying that even the most pro-business, anti-environmentalist will admit that maintaining a clean environment not only makes good political and social sense, but also good business sense. While the balance between political, economic, social, and environmental considerations is a delicate one, the best regional policies and planning activities are those that reasonably accomplish success in each sphere. Until the late 1960s, consideration of environmental issues was rare. Times have changed, however, and environmental considerations will remain important in the future.

In a slightly different "environmental" context, it has been argued that policymakers should understand people's environmental perceptions and behaviors in order to make the most appropriate environ-

(via housing displacement) and encouraged people to move to the suburbs. As long as the elected officials of Milwaukee ignore highway improvements, it will be virtually impossible to achieve consensus on regional transportation issues.

25. The Clean Air Act (as amended) is the primary federal statute governing transportation issues in southeastern Wisconsin. See Clean Air Act Amendments of 1970, Pub. L. No. 91-604, 84 Stat. 1676. The Clean Air Act Amendments of 1970 were a radical reworking of the Clean Air Act of 1963. See Clean Air Act of 1963, Pub. L. No. 88-206, 77 Stat. 392. The 1963 Clean Air Act was amended several times between 1963 and 1970 in less dramatic fashion. See Clean Air Act Amendment of 1965, Pub. L. No. 89-272, 79 Stat. 992; Clean Air Act Amendments of 1966, Pub. L. No. 89-675, 80 Stat. 954; and Air Quality Act of 1967, Pub. L. No. 90-148, 81 Stat. 485. After 1970, the Clean Air Act was amended in 1974, 1977, and again in 1990. See Energy Supply and Environmental Coordination Act of 1974, Pub. L. No. 93-319, 88 Stat. 246, 256; Clean Air Act Amendments of 1977, Pub. L. No. 95-95, 91 Stat. 685; and Clean Air Act Amendments of 1990, Pub. L. No. 101-549, 104 Stat. 2399. See also FRANK P. GRAD, TREATISE ON ENVIRONMENTAL LAW, § 2.03[1] (1991) (discussing the Clean Air Act prior to 1970). For a more extensive discussion of transportation control plans, see Michael T. Donnellan, Note, *Transportation Control Plans Under the 1990 Clean Air Act as a Means for Reducing Carbon Dioxide Emissions*, 16 VT. L. REV. 711 (1992). For a strong argument in favor of a multi-modal approach to transportation congestion, see Robert H. Freilich & S. Mark White, *Transportation Congestion and Growth Management: Comprehensive Approaches to Resolving America's Major Quality of Life Crisis*, 24 LOY. L.A. L. REV. 915 (1991). This article also contains some short yet cogent descriptions of emerging state and regional approaches to traffic congestion: California, Florida, Maine, New Jersey, Oregon, Vermont, and Washington. *Id.*

mental decisions.²⁶ Thus, there should be a recognition of the integration of the social and behavioral sciences with the skills of the design and planning disciplines.²⁷ This integration should take place within the three environments: the built environment, the natural environment, and the social environment.²⁸ The built environment consists of those structures created by man in the course of daily life. The natural environment consists of nature and all objects that were not built by man. The social environment is that portion of human life that exists outside the built and natural environments, including political, social, cultural, and religious considerations.²⁹

Within this defined decisionmaking matrix are considerations of personal space and room geography, architectural space, "neighborhoods," and the community of which one feels a part *i.e.*, rural, urban, city, or suburb.³⁰ As a result of this matrix, Saarinen advocates an ecological approach to decisionmaking. The technical disciplines of planning and engineering would be merged with the most basic considerations of space, sight, and sound.³¹ There is much to commend in the concept that urban living should be as "environmentally correct" as possible, given other competing considerations.

While an ecological approach to planning sounds good on paper, it is difficult realistically to balance these considerations with uniformity of result. In some situations, a more politically acceptable result may occur—a result that does not make much sense from a planning and engineering standpoint. In another situation, an environmentally-sensitive result may be obtained that does not make economic sense. For example, the decisions to not complete the Milwaukee County Freeway System may have been environmentally-friendly, but have had disastrous consequences from an economic development standpoint.

The paper will now shift its focus from general regional planning to the specific Wisconsin regional planning commission model, a structural analysis of this important quasi-governmental entity.

26. THOMAS F. SAARINEN, ENVIRONMENTAL PLANNING: PERCEPTION AND BEHAVIOR xi (1976).

27. *Id.*

28. *Id.* at 2.

29. *Id.* at 6.

30. *Id.*

31. *Id.*

III. REGIONAL PLANNING COMMISSIONS IN WISCONSIN

A. History

The early history of regional planning in Wisconsin and SEWRPC in particular can be traced to three phases: the civic push for regional planning in the greater Milwaukee area in the 1940s, the legislative push for regional planning at the local and state levels in the 1950s, and the final creation of SEWRPC by gubernatorial executive order in 1960.³²

1. Economic Development and Civic Agitation: 1945-1957

Like most of the United States in the wake of World War II, southeastern Wisconsin and the greater Milwaukee area were in the midst of an economic and urban development boom.³³ This development was characterized by the development of Milwaukee suburbs and exurbs; and the continued decline of population densities (though at greater rates than earlier in the century). The automobile became a prevalent mode of travel, displacing mass transit.³⁴ As a result, a number of public officials and civic leaders in Milwaukee began to recognize the need to harness and address these changes: Leo Tiefenthaler, Elmer Krieger, Jacob H. Beuscher, Richard W. Cutler, Walter H. Bender, William Norris, and Baltus Rolfs.³⁵ For eight years these civic leaders promoted the regional planning enabling legislation that was enacted by the Wisconsin legislature in 1955.³⁶ This legislation included most of the hallmarks of today's SEWRPC, including the advisory nature of the commission and the duty to prepare and adopt a master plan for the development of the region.³⁷

2. Local and State Efforts: 1957-1960

After the passage of the enabling legislation in 1955, civic leaders and public officials requested that the governor create a planning com-

32. For an interesting historical look at the development of the state of Wisconsin from its territorial days to the mid-1960s, see H. RUSSELL AUSTIN, *THE WISCONSIN STORY: THE BUILDING OF A VANGUARD STATE* (1969). Especially in the final chapters, dealing with the 1950s and 1960s, one can sense the author's excitement at the physical development of the greater Milwaukee area.

33. SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION, 1970 ANNUAL REPORT 5 (1971) [hereinafter SEWRPC, 1970 ANNUAL REPORT].

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

mission for the southeastern Wisconsin region.³⁸ In November of 1957, the Waukesha County Board of Supervisors petitioned then governor Vernon Thomson to create a regional planning commission, followed by the Milwaukee County Board of Supervisors in July of 1958 and the Ozaukee Board in November of 1958.³⁹ In December 1958, the Committee on Land Use and Zoning of the Milwaukee Metropolitan Study Commission issued a report recommending that a regional planning commission for southeastern Wisconsin be established.⁴⁰ This committee also argued that this commission should contain the seven counties that are the constituent units of SEWRPC, and it was upon this recommendation that the County Boards of Kenosha, Racine, Walworth, and Washington counties petitioned the governor to establish such a commission.⁴¹

3. Gubernatorial Executive Order establishing SEWRPC: 1960

As a result of actions at the local level, Governor Gaylord Nelson, signed the executive order establishing the Southeastern Wisconsin Regional Planning Commission (SEWRPC) on August 8, 1960.⁴² This executive order mandates that SEWRPC is established according to the enabling act set forth in Section 66.945 of the Wisconsin Statutes.⁴³ In a broad sense, the three principal duties of SEWRPC are to conduct an areawide inventory of the physical and economic assets in the region, design and approve regional plans for the physical development of the region, and promote intergovernmental cooperation and coordination.⁴⁴

SEWRPC is hardly the only regional planning commission in Wisconsin. There are nine regional planning commissions that serve all but a few of the states' 72 counties. The boundaries of these commissions are based on such considerations as common topographic and geographic features; extent of urban development; existence of special or acute agricultural, forestry, or other rural problems; uniformity of social or economic interests or values; or the existence of physical, social, and economic problems of a regional character.⁴⁵ As authorized by state law, Wisconsin's regional planning commissions have established the

38. *Id.*

39. SEWRPC, 1970 ANNUAL REPORT, *supra* note 33 at 5.

40. *Id.*

41. *Id.* at 6.

42. *Id.* at 5.

43. *Id.*

44. *Id.* at 6.

45. SEWRPC, 1970 ANNUAL REPORT, *supra* note 33 at 6.

Wisconsin Council of Regional Planning Organizations. The council's purposes include assisting the study of common problems and serving as an information clearinghouse.⁴⁶

At the present time, the following regional planning commissions exist in the state of Wisconsin:

1. Bay-Lake Regional Planning Commission
2. Dane County Regional Planning Commission
3. East Central Wisconsin Regional Planning Commission
4. Mississippi River Regional Planning Commission
5. North Central Wisconsin Regional Planning Commission
6. Northwest Regional Planning Commission
7. Southeastern Wisconsin Regional Planning Commission
8. Southwestern Wisconsin Regional Planning Commission
9. West Central Wisconsin Regional Planning Commission⁴⁷

B. Wis. Stat. Section 66.945—Statutory Basis for Regional Planning

The basis for regional planning and planning commissions in the state of Wisconsin is section 66.945, of the Wisconsin Statutes. This statute is a comprehensive delineation of the composition, powers, rights, and weaknesses inherent in the concept of *advisory* planning commissions.⁴⁸ In keeping with the comprehensive nature of the statute,

46. *Id.*

47. *Id.*

48. WIS. STAT. ANN. § 66.945 (West 1990). Chapter 466, Laws of 1955, which created this section, authorized the governor or a state agency designated by the governor to create a regional planning commission upon petition by the governing body of a local governmental unit. Chapter 596, Laws of 1959, amended the law to require a public hearing on a petition to form a planning commission unless the governing bodies of all the local governmental units in the proposed region join in the petition. The 1959 law also made the governor's power to create a commission contingent upon the consent of the governing bodies of local units that include more than 50 percent of the region's population and equalized assessed valuation. *Id.*

By the time the Wisconsin statute was enacted, it was estimated that approximately 62 official regional planning agencies, 6 quasi-official agencies, and 31 unofficial groups had been established. See AMERICAN SOC'Y OF PLANNING OFFICIALS, METROPOLITAN-REGIONAL PLANNING AGENCIES (1953) and 13 ASSEMBLY (CALIF.) INTERIM COMM. REPS. NO. 11, ADAPTING GOVERNMENT TO METROPOLITAN NEEDS: A REVIEW OF ORGANIZATIONAL DEVICES 13 (1957).

In addition, Wis. Stat. § 15.845 (1957) provided for a director of regional planning who could assist local units in planning. Under the statute, the director has the authority:

"To do work to facilitate urban planning for smaller communities lacking adequate planning resources . . . and to provide planning assistance to cities and other municipalities having a population less than 25,000 according to the latest decennial census; to do similar planning work in metropolitan and regional areas in co-

the reader is invited to peruse the following sections, which for the purpose of this article may be considered moot:

- (1) Definitions.
- (2) Creation of regional planning commissions.
- (2m) Limitation on territory.
- (3) Composition of regional planning commissions.
- (4) Compensation; expenses.
- (5) Chairman; rules of procedure; records.
- (6) Director and employees.
- (14) Budget and service charges.⁴⁹

For this article, the following sections are of primary importance. Subsection (7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. A regional planning commission may appoint people whose experience, training, or interest may qualify them to lend valuable experience to the regional planning commission in an advisory capacity.⁵⁰ These advisory committees are prevalent and influential within the SEWRPC decisionmaking process.

Subsection (8) FUNCTIONS, GENERAL AND SPECIAL. Subsection (8)(a) provides for the following general and special functions:

1. Conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties;
2. Make plans for the physical, social and economic development of the region, and may adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region;
3. Publicize and advertise its purposes, objectives and findings, and may distribute reports thereon; and
4. Provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a coordinating agency for programs and activities of such local units and agencies as they relate to its ob-

operation with official state, metropolitan or regional planning agencies empowered by law to perform such planning. . . . " *Id.* § 15.845(3)(j).

49. WIS. STAT. ANN. §§ 66.945(1), (2), (2m), (3), (4), (5), (6), (14) (West 1990). It should be noted that Section 14 provides that: "The amount charged to a local government unit shall not exceed .003 per cent of such equalized value under its jurisdiction and within the region, unless the governing body of such unit expressly approves the amount in excess of such percentage." *Id.* § 66.945 (14)(a).

50. *Id.* § 66.945(7).

jectives.⁵¹

Key, however, is the following phrase: "The functions of the regional planning commission shall be solely advisory to the local governments and local government officials comprising the region."⁵²

Section 66.945(8)(b) provides for the creation and distribution of an annual report to the legislative bodies within the region and the submission of two copies to the State of Wisconsin Legislative Reference Bureau.⁵³ The responsibility to inform the public and local government officials is an essential function of democracy.

Subsection (9) PREPARATION OF MASTER PLAN FOR REGION. This section provides:

The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for such physical development and may include, among other things without limitation because of enumeration, the general local, character and extent of main traffic arteries, bridges and viaducts; public places and areas; parks; parkways; recreational areas; sites for public buildings and structures; airports; waterways; routes for public transit; and the general location and extent of main and interceptor sewers, water conduits and other public utilities whether privately or publicly owned; areas for industrial, commercial, residential, agricultural or recreational development. The regional planning commission may amend, extend or add to the master plan, or carry any part or subject matter into greater detail.⁵⁴

This is one of the major functions of SEWRPC and one should not underestimate the importance of this function. These master plans (The Regional Transportation and Land Use Plans) have had an impact upon the region for decades.

Subsection (10) ADOPTION OF MASTER PLAN FOR REGION. This section provides for the adoption of the master plan, the purpose of which is as follows:

The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmo-

51. *Id.* § 66.945(8)(a).

52. *Id.*

53. *Id.* § 66.945(8)(b).

54. *Id.* § 66.945(9).

nious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development . . . The purpose and effect of adoption of the master plan shall be solely to aid the regional planning commission and the local governments and local government officials comprising the region in the performance of their functions and duties.⁵⁵

Subsection (11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSIONS. This section provides that local governments may refer to the cognizant regional planning commission for its consideration and report the location of, or acquisition of, land for any of the items or facilities which are included in the adopted regional master plan.⁵⁶

Subsection (12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION; CONTRACTS. Subsection (12)(a) provides that "Any local government unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission."⁵⁷ Subsection (12)(b) provides for contracts to provide professional technical services to local units of government,⁵⁸ which has been used consistently up until this day.

The prescription of subsection (12)(a) is significant because local government rejection or inaction with respect to regional plans can render the regional plans useless if local units of government reject or fail to enact/implement adopted regional plans. This happened with the now-demapped freeways in Milwaukee County. There is a distinct possibility that these plans may become mere pieces of paper under this statutory scheme.

Subsection (13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. This section provides that regional planning commissions may receive gifts, grants, and aid from governmental and non-governmental units so long as the conditions attached to such aid are not incompatible with the purposes of the commission.⁵⁹ This section coupled with the subsection (14) cap on an assessment of .003% of equalized value of property within the region, comprises the full range of financial support to the regional planning commissions.

Subsection (15) DISSOLUTION OF REGIONAL PLANNING COM-

55. *Id.* § 66.945(10).

56. *Id.* § 66.945(11).

57. *Id.* § 66.945(12)(a).

58. *Id.* § 66.945(12)(b).

59. *Id.* § 66.945(13).

MISSIONS. This section provides:

Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units within the region, including the county board of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the commission has been paid and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made therefor, the governor shall issue a certificate of dissolution of the commission which shall thereupon cease to exist.⁶⁰

As is explained elsewhere in this article, dissolution of SEWRPC has been threatened when SEWRPC failed to take certain actions. As long as this provision remains on the books, this "sword of Damocles" hangs over the head of SEWRPC and overshadows every perceived "unpopular" action that SEWRPC contemplates. To prevent politicization of regional planning, this section should be repealed—or at least strengthened—through an increase in the vote required to dissolve SEWRPC. It suggested that a 75% vote, as opposed to a mere majority, should be required.

Subsection (16) WITHDRAWAL. Any local government may withdraw from the regional planning commission upon a two-thirds vote of the members-elect of the governing body after a public hearing.⁶¹ This has, in fact, occurred in southeastern Wisconsin since the establishment of SEWRPC in 1960. Further technical aspects and ramifications of such withdrawal are outlined in this section. This section weakens the overall influence and relevance of the regional planning commission by giving local units of government an "out" if they do not like what the commission is doing. How effective would SEWRPC be if Milwaukee County or Waukesha County withdrew from SEWRPC? If one accepts the proposition that regional cooperation is *good* in terms of the public welfare, the failure to include all counties within the regional structure will not advance the public welfare. The voting requirement should be increased to three-quarters from two-thirds.

C. The Primary Weakness of the Statute

Based upon the foregoing statutory analysis, it is clear that there are several deficiencies in the statute as it currently exists. Foremost among

60. *Id.* § 66.945(15).

61. *Id.* § 66.945(16).

these problems is the advisory capacity of SEWRPC and its concomitant lack of mandatory powers of implementation of regional plans approved at the local level.⁶² Without binding powers to implement legally adopted and valid regional plans, SEWRPC is subject to local political winds when local organizations and citizens feel that they have a better chance of frustrating regional plans, they will have to rely upon the political will of local officials and technical expertise of professionals to convince the local electorate that the regional plans are necessary to ensure the economic, political, and social health of the region. As we have seen with the freeway controversy in Milwaukee County, politicians were not willing to listen to local transportation professionals when their constituents argued that the freeway program should be halted dead in its tracks.

What evidence exists supporting the premise that implementation of regional plans in southeastern Wisconsin is an uncertain fact? Consider the following:

1. In 1970, SEWRPC warned:

In this connection a warning should be sounded here that, if militant local groups succeed of pressuring the local and state units of government to abandon on a piecemeal basis efforts to implement the recommended 1990 freeway system, thereby negating cooperative areawide planning efforts, the future physical, economic, and social well-being of the entire region may be seriously and adversely compromised. In this connection also, it should be noted that the proposed freeway system forms the basic framework for any meaningful kind of rapid transit system within the Region.⁶³

This warning accurately predicted future events.

2. Former Commission Chairman George Berteau advocated giving SEWRPC powers of implementation, going so far as to advocate increased state power where local actions are in direct contradiction to adopted regional plans.⁶⁴ This raises significant constitutional and political issues.

3. In 1972, the City of Milwaukee continued to actively support the construction of the North Lakes residential development (located within the path of the Stadium-North Freeway, which at the time was on the official maps at the county, regional, and state levels). This oc-

62. WIS. STAT. ANN. § 66.945(8)(a) (West 1990).

63. SEWRPC, 1970 ANNUAL REPORT, *supra* note 33, at 93.

64. See *Infra* section IV.B., and the entire discussion therein.

curred in the face of a Milwaukee County Committee Board resolution requesting the City to reinstate freeway development and halt the North Lakes project, and an Ozaukee County Board resolution supporting the Milwaukee County Board on this issue.⁶⁵ This illustrates the power of local politics at the expense of regional cooperation.

4. In 1990, SEWRPC, upon reevaluating the adopted Second Generation Land Use-Transportation Plan, reached the following general conclusions:

A. [W]ith respect to the assumed levels of overall regional growth incorporated into the adopted regional land use plan and which provided an important basis for the design of the transportation plan, the plans, now 12 years old, remain valid.

B. Over the past two decades, actual land use growth and change within the Region have occurred in relatively close conformance with the adopted regional land use plan, although certain trends have been at variance with those envisioned in the plan . . .

C. Of the 468 square miles of primary environmental corridor in the Region in 1985, approximately 75 percent have been protected from urban encroachment . . . The remaining 25 percent are not protected

D. In 1985, approximately . . . 56 percent [has] been protected through county and local zoning, 44 percent . . . is not protected from suburban development

E. The ambitious program of public transit improvement and expansion recommended in the adopted regional transportation system plan has not been realized

F. The plan envisioned a doubling of 1972 transit ridership over 1972 levels through this improvement and expansion of transit service by the year . . . 2000. [H]owever, [ridership] remains at the level it was in 1972, as very little implementation of the planned expansion and improvement of public transit service has actually occurred.

G. There has been little implementation of [travel demand management measures]

H. Of the 582 miles of arterial street widening and new arterial streets identified in the adopted regional transportation plan, only 130 miles, or 22 percent, have been completed to date. Yet the region is over 60 percent into the planning period. Many im-

65. SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMM'N, MINUTES OF INFORMATIONAL MEETINGS: ALTERNATIVE REGIONAL LAND-USE TRANSPORTATION PLANS FOR SOUTHEASTERN WISCONSIN-2000, 30-31 (1976).

portant arterial streets intended to provide alternatives to the freeway system for Southeastern Wisconsin residents and business and industry have not been implemented.⁶⁶

As this information indicates, there has been *some* progress in *some* areas under SEWRPC's work program.

5. SEWRPC recently took the unprecedented step of analyzing the implementation of the regional land use plan, due to continued residential development outside the parameters of the regional plan (also known as "urban sprawl").⁶⁷ Given the presence of local officials and concerned citizens on the standing committees and advisory committees, this may cause substantial concern at the local level regarding the lack of implementation of the regional land use plan.

There is no doubt that SEWRPC has succeeded in its legislative mandate by providing master plans for the development of the region, conducting research studies, publicizing its reports and findings,⁶⁸ and providing advisory services.⁶⁹ However, as the evidence shows, the actual implementation of the plans has been less than compelling. This indicates that either local officials do not consider SEWRPCs work to be credible or that local politicians and citizens do not care to listen to planning professionals unless it is in their interest to do so. The latter seems far more likely than the former. While one cannot blame SEWRPC for spotty implementation at the local level, it highlights the importance of strengthening its legislative mandate.

The statutory scheme establishing SEWRPC is essentially laudable, subject to the weaknesses identified herein. So long as the statutory basis remains in its present configuration, the work of the Commission is in limbo based upon the political whims of local units of government. One has to ask whether such a situation addresses the very real pressing issues facing southeastern Wisconsin.

IV. SEWRPC FROM STRUCTURAL AND POLITICAL PERSPECTIVES

The Southeastern Wisconsin Regional Planning Commission is a

66. *SEWRPC to Reevaluate Regional Land Use and Transportation Plans*, SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMM'N NEWSLETTER (Waukesha, WI), May-June 1990, at 45-48.

67. See *infra* part IV.B.

68. One may question, however, whether, in light of implementation efforts, SEWRPC has done enough to promote strict adherence to regional land use and transportation plans, in completion of the freeway program. This concern was also expressed in the author's confidential survey. Perhaps a "harder sell" is necessary.

69. WIS. STAT. ANN. § 66.945(8)(a) (West 1990).

major player in the economic, political, and social dynamics of the region. To highlight its importance:

The Commission serves a region consisting of the seven counties of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha. These seven counties have an area of about 2,689 square miles, or about 5 percent of the total area of the State. These counties, however, have a resident population of 1.87 million people, or about 37 percent of the total population of the State. The seven counties provide about 1,020,900 jobs, or about 38 percent of the total employment of the State, and contain real property worth about \$75.4 billion as measured in equalized valuation, or about 41 percent of all the tangible wealth of the State as measured by such valuation. There are 154 general-purpose local units of government in the seven-county Region, all of which participate in the work of the Commission.⁷⁰

A. The Structural Perspective

1. Organizational Structure

The Commission is structured as follows:⁷¹

1. The Full Commission consists of 21 members, three from each of the counties. One Commissioner from each county is appointed by the county board and is an elected county board supervisor. The remaining two from each county are appointed by the Governor, one from a list prepared by the county board. This body meets at least four times per year and is responsible for establishing overall policy, adopting the annual budget, and central to its duties, adopting regional plan elements.⁷²

2. Four Standing Committees:

A. Executive Committee

B. Administrative Committee

C. Planning and Research

D. Intergovernmental and Public Relations⁷³

3. Numerous technical, citizen,⁷⁴ and intergovernmental coordinating and advisory committees.

70. SEWRPC, OVERALL WORK PROGRAM - 1996 SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION, 1.1 (Dec. 1995) [hereinafter SEWRPC, WORK PROGRAM].

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.* at 1-2.

4. The Professional and Technical Staff. As of October 1995, a total of 100 people worked in SEWRPC, including 88 full-time and 12 part-time employees. Commission staff is occasionally augmented by interagency staff assignments of professional and technical personnel. Commission staff are divided into eight divisions:

- A. Transportation Planning;
- B. Environmental Planning;
- C. Land Use Planning;
- D. Economic Development Assistance Planning;
- E. Community Assistance Planning;
- F. Administrative Services Division;
- G. Geographic Information Systems Division; and
- H. Cartographic and Graphic Arts Division⁷⁵

2. Duties, Roles, and Functions

The technical regional planning functions of the Commission are as follows:

- 1. The collection, analysis, and dissemination of basic planning and engineering data on a uniform, areawide basis.
- 2. Preparation of a framework of long-range areawide plans for the physical development of the Region.
- 3. A Center for the coordination of day-to-day planning and plan implementation activities for all units of government operating within the Region.⁷⁶

In addition, the Commission performs other essential functions:

- 4. Promulgation of a variety of public reports for wide dissemination among elected officials, interested citizens, and planning and other technical professionals.
- 5. The systematic interdisciplinary consideration of social, economic, and environmental effects for different courses of regional action.
- 6. The essential inclusion of citizen participation and involvement in the work program. These include: (a) public attitudinal and behavioral studies, (b) advisory committees for each major work program, (c) informational meetings and public hearings, (d) a community assistance program, and (e) a public information program.

75. *Id.* at 1-3.

76. SEWRPC, WORK PROGRAM, *supra* note 70, at 1.5-1.19.

7. The preservation of historic lands and buildings, which are an irreplaceable part of the Region's natural and cultural heritage.⁷⁷

3. Federal Certification of SEWRPC Activities

SEWRPC is certified by the federal government for the following activities:⁷⁸

1. The Commission certifies annually that it is undertaking an ongoing, cooperative, and comprehensive transportation planning process to meet the needs and requirements of WISDOT and the U.S. Department of Transportation (Federal Highway and Transit Administrations).

2. The Governor has designated SEWRPC as a water quality management planning agency pursuant to section 208 of the Federal Water Pollution Control Act Amendments of 1972.

3. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)⁷⁹ places a priority on metropolitan planning and programming processes. The study design created by SEWRPC in response to this statute not only addresses the requirements of ISTEA but also the Federal Clean Air Act of 1990.⁸⁰

4. The Commission is a metropolitan planning organization (MPO) for transportation planning purposes, thereby meeting its obligations under the 1990 Federal Clean Air Act.

4. Workplan/Priorities

In order to fully understand SEWRPC, one must understand its workplan and its significant accomplishments/actions since its inception. For example, in 1996 the following workplan was established.⁸¹

1. Regional Land Use Planning Program

Tasks:

Data Base Projects

Plan Extension and Refinement Projects

2. Regional Transportation Planning Program

77. *Id.* at 1.6-1.29.

78. *Id.* at 1.22-1.23.

79. Pub. L. No. 102-240, 105 Stat. 1914 (1991). For a more in depth discussion of ISTEA in the context of southeastern Wisconsin, see Casey, *supra* note 7, at 709-16.

80. Pub. L. No. 101-549, 104 Stat. 2399 (1990). For a more in depth discussion of the Clean Air Act in the context of southeastern Wisconsin, see Casey, *supra* note 7, at 716-19.

81. The entire workplan can be reviewed in SEWRPC, OVERALL WORK PROGRAM, *supra* note 70, at 1-12. All material pertaining to each work program element may be found in Chapter II.

Tasks:

- Data Base and Assistance Projects
- Transportation Systems Management/Programming
- Long Range Planning and Plan Implementation Projects
- Major Investment Study Projects
- Milwaukee County Projects

3. Regional Water Quality Planning Program

Tasks:

- Ongoing Plan Implementation and Refinement Projects
- Plan Extension and Updating Projects

4. Regional Floodland Management Planning Program

Tasks:

- General Floodland Management Project
- Comprehensive Watershed Studies
- Special Floodland Management Studies

5. Coastal Management Planning Program

Tasks:

- Coastal Management Coordination Projects
- Special Coastal Management Projects

6. Planning Research Program

Tasks:

- Basic Research Projects
- Data Provision, Assistance, and Coordination Projects
- Mapping and Related Projects

7. Community Assistance Planning Program

Tasks:

- Educational and Advisory Projects
- Review Projects
- Local Planning Projects
- Special Community Assistance Projects

8. Economic Development Planning Program

Tasks:

- Local Economic Development Program Planning
- Economic Development Data and Information Provision
- Economic Development Project Planning Services
- Economic Development, Housing, and Public Facility Grant Assistance

9. Administration Program (general administration, budget development and preparation, annual audits, SEWRPC library,

and Affirmative Action plan)

5. Significant Accomplishments and Actions

Since it is impossible to delineate every accomplishment and action of SEWRPC, the following list is illustrative of the variety of work in its program, significant actions undertaken, and major political events, primarily in the transportation area, having a major bearing on SEWRPC work.

1961

1. May, 1961—Establishment of SEWRPC offices in the old Waukesha County Courthouse, Waukesha, Wisconsin.⁸²
2. Initiation of the Electronic Data Processing Project, carried out by the Marquette University College of Engineering.⁸³
3. Base Mapping and Natural Resources Project.⁸⁴
4. Population Analysis.⁸⁵
5. Community Assistance Program initiated.⁸⁶
6. Interagency Study Investigations, including the Interim Interagency Committee on Transportation Planning.⁸⁷

1963

1. Completion of the first year of the 3 1/2 year regional land use-transportation study.⁸⁸
2. Published planning reports on the subjects of Base Mapping, Economy, Population, Natural Resources, and Public Utilities.⁸⁹
3. Cities of Franklin and Oak Creek "return" to active participation in the region.⁹⁰

82. *Forward to SEWRPC, 1961 ANNUAL REPORT* (Apr. 1962).

83. *Id.* at 1.

84. *Id.* at 2.

85. *Id.*

86. *Id.* at 3.

87. *Id.* at 4-5. See David R. Levin, *Problems in Highway Condemnation*, 1959 WIS. L. REV. 561 (discussing the issues and problems facing the implementation of the Interstate Highway System in Wisconsin and elsewhere in the wake of the Federal Aid Highway Act and the Highway Revenue Act of 1956).

88. SEWRPC, 1963 ANNUAL REPORT 2-3 (Mar. 1964).

89. *Id.* at 1-2.

90. *Id.*

1965

1. Completion of the inventory phase of the regional land use-transportation study.⁹¹
2. Readmittance of three municipalities that had withdrawn during the first 90 day period—City of South Milwaukee, Town of Yorkville, and Village of Waterford.⁹²
3. The appointment of two advisory committees—the Milwaukee River Watershed Committee and the Intergovernmental Coordinating Committee on Regional Land Use-Transportation Planning.⁹³

1966

1. December 1, 1966—Unanimous vote by the Commission to adopt the first generation Regional Land Use-Transportation Plan.⁹⁴
2. Root River Watershed Plan approved by the Commission.⁹⁵

1967

1. Regional Transportation Plan approved by the seven constituent County Boards, including Milwaukee County.⁹⁶
2. Six of seven County Boards approve Regional Land Use Plan, minus Ozaukee County.⁹⁷
3. Implementation of the Root River Watershed Plan.⁹⁸
4. SEWRPC strengthens Community Assistance Program.⁹⁹

1968

1. Fourteen additional local units and agencies of government adopt the Regional Land Use-Transportation Plan.¹⁰⁰
2. Progress made on the Commission's comprehensive watershed planning programs.¹⁰¹
3. Milwaukee County Expressway Commission becomes the Mil-

91. SEWRPC, 1965 ANNUAL REPORT 3-10 (Apr. 1966).

92. *Id.* at ii.

93. *Id.* at 15-16.

94. SEWRPC, 1966 ANNUAL REPORT v (Apr. 1967).

95. *Id.* at 45.

96. SEWRPC, 1967 ANNUAL REPORT 5 (Apr. 1968).

97. *Id.*

98. *Id.* at 29-35.

99. *Id.* at 41-47.

100. SEWRPC, 1968 ANNUAL REPORT iii (Apr. 1969).

101. *Id.* at 45-52.

waukee County Expressway and Transportation Commission, reflecting legislative changes in enabling legislation to include transit modes of transportation.¹⁰²

1969

1. Completion of the Fox River Watershed Plan.¹⁰³
2. Completion of a Jurisdictional Highway System Plan for Milwaukee County.¹⁰⁴
3. December 23, 1969—Milwaukee County Expressway and Transportation Commission, by resolution, terminates all planning work on the Bay Freeway in Milwaukee County. This was the result of "militant" opposition on the part of residents living adjacent to the freeway corridor.¹⁰⁵

1971

1. Milwaukee River Watershed Plan completed.¹⁰⁶
2. Work initiated on a regional housing plan.¹⁰⁷
3. June 28, 1971—Milwaukee County Freeway moratorium agreement entered into by Governor Lucey, Mayor Henry Maier, and Milwaukee County Executive John Doyne.¹⁰⁸

1974

1. Commission adopts Jurisdictional Highway System Plan for Ozaukee County.¹⁰⁹

102. *Id.* at 40.

103. *Forward* to SEWRPC, 1969 ANNUAL REPORT (Apr. 1970).

104. *Id.*

105. *Id.* at 32. In connection with the halt on planning work on the Bay Freeway, which was ordered by the Milwaukee County Expressway and Transportation Commission in December, 1969, the Commission stated:

In this connection a warning should be sounded here that, if militant local groups succeed of pressuring the local and state units of government to abandon on a piecemeal basis efforts to implement the recommended 1990 freeway system, thereby negating cooperative areawide planning efforts, the future physical, economic, and social well-being of the entire region may be seriously and adversely compromised. In this connection also, it should be noted that the proposed freeway system forms the basic framework for any meaningful kind of rapid transit system within the Region.

SEWRPC, 1970 ANNUAL REPORT, *supra* note 33, at 93.

106. *Id.* at SEWRPC, 1970 ANNUAL REPORT, *supra* note 33, at 27.

107. *Id.* at *Forward*.

108. *Id.* at 58.

109. *Forward* to SEWRPC, 1974 ANNUAL REPORT (June 1975) [hereinafter, SEWRPC,

2. Commission adopts Transit Development Plan for the Racine Urban Planning District.¹¹⁰
3. Commission adopts Regional Library Facilities and Services Plan.¹¹¹
4. Commission adopts Regional Sanitary Sewerage System Plan.¹¹²
5. Passage of 5 Milwaukee County Freeway Referendums.¹¹³
6. Planning work on the Stadium Freeway-North extension in Ozaukee County halted by Commission.¹¹⁴
7. Work begins on the Second Generation Land Use-Transportation Plan.¹¹⁵

1977

1. Adoption of Second Generation Regional Land Use-Transportation Plan.¹¹⁶
2. Adoption of Menomonee River Watershed Plan.¹¹⁷
3. Adoption of a Transportation Systems Management Plan for Kenosha, Milwaukee, and Racine areas.¹¹⁸
4. Sharp division of opinion on the completion of the Milwaukee County Freeway System—alternative plans brought forth.¹¹⁹
5. Set of recommendations by an ad-hoc committee of Milwaukee-area legislators urging SEWRPC to acknowledge that all unfinished portions of the Milwaukee Freeway system would not be built in the foreseeable future because, among other reasons, the state legislature would not make available the funds necessary to complete the system.¹²⁰

1978

1. June, 1978—Commission adoption of the Second Generation Regional Transportation Plan. Major decisions concerning the course

1974 ANNUAL REPORT].

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.* at 49; *see also* MILWAUKEE COUNTY BOARD OF ELECTION COMMISSIONERS, 207-13 (Sept. - Nov. 1974).

114. SEWRPC, 1974 ANNUAL REPORT, *supra* note 109.

115. *Id.* at *Forward*.

116. SEWRPC, 1977 ANNUAL REPORT 13-23 (Aug. 1978).

117. *Id.* at *Forward*.

118. *Id.* at 53-54.

119. *Id.* at 48-53.

120. *Id.* at 49.

of future freeway and rapid transit development in the region. Five previously planned freeways deleted, including the Park-West and Stadium-North. Stadium-South, Downtown Loop, and Lake Freeways placed in the "upper tier" of the plan.¹²¹

2. Studies undertaken on how to deal with "stub ends" on de-mapped freeways in Milwaukee County.¹²²

3. Commission adopts the Wastewater Sludge Management Plan.¹²³

1980

1. Commission adopts the Regional Air Quality Attainment and Maintenance Plan in accordance with the federal Clean Air Act of 1977.¹²⁴

2. Recommendations of the Milwaukee Northwest Side/Ozaukee County Transportation Improvement Study (in lieu of the Park-West/Stadium-North project).¹²⁵

1982

1. Commission adopts a new rapid transit system plan for the greater Milwaukee area.¹²⁶

2. Commission adopts farmland preservation plans for Kenosha and Racine Counties.¹²⁷

3. Commission adopts Lake Management Plans for Ashippun, Okauchee, LaBelle, and North Lakes—all in Waukesha County.¹²⁸

4. Reconstruction of the Hillside Interchange on Interstate 43, immediately north of downtown Milwaukee, was initiated during this year,

121. SEWRPC, 1978 ANNUAL REPORT 46-52 (July 1979). Prior to the demapping of the Park-West, some SEWRPC members wanted the freeway lands—particularly those in the Park-West corridor—reserved for an additional ten years. Supporters and opponents of freeways disregarded this option. 2 SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMM'N, A REGIONAL LAND USE PLAN AND A REGIONAL TRANSPORTATION PLAN FOR SOUTHEASTERN WISCONSIN—2000: ALTERNATIVE AND RECOMMENDED PLANS 538, 614 (1978).

122. SEWRPC, 1978 ANNUAL REPORT at 52 (July 1979).

123. *Id.* at *Forward*.

124. *Forward* to SEWRPC, 1980 ANNUAL REPORT (July 1981).

125. *Id.* at 44-50. For an excellent collection of local records pertaining to the Park West Freeway, see PARK WEST REDEVELOPMENT TASK FORCE, *Records, 1963-1983*, University of Wisconsin-Milwaukee Manuscript Collection 47; University Manuscript Collections, Golda Meir Library, University of Wisconsin-Milwaukee.

126. *Forward* to SEWRPC, 1982 ANNUAL REPORT (July 1983).

127. *Id.*

128. *Id.*

as part of plans to complete stub ends for the Park-West Freeway.¹²⁹

5. State legislation adopted during 1982 and 1983 effectively prohibited construction of the Milwaukee Downtown Loop Freeway and the Stadium Freeway-South. These legislative actions will be reflected in the ongoing regional transportation planning process.¹³⁰

1983

1. Commission amends the regional transportation plan by removing the Lake Freeway-North and Park Freeway-East (the Milwaukee Downtown Loop Freeway) in the Milwaukee central business district, substituting permanent ramp connections to the arterial surface system.¹³¹

2. Commission adopts a farmland preservation plan for Ozaukee County.¹³²

3. Long range transportation plan for Milwaukee northwest side and southern Ozaukee County completed as a result of deletion of the Park-West and Stadium-North Freeways from the regional transportation plan.¹³³

4. State legislation adopted prohibits construction of the Stadium Freeway-South. Legislation directed that SEWRPC carry out the State Improvement Study required by the legislature in conjunction with local units of government.¹³⁴

1985

1. Stadium-South Freeway deleted from the Second Generation Land Use-Transportation Plan. South 43rd Street is improved in its place.¹³⁵

2. Resolution of the "conflict" at the Stadium Freeway-North stub ends.¹³⁶

3. Twenty-five year review of SEWRPC activities.¹³⁷

129. *Id.*

130. *Id.* at 54.

131. SEWRPC, 1983 ANNUAL REPORT 49-52 (July 1984).

132. *Id.* at *Forward*.

133. *Id.*

134. *Id.* at 52.

135. *Forward* to SEWRPC, 1985 ANNUAL REPORT (July 1986).

136. *Id.* at 79.

137. *Id.* at Attachment, pp. 1-49. During this period, SEWRPC completed reports in the following areas, with the numbers reported indicated in parenthesis: land use (5); community facilities (3); housing (1); transportation (17); drainage and flood control (6); water

1986

1. Comprehensive water resources management plan for the Oak Creek Watershed in Milwaukee County completed.¹³⁸
2. Progress made on a comprehensive water resources plan for the Milwaukee Harbor Estuary.¹³⁹
3. Commission recommends construction of the Lake Parkway in the Lake Freeway-South corridor (completion slated for 1999).¹⁴⁰

1988

1. Commission completes and adopts a comprehensive freeway traffic management plan for the greater Milwaukee area.¹⁴¹
2. Commission completes and adopts a new park and open space plan for Kenosha County as an amendment to the regional park and open space plan.¹⁴²

1990

1. Commission completes and adopts a new park and open space plans for Washington and Waukesha Counties.¹⁴³
2. Preparation of detailed sanitary sewerage service area plans for the preservation of environmentally sensitive lands in the region, including areas in Milwaukee, Racine, and Waukesha Counties.¹⁴⁴
3. Completion of second generation jurisdictional highway system plans for Racine and Washington Counties.¹⁴⁵

1993

1. Third generation regional land use plan adopted by seven constituent County Boards.¹⁴⁶
2. Progress made toward completion of the third generation regional transportation plan with the design year of 2010.¹⁴⁷

quality (3); air quality (1); and urban areas (2). *Id.* at 16-17.

138. *Forward to SEWRPC, 1986 ANNUAL REPORT*(July 1987).

139. *Id.*

140. *Id.* at 66-68.

141. *SEWRPC, 1988 ANNUAL REPORT* 80-93 (July 1989).

142. *Id.* at *Forward*.

143. *Forward to SEWRPC, 1990 ANNUAL REPORT* (July 1991).

144. *Id.*

145. *Id.*

146. *Forward to SEWRPC, 1993 ANNUAL REPORT* (July 1994).

147. *Id.* at *Forward*.

1994

1. On December 7, 1994, the Commission completes and adopts the third generation regional transportation system plan which was designed to meet the requirements of the federal Clean Air Act of 1990 and the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.¹⁴⁸

2. Work continues on development of a computerized regional geographic information system.¹⁴⁹

B. The Political Perspective

1. The Politics of Regional Planning in Southeastern Wisconsin

The politics of regional planning in southeastern Wisconsin are characterized by a complex web of relationships between local, state and national governments.

At the local level, municipalities are a heterogeneous group, with differences based on demographics; income and class levels; disparate economic bases and power; and diverse political, social, and cultural views. While the primary dichotomy uttered by elected officials and citizens is the "city versus the suburbs," this description over simplifies the situation. As a result, the oversimplistic language used by elected officials and citizens makes regional cooperation more problematic in the long run because the language perpetuates local parochial interests rather than long-run city or regional interests.

Citizens of the city of Milwaukee are hardly a solid block of citizens holding similar viewpoints. The city contains people of varying economic, social, cultural, and political viewpoints. The significant demographic, economic, and cultural changes in the city since 1960 have significant importance to this day. Similarly, people in the suburbs are a diversified group holding differing social, political, cultural, and economic values. The fact that many suburbanites "fled" the city of Milwaukee in the past three decades also colors to a certain extent their local politics and their relationship to the city of Milwaukee and other outlying areas.

These differences make planning in either the city or the suburbs difficult. These differences, make solid leadership at the executive level more important than ever. Not only must the elected official at the lo-

148. SEWRPC, 1994, ANNUAL REPORT 61-81 (Aug. 1995).

149. *Id.* at *Forward*.

cal level represent his or her constituents, but he or she must also *lead* into areas that are political risky, or into areas where the electorate is relatively uninformed. The executive of the city, most often the mayor, must articulate a *vision* of where the city is going and how it fits into the regional context. If leadership is lacking at the political and executive levels, then the greater heterogeneity of the population will make true progress an impossible challenge. The melding of disparate individual interests into the *true public interest* is the challenge for the elected official. It has been stated through the survey results for this article that leadership in Milwaukee County and the City of Milwaukee has been lacking during the past several decades, with some of the most concise criticism coming from the only living former mayor of Milwaukee, Frank P. Zeidler.¹⁵⁰

If there is no leadership at the local level, no articulation of the public interest, both for the present and future, then it makes leadership at the regional level even more problematic. As we have seen in Milwaukee County with the freeway program, the lack of consensus at the local level makes regional progress impossible. The prior information presented regarding implementation efforts illustrates this. It is safe to say that if certain segments of the Milwaukee County Freeway System were state, rather than interstate routes or U.S. highway routes (where the state portion of the project is higher), an even smaller percentage of the planned freeway system would have been built.

a. The Impact of Henry Maier

While this article is concerned primarily with SEWRPC, regional planning, and political cooperation, it is important to consider the impact of Henry Maier during his long tenure as Mayor of Milwaukee (1960-1988). During his tenure, Mayor Maier was forced to deal with a variety of issues that would ultimately have an impact on the region as a whole: population redistribution, the "deindustrialization" of Milwaukee, urban sprawl, demographic changes, the increasing power of the suburbs, and social/cultural upheaval.¹⁵¹ Whether one agreed with his

150. Letters from Frank P. Zeidler to James J. Casey, Jr. [1] and [2], along with the other respondents identified, *infra* note 175.

151. In connection with the massive economic and employment shifts from the city of Milwaukee to the suburbs (and beyond), and the ultimate policy responses to address such trends, it is important to note the work of Dr. William Julius Wilson, a well-known Harvard University sociologist whose prior landmark work in the inner city of Chicago (and while employed at the University of Chicago) has influenced the national policy debate regarding race relations and poverty. While first outlined in his 1987 book *THE TRULY DISAD-*

policies or not, it is clear that his impact upon Milwaukee and the region will be felt for years to come.

Mayor Maier's autobiography, *The Mayor Who Made Milwaukee Famous*,¹⁵² is essential reading for anyone who wants to gain a greater understanding of the man and his policies. He makes it clear that he was a strong supporter of SEWRPC.¹⁵³ This support included providing top staff people to serve on SEWRPC task forces to help resolve mutual problems and carry out sound planning.¹⁵⁴ And Maier stated, "SEWRPC has long been reliant on the expertise of Milwaukee's key departments and top personnel."¹⁵⁵

VANTAGED, his recent follow-up, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1997), hammers home the point that only the creation of jobs in the central cities of the United States will reverse the cycle of poverty, from which, he argues, all other social pathologies occur. While there is a place for short term *race-specific policies* such as AFDC, Medicaid, and other public assistance programs, Wilson advocates the use of fiscal and monetary policies that will revitalize the nation's cities.

Dr. Wilson wisely recommends consideration of large scale public works projects and WPA-style jobs as a means to generate jobs for the disadvantaged members of our population. *Id.* at 226-227. These policy prescriptions not only create jobs but will increase economic opportunity and productivity. As Dr. Wilson noted: "Congested and deteriorated highways, broken water mains, inadequate sewage treatment, reduced transit services—all of these infrastructure deficiencies reduce productivity, drive up costs of goods and services, and inhibit people's access to employment." *Id.* at 227. It is well selected, public investment in infrastructure maintenance could contribute to economic growth. "According to the Congressional Budget Office, the national real rate of return for investments to maintain the current quality of the highway system would be 30-40%, those involving selected expansion in congested urban areas would be 10-20%." *Id.*

Dr. Wilson's argument strengthens the author's contention that the central city of Milwaukee needs a strategic plan for revitalization of its economic base. This includes major infrastructure improvements in housing and transportation. With regards to the latter issue, it would seem economically prudent, indeed necessary, to push for increased transit opportunities in the central city while improving area access to the freeway system by completing the now-demapped Park-West/Stadium-North "Gap Closure" project. Completing the inner city freeways, while increasing transit opportunities at the same time, would provide access for commercial redevelopment and neighborhood revitalization. With a modern transportation network in place for the central city of Milwaukee that provides numerous public benefits, the groundwork will have been laid for economic redevelopment and neighborhood revitalization, goals which have local and regional importance.

For a good introduction into urban economic development and urban management, see DAVID R. MORGAN and ROBERT E. ENGLAND, *MANAGING URBAN AMERICA* (4th ed. 1996). Some people in southeastern Wisconsin would argue that urban sprawl is the single most important issue facing the region. In the opinion of the author, the most important issue facing the region is the continuing economic devastation in the central city of Milwaukee and the spread of poverty and blight out of that area.

152. See MAIER, *supra* note 3.

153. *Id.* at 263.

154. *Id.* at 263.

155. *Id.* at 263.

Cooperation in a regional context, however, extended beyond SEWRPC. Milwaukee has a series of intergovernmental compacts with the suburbs, including the Milwaukee Water Works, which provides city water for residential consumption in the suburbs of Brown Deer, Franklin, Cudahy, West Milwaukee, Wauwatosa, St. Francis, Hales Corners, Glendale, Greenfield, Shorewood, and West Allis.¹⁵⁶ Further examples of intergovernmental compact with the suburbs include the Milwaukee Fire Department for reciprocal fire protection, and the Public Works Department, for snow plowing, ice control, street maintenance, and other street services on roads that border suburbs.¹⁵⁷

Outside of the area of intergovernmental compacts for basic services, however, Mayor Maier was critical of the suburbs. "The city has borne the main impact of the flight of the middle class to the suburbs and the immigration of the poor from the south. The costs of this should be broadened to have the suburbs carry at least a significant fraction of the load of the poor."¹⁵⁸ "When I addressed the freeway issue, the business community and some union leaders were unhappy with me. I was out there virtually alone. The freeways were considered a sacred mission to enable suburbanites to clear out of the city quickly after work."¹⁵⁹

Mayor Maier was well known for his constant criticism of *The Milwaukee Journal*, the major afternoon daily newspaper in Milwaukee (which merged with the *Milwaukee Sentinel* in April 1995). Some of this criticism seeped into his autobiography.¹⁶⁰ For example, near the

156. *Id.* at 262.

157. *Id.* at 262-63.

158. *Id.* at 251. For further discussion of the immigration of the poor from the south, including Appalachian whites, see MAIER, *supra* note 3, at 45-46.

159. *Id.* at 258. Highlighting the importance of the Milwaukee County Freeway System, Harvey Shebesta, former district director of WISDOT, recently stated:

Our freeway system makes up only about 10% of the arterial network in the region, but carries about 40% of the arterial traffic. If the freeways are not modernized with increased capacity and improved safety features, more of our inevitable traffic growth, including truck traffic, will take place on local streets, increasing the potential for accidents and increasing the need for more frequent and costly maintenance. This, of course, means higher taxes. Segments of our uncompleted freeway system are carrying traffic volumes 50% higher than their design capacity. For this situation we can thank, in part, the far-sighted vision of The Milwaukee Journal Editorial Board, which opposed completion of the freeway system as originally planned in the late 60s and early 70s.

Harvey Shebesta, *Why Transportation Funds Must go to Freeways*, MILW. J., Aug. 14, 1994, at J5.

160. After reading the autobiography, one can easily make the argument that the purpose of the book was to "set the record straight," in light of his long-running feud with *The*

end of his autobiography, Maier tackles "negative claims" made by *The Journal*.¹⁶¹ Namely that, "He was obsessed with controlling the city's agenda, showing little interest in an idea that wasn't his initially." Maier's response was as follows:

Response 10: A stray shot in the dark. Certainly I wouldn't buy the newspaper's suburban-oriented prioritizing. The newspaper had pushed for water for the suburbs (making it easier to steal *our* industry)¹⁶² and had pushed for freeways that distributed *our* assets along the highways into suburbia and exurbia. It sought to place greater sewerage costs on the already overloaded backs of the central city. I opposed this priority-setting, as does Mayor Norquist, my successor.¹⁶³

In Response #2, Maier states, "The *Journal* has for years rationalized the suburban outlook."¹⁶⁴ Or, "[T]his newspaper never decisively supported Maier's programs."¹⁶⁵

The Mayor also had strong words for his predecessor, Frank P. Zeidler, who had commissioned near the end of his administration the so-called "Inner Core Report," a call to arms to deal with the emerging problems in Milwaukee's central city.¹⁶⁶ This report compiled the work of approximately 100 concerned citizens who met over two months in late 1959, and was a response to a community disturbance between black citizens and Milwaukee police on August 25, 1959.¹⁶⁷ As Maier

Milwaukee Journal.

161. MAIER, *supra* note 3, at 249-70.

162. Italics added to emphasize the sense of ownership implied by Mayor Maier.

163. MAIER, *supra* note 3, at 260.

164. *Id.* at 256. This was in response to *The Journal's* claim that "He leaves behind a fractured city-suburban relationship." *Id.*

165. *Id.* at 250.

166. *Id.* at 38. The formal title of the report is *Mayor's Study Committee on Social Problems in the Inner Core Area of the City-FINAL REPORT to the Honorable Frank P. Zeidler, City of Milwaukee, (April 15, 1960)*.

167. The overall theme of the report is as follows:

There is a manifest and critical need for total community action directed toward the amelioration of the physical and social problems of the study area and similar tracts elsewhere in the city. Physical rebuilding of the area and acculturation of many of its citizens are the key problems. A continuing structure is required to constantly review the nature of the problems presented and to propose and test solutions, and most important, it is essential to take an aggressive, immediate, and positive course of purposeful leadership toward their solution.

Id. at Introduction. The theme of The Inner Core Report is just as pertinent now as it was 38 years ago, which shows that more things change, the more they remain the same.

The Report also makes mention that Mayor Zeidler, in his messages to the Milwaukee Common Council in 1957, 1958, and 1959, shared his thoughts on conditions in the inner city, particularly their worsening nature. *Id.* Mayor Zeidler personally witnessed the disturbance

explained in his autobiography, "The Inner Core Report featured a pretty blue cover and more than 200 mimeographed pages replete with platitudes ranging from education to problem families to police-community relations. It was an idea-sack of miscellany, long on description and short on prescription."¹⁶⁸ Mayor Zeidler received the report five days before Maier took office, and the report was waiting on Maier's desk the day he took office.¹⁶⁹ As Maier explained in his autobiography,

Ironically, following the civil disorders in Milwaukee eight years later, Zeidler blamed me for the racial unrest. In fact, Zeidler continued to level untrue, uncalled-for charges throughout my seven terms of office. The print media dutifully published many of Zeidler's acidic remarks, while ignoring his degree of accountability for the very thing he now criticized.¹⁷⁰

While his autobiography covered such issues as the development of industrial land banks, Summerfest, social unrest (including the 1967 riots), and "metropolitan hypocrisy," the book makes scant mention of the freeway program, the flight of jobs to the suburbs, and the failure of the City to redevelop significant portions of the central city. After a careful reading of the autobiography, one gets the impression that the twenty-eight year reign of Mayor Maier was a mixed bag. Maier should be congratulated for his efforts with Summerfest, the industrial land banks, and the redevelopment of Milwaukee's downtown commercial and retail districts. However, much was neglected, including the freeway program and conditions in the central city. His myopic attacks upon *The Journal* and the suburbs blinded any rational consideration of how to redevelop the City of Milwaukee and position the city in a rapidly changing world.¹⁷¹

Regional cooperation, during his tenure, was only possible when the political winds were blowing in the proper direction and when political

on August 25, 1959. *Id.*

168. MAIER, *supra* note 3, at 38.

169. *Id.* at 38.

170. *Id.* at 48. In response, Mayor Zeidler asserts that Maier did not read the report but rather had an aide review it. The report called for the creation of a permanent commission to handle the deteriorating conditions in the inner city. In response, Maier established the Social Development Commission, which in Zeidler's view absolved Maier of taking additional initiative in this area. Letter from Frank P. Zeidler to James J. Casey, Jr., [2] (Apr. 4, 1996) (on file with author) [hereinafter Letter from Zeidler [2]].

171. Mayor Zeidler credited Maier's decision to halt urban renewal projects in the city, for a period of 5 years, with accelerating poverty and blight in the central city, effectively destroying any chance of "saving" the central city. Letter of Frank P. Zeidler to James J. Casey, Jr., [1].

risks were extremely low or nonexistent. Based upon his public statements and actions as mayor, Henry Maier was not an unqualified supporter of regional cooperation.

b. Qualitative Survey-Participants

A qualitative survey was sent to selected former local, regional, and state officials, which asked for their insights into the work program of SEWRPC, regional cooperation in general, and how the region may secure more effective regional cooperation. The survey was sent to the following people:

1. George C. Berteau, long-time former SEWRPC Chairman.
2. Robert W. Brannan, former Director of the Milwaukee County Expressway and Transportation Commission and Director of Public Works, Milwaukee County.
3. Thomas H. Buestrin, long-time SEWRPC Commissioner.
4. Richard W. Cutler, Milwaukee attorney and former SEWRPC Secretary and Commissioner.
5. James F. Egan, former mayor, city of Mequon, Wisconsin, and SEWRPC Commissioner.
6. Herbert A. Goetsch, former Director of Public Works, city of Milwaukee.
7. Douglas F. Haist, former State of Wisconsin Transportation Official (WISDOT).
8. John O. Norquist, current Mayor of Milwaukee.
9. David F. Schulz, Director of the Infrastructure Technology Institute, Northwestern University, and former Milwaukee County Executive and SEWRPC staff member.
10. Harvey Shebesta, former District Engineer, WISDOT.
11. Ernest R. Vogel, former Planning Engineer for Milwaukee County, Department of Public Works.
12. Frank P. Zeidler, former Mayor of Milwaukee (1948-1960).¹⁷²

c. Survey Questions

The survey asked the following questions:

1. In your opinion, what were the primary reasons for establishing

172. Survey responses were not received from Mayor Norquist, David Schulz, and Richard W. Cutler. None of the survey results are cited herein, except with the express written permission of the author. In a handful of cases anonymity was specifically requested due to continued involvement in professional and regional affairs.

SEWRPC and the rest of the regional planning commissions in the state of Wisconsin? Are those reasons still valid today in wrestling with common, regional issues?

2. Has the Region (constituent counties of SEWRPC) done all it can to advance "responsible" land-use patterns, and has SEWRPC done all it could?

3. If one accepts the premise that some, though not all, of the region's problems stem from the expansion of welfare in Milwaukee County and the erosion of the central city in the City of Milwaukee, has everything been done to redevelop those portions of Milwaukee County and the City of Milwaukee most afflicted with urban problems? How could SEWRPC have become more involved in helping these areas contain and eliminate poverty?

4. What has been the long term impact of the failure to complete the Milwaukee County Freeway System? Were community organizations correct in asserting that these corridors destroyed neighborhoods? Is there a need to redesign the existing freeway network, and is there any justification for reopening demapped corridors? Were legislators shortsighted when they decided to demap the remaining freeway corridors in Milwaukee County? Are we better off with the current network, or should the size of the freeway system be reduced?

5. Does Milwaukee County and the City of Milwaukee, because of their size and centrality, bear "special" responsibility in ensuring implementation of regional plans? Has each entity provided the necessary political leadership?

6. What is your view of community support and opposition for regional projects? How has this support and opposition changed over the past 30 years? Do you see more or less support for substantive regional efforts, not just lip service to the overall concept of regional cooperation?

7. What do you feel are the major regional accomplishments and failures in southeastern Wisconsin since the establishment of SEWRPC? Is there anything else SEWRPC could have done to enhance success or avoid failure?

8. What work remains to be done in achieving a true regional consensus?

9. Can the Wisconsin legislature do anything to strengthen SEWRPC in getting regional programs implemented, such as powers of implementation? Do you advocate the establishment of a "metropolitan government" to handle the implementation of regional plans?

10. Please add any comments that you feel are not covered under any prior question.

d. Survey Results

Survey responses revealed an interesting set of opinions regarding regional planning in general and SEWRPC in particular. Significant survey results are summarized as follows:¹⁷³

1. The basic justifications for establishing SEWRPC are as compelling now as they were back in the 1957-1960 period. In general, SEWRPC has excelled in providing excellent information about various aspects of the regional economy, and has provided excellent planning documents for consideration by local, state, and federal authorities.¹⁷⁴

2. Under the current advisory framework, SEWRPC did all it could to promote responsible land use development and urban sprawl.¹⁷⁵

3. A major weakness of SEWRPC has been that it lacked power under its constricted advisory capacity to get regional land use and transportation policies which would be in the best interests of the whole region. There are differences in the governments in the region based on economic and class status, special types of needs for municipal services such as water and sewage disposal, competition for industrial development and so on.¹⁷⁶

4. The failure to complete the Milwaukee County Freeway System has had disastrous consequences: "The city as of this time certainly has not profited from demapping of the freeway to the Northwest Side. Congested streets, traffic accidents and lost time affect travel in this area. Parts of the area are affected by serious decay and blight without proper plans for redevelopment."¹⁷⁷

5. There is a need to redesign and reopen demapped freeway corridors in Milwaukee County, in particular the "Northwest Freeway" (also

173. All survey responses are on file with the author.

174. Letters from the following people: Frank P. Zeidler (Mar. 6, 1996 [1], Apr. 4, 1996 [2], May 22, 1996 [3]); Thomas H. Buestrin (Feb. 6, 1996); James F. Egan (Jan. 24, 1996); Harvey Shebesta (Jan. 15, 1996); Herbert A. Goetsch (Jan. 29, 1996); Robert W. Brannan (Dec. 11, 1995) (on file with the author).

175. *Id.*

176. Letter from Zeidler [1].

177. *Id.* See also letters from Buestrin, Shebesta, Goetsch, and Brannan, *supra* note 174. Put another way, "[t]he long term impact of the failure to complete the Freeway System has been frequent congestion at certain locations, accelerated damage and obsolescence, and failure to yield the public benefits that a completed system would have provided." Letter from Herbert A. Goetsch, to James J. Casey, Jr., *supra* note 174.

known as the Stadium-North/Park-West "Gap Closure" project).¹⁷⁸ As Mayor Zeidler noted: "There is great planning justification for connecting the segment of the Northwest Freeway ending at N. 46th Street and W. North Avenue with the freeway whose stub end is at N. 68th Street and W. Fond du Lac Avenue."¹⁷⁹ The Mayor also advocates the completion of the freeway system at the end of the Hoan Bridge to relieve the south freeway of I-94,¹⁸⁰ and that a downtown loop freeway be planned and constructed in order to revitalize the downtown business district.¹⁸¹

6. Several respondents were ambivalent on the issues of the demapped freeway corridors and the redesign of the current freeway network. These responses seemed to indicate that, in general, the political will and/or community support is not present in the case of demapped freeway corridors in Milwaukee County. In essence, the ambivalent responses seemed to target political acceptability rather than planning necessity as the central reason.¹⁸²

7. The prospects for ending urban sprawl and for encouraging hyperintensive redevelopment of Milwaukee's central city is uncertain at best unless local citizens take the initiative to force elected officials to take action.¹⁸³

8. Several survey respondents opposed calls by Mayor John Norquist to demolish the Lake and Park Freeways, or other attempts to reduce the size and capacity of the freeway system in Milwaukee

178. Letters from Zeidler [1], Buestrin, and Goetsch, *supra* note 174.

179. Letter from Zeidler [1], *supra* note 174. The Transportation Projects Commission, created by 1983 Wisconsin Act 27, reviews WISDOT recommendations for major highway projects, as defined by statute. WIS. STAT. ANN. § 13.489 (West 1990). WISDOT must report its recommendations to the commission by September 1 of each even-numbered year and at such other times as required. *Id.* The commission is required to report its recommendations to the governor or governor-elect, the legislature, and the Joint Committee on Finance before December 1 of each even-numbered year. However, if the state budget has been enacted, it must report within 30 days after WISDOT recommends that a highway be changed to "major project status" under section 84.013(6). See STATE OF WISCONSIN, 1993-94 BLUE BOOK 320 (1994). If any new freeway construction was undertaken in Milwaukee County, the project(s) would have to go through this commission.

180. Letter from Zeidler [1], *supra* note 174. This need will be partially met by the completion of the Lake Parkway in 1999, the first new major arterial facility to be constructed in Milwaukee County since the mid-1970s.

181. Letter from Zeidler [2], *supra* note 175. The Milwaukee Downtown Loop Freeway was demapped in the early 1980s.

182. Letter from James F. Egan to James J. Casey, Jr., *supra* note 174.

183. Letters from Zeidler [1], Thomas H. Buestrin, Herbert A. Goetsch, and Harvey Shebesta, *supra* note 174.

County.¹⁸⁴

In conclusion, the survey results generally reflect commonly held notions about the current state of SEWRPC's work program and the implementation by the local units of government of adopted plans. First, that SEWRPC has been effective in its duties given its legislative mandate. Second, that progress has been made to a limited extent in the broad range of SEWRPC's work program (land use, transportation, economic development, and environment). Third, that the halting of the Milwaukee County freeway program continues to haunt the region. And fourth, that something needs to be done to increase regional cooperation and implementation of regional solutions to the programs facing the region. This raises an interesting question: Is it realistic to assume, given the nature of the American system of government, that SEWRPC has done all it could in promoting regional cooperation and problem solving?

2. A Case Study of Transportation Planning

An interesting case study of SEWRPC concerning the planning for the Second Generation Regional Transportation Plan was done by Robert W. Brannan, retired Transportation Director for Milwaukee County.¹⁸⁵ This case study is instructive because it provides some history and lessons for all players in the area of regional planning.¹⁸⁶

This case study undertook to compare SEWRPC transportation planning for the second generation plan within the context of three core values in public administration since the founding of the United States: (1) political responsiveness, (2) neutral competence/professionalism, and (3) executive leadership.¹⁸⁷

Political responsiveness as a core value refers to the ability of the average person to have influence upon policymakers and public policy.¹⁸⁸ Neutral competence and professionalism, as a core value, refers to the process of separating policy administration and implementation from politics and the political process. In the context of this case study,

184. Letters from Thomas H. Buestrin, Harvey Shebesta, Herbert A. Goetsch, Robert W. Brannan, Frank P. Zeidler, *supra* note 174.

185. Robert W. Brannan, *Conflict Between Professionalism and Political Responsiveness*, 120(1) J. PROF. ISSUES IN ENGINEERING EDUC. AND PRACTICE 36-40 (Jan. 1994).

186. For a concise and in-depth look at the geography of transportation and transportation planning, see EDWARD J. TAAFFE, ET AL., *GEOGRAPHY OF TRANSPORTATION* (1996). Taken out of its political sphere, transportation planning and development is a complex task.

187. *Id.* at 37-39.

188. *Id.* at 37.

this refers to the power and influence of highway engineers and other transportation professionals to accomplish plan implementation, particularly the Milwaukee County Freeway System.¹⁸⁹ Executive leadership, as a core value, refers to a strong executive and politically appointed cabinet that would replace the neutral competent professional as the point person for public policy in planning.¹⁹⁰

This case study outlines how the major transportation projects in southeastern Wisconsin and Milwaukee County were accomplished during the 1950s and 1960s, when the dominant core value was that of the neutral, competent professional.¹⁹¹ By the late 1960s and early 1970s, just as major transportation deficiencies were being corrected, concerns were being raised about "spaceship earth" and its future.¹⁹² Questions were being raised in Milwaukee about further transportation improvements, the environment, and the value of further growth—in effect, "a counterrevolution had begun."¹⁹³

In the 1970s, Milwaukee saw a shift in core values, from the neutral/professional to executive leadership, to political responsiveness. By the time the Second Generation Regional Transportation Plan was developed (1976-1978), the two-tier freeway plan advocated by SEWRPC was being attacked by freeway opponents, ranging from a U.S. Congressman to "neighborhood activists."¹⁹⁴ Elected officials opposed to one especially controversial freeway announced they would initiate efforts to decertify SEWRPC and withdraw funding,¹⁹⁵ despite the fact that millions of federal and state dollars were spent on right-of-way acquisition and residential/commercial relocation. For instance, all of the right-of-way for the Park-East and West Freeways was acquired, and half of the length of the Stadium-South Freeway was either built or right-of-way acquired for that facility. In essence, local officials in the 1970s backtracked on the political and engineering decisions made during the 1950s and 1960s.¹⁹⁶

189. *Id.* at 37-38.

190. *Id.* at 38.

191. *Id.*

192. Brannan, *supra* note 185, at 37.

193. *Id.*

194. *Id.* at 39.

195. *Id.*

196. Ex-mayor Zeidler was especially critical of Maier's role in the demapping of the freeways: In my opinion freeways were demapped without consideration of what this meant, and without thinking of mass transit alternatives. This occurred largely under the influence of Mayor Maier. I noted earlier his desire not to have any community resistance. He was timid about showing any leadership until it was clear to him where public opinion lie. It is

As a result, the SEWRPC Chairman hastily called an unprecedented special meeting at which the controversial freeways were removed from the plan by a 10-7 vote.¹⁹⁷ The record of the meeting shows that none of the debate substantively challenged the *need* for the freeway facilities.¹⁹⁸ Those opposed to the freeway plan stated that community values had changed and that SEWRPC must be sensitive to those shifts in its planning.¹⁹⁹

Some of this discussion went to the issue of SEWRPCs life expectancy if the freeways were kept in the plan. It is important to note that the Commission decision was contrary to the recommendations of its staff and all the advisory committees appointed by SEWRPC.²⁰⁰ The decision to demap all remaining freeways in Milwaukee County between 1977 and 1985 is an example of *politically responsive* planning. However, this signified the abandonment of a plan that best served the communities' (and regions') long-term transportation needs.²⁰¹ The engineers and planners at SEWRPC (and in Mr. Brannan's department, the Milwaukee County Transportation Division) did their job well, but it was not politically acceptable.

The following conclusions were drawn from this case study:

1. The difficulties for transportation professionals result from changing public values rather than their failure to provide quality and service.²⁰²
2. As the (core) values continue to change, professional objectivity and political neutrality in transportation planners will again be valued.²⁰³
3. Improved transportation planning input to elected officials will not be a major factor in transportation decisionmaking until

mystifying to see how he stalled freeway construction without experiencing much pressure from the highway lobby or the press for leaving large tracts of freeway land lie unused. Letter from Zeidler [3], *supra* note 174.

197. Brennan, *supra* note 185, at 39.

198. *Id.*

199. *Id.* One must question whether there was, in fact, a shift in public values to such a degree as to justify the demapping of freeways. In November, 1974, the Milwaukee County electorate approved the construction of five freeway segments: the Airport Spur, Stadium-South, Downtown Loop, Lake-South, and Park-West. MILWAUKEE COUNTY BOARD OF ELECTION COMMISSIONS, 207-213 (Sept. - Nov. 1974). Contrary to the assertions of anti-freeway officials and citizens, perhaps what happened was not a radical change in public values, but a vocal and organized opposition by a minority of the electorate.

200. Brennan, *supra* note 185, at 39-40.

201. *Id.* at 40.

202. *Id.* at 39.

203. *Id.*

there is a shift in the core values of transportation policy.²⁰⁴

4. Planning professionals must give recognition to the elements that give political representativeness its value: accessibility and responsiveness.²⁰⁵

5. Planning professionals must accept the fact that elected officials have the ultimate responsibility to determine what is politically acceptable.²⁰⁶

6. Each of these core values reinforce each other and, in the end, better public administration is the result.²⁰⁷

This case study is instructive because it explores relationships between SEWRPC and local governments, professionals and politicians, and the politics-administration dichotomy. The question, now, is whether the core value in southeastern Wisconsin is still lodged in the representativeness sphere or whether there has been a shift in public values.

V. PROSPECTS FOR THE FUTURE

A. *The Political, Economic and Social Divides*

It is clear that the political, economic, social, and cultural divides in southeastern Wisconsin are increasing. From a political standpoint, the general rightward shift in national politics has been minimized in Milwaukee County, which is traditionally a Democratic stronghold. As the United States becomes increasingly conservative, Milwaukee remains a liberal Democratic stronghold. In contrast, most of the suburbs outside Milwaukee County—particularly in Waukesha County—are strongly Republican.

From a general economic standpoint, the suburbs surrounding Milwaukee County and extending out into the region remain to varying degrees prosperous. Within Milwaukee County, which has been hit in the past 20 years with job losses in the heavy industrial sector, long-term prosperity remains an elusive dream. Certainly within the city of Milwaukee, the problems remain intractable. The inner city has expanded continually for the past 30 years, with no relief in sight. As explained by Mayor Zeidler; "The City of Milwaukee itself since 1960 did not address

204. *Id.* at 40.

205. *Id.*

206. *Id.*

207. *Id.*

aggressively the conditions of blight developing in the inner city. . . ."²⁰⁸

The current mayoral administration, rather than focusing on the strategic redevelopment of the inner city through infrastructure and freeway improvements, is relying on: (1) the "busing" of inner city residents to suburban locations as the means of reducing economic disparity between city and suburban residents, and (2) a light rail system proposal to get workers to and from work. It is commonly known that this proposal will not significantly reduce freeway congestion and is of questionable value in terms of significant economic redevelopment of neighborhoods. This course of action, though politically beneficial in the short run, does not address the "core" of what once was the bustling heart of a major American city.²⁰⁹ There is no strategic plan in place

208. Letter from Zeidler [2], *supra* note 170. As mayor, Frank Zeidler favored the absorption of all suburbs into the central city. MILW. J., May 20, 1956, pt. 2, p. 1. In response, *The Milwaukee Journal* described this attitude and the wait-and-see attitude of the suburbs as "one of the chief impediments to creation of effective metropolitan government." *Milwaukee: Let's Not See Who Can Sit On The Ants The Longest*. MILW. J., May 26, 1956, pt. 2, col. 1. The suburbs greeted a formal request of Milwaukee for consolidation with silence and occasional denunciation. *Most Suburbs in Consolidation Talks*, MILW. J., August 7, 1956, pt. 3, p. 14, col. 1. Zeidler eventually advocated a federated form of government in which metropolitan functions would be handled by a new area-wide government not Milwaukee County. *Zeidler Calls for Federated Regime*, MILW. J., Sept. 2, 1958, pt. 2, p. 1, col. 1.; *County 'Metro' Idea is Strongly Opposed*, MILW. J., Oct. 22, 1958, pt. 1, p. 1, col. 8. He also favored legislation "chartering a new, enlarged city—call it what you will—to include all the fragmented communities in the Milwaukee area." *Mayor Plans to Counteract Slur at City*, MILW. J., Nov. 26, 1958, pt. 2, p. 1, col. 8.

209. While it has been common knowledge over the past twenty years that the Milwaukee area remains one of the most segregated areas in the U.S., Milwaukee was thrust back into the national consciousness with the release of JONATHAN COLEMAN, *LONG WAY TO GO: BLACK AND WHITE IN AMERICA* (Atlantic Monthly Press, 1997). Representing seven years of research addressing the complex issues of poverty and race relations in Milwaukee, the book shows how much progress has been made and how much work remains to be done. It is required reading for everyone interested in race and poverty issues in Milwaukee. For some interesting perspectives on race and poverty as reflected in the life and teachings of Dr. Martin Luther King, Jr., read *REFLECTIONS OF THE DREAM, 1975-1994: TWENTY YEARS CELEBRATING THE LIFE OF DR. MARTIN LUTHER KING, JR. AT THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY*, edited by Clarence G. Williams (M.I.T. Press, Cambridge, MA: 1996). For those individuals interested in looking at racial relations in the United States from a different standpoint, it is imperative to read CORNEL WEST, *RACE MATTERS* (Vintage Books, New York, NY 1993). *RACE MATTERS* is not a call for a racial-based analysis in majority-minority relations, but rather a call for a raceless, moral analysis of the pressing economic, social, and cultural ills facing all disadvantaged people, regardless of racial, ethnic, religious, or other distinctions. Clearly written with a passion for a new way to look at social, cultural, and economic relationships in the United States, Dr. West provides a compelling case to shatter all existing conceptions of race in the United States.

To any rational observer of poverty and race relations in the United States, the dream of equal rights and opportunities guaranteed by the U.S. Constitution has not been realized. It is quite evident to the author that addressing the problems of poverty and urban blight in the

which addresses the significant housing, land use, transportation, and economic development problems facing the north, west, and near south sides of Milwaukee. When will these problems be tackled in a strategic, comprehensive manner?

From a social standpoint, the continuing diversity of the social mix of people in the region tends to accentuate the obvious economic and political disparities. Certainly in Milwaukee County and the City of Milwaukee, a largely homogeneous social mix has given way to heterogeneity. Large demographic changes in Milwaukee County since 1960—primarily through an influx of African-Americans, Hispanics, and Asians into the body politic—have occurred. The shifting economic base, coupled with the immigration of relatively undereducated and unskilled people, have contributed to a rise in social pathologies detrimental to the City of Milwaukee, Milwaukee County, and the region as a whole.

As a result, Milwaukee is far more culturally diverse than it used to be. How does this impact the resolution of regional problems? It is unrealistic to expect that SEWRPC will be able to completely conquer these divides because it is the local governments, their officials, and the people themselves that need to understand that regional cooperation can only solve regional problems. People must rise above their differences to see the common good on a regional level.

On the other hand, perhaps the political, economic, and social divides in the region are based more upon different perceptions of economic development and transportation opportunities than upon the more discrete notions of class, race, and ethnic backgrounds. The NIMBY (Not In My Backyard) phenomenon perhaps has greater applicability in the region than elected officials and people have recognized to date.

B. Can Regional Planning and Cooperation Bridge These Divides?

What are the prospects for regional cooperation in southeastern Wisconsin? What can SEWRPC do to foster increased regional cooperation? Can regional cooperation be increased without any change in the legal status of SEWRPC?

Increased regional cooperation may occur through more dedicated efforts by local units of government, internal regional studies designed to increase implementation efforts, and/or by strengthening and chang-

urban centers of southeastern Wisconsin should remain a top priority for the region, especially within the context of the work program of SEWRPC.

ing the legal status of SEWRPC.

1. Increased Efforts at the Local Level

The first alternative, increased efforts by local units of government to regional efforts, is the most difficult. Due to the heterogeneous character of these entities, e.g., economic, social, political, and cultural differences, it will be difficult for local officials to implement regional plans that are politically opposed by their citizens.²¹⁰ A good example of this was the sharp division of opinion in the City and County of Milwaukee concerning the completion of the Milwaukee County Freeway System. The fact that the Milwaukee County electorate passed all five freeway referendums in November 1974 had no impact on the completion of the system. As has been outlined before, people are supportive of regional approaches unless it adversely affects them.

All local citizens and their elected officials profess a desire to "do their part" in solving regional problems. But lip service to this ideal only goes so far. *The main challenge is to put statements into action.* What we have seen is the tendency to engage in excessive talk and not enough action. The incomplete Milwaukee County Freeway System is the main example of this discrepancy between talk and action. While Milwaukee County is the example here, in reality this tendency exists throughout the seven county region. This reality must be changed, but how?²¹¹

210. Whether local governments can handle urban growth has been discussed before. See Cutler, *supra* note 2, at 5. (Options in the absence of local government control of urban growth includes: (1) establish advisory planning commissions; (2) require official bodies to be advised by regional planners; (3) modernize county and town governments; (4) curb unnecessary municipal corporations; (5) limit future annexations; (6) consolidate existing municipalities; (7) continue functional consolidation; (8) establish metropolitan federated government; and (9) improve leadership). Since the publication of this article, a significant amount of urban sprawl has occurred in southeastern Wisconsin. Some of these suggestions seem rather outdated or have been put into action—particularly suggestions (2, 3, 4, and 5). The more significant suggestions (1, 6, 7, 8, and 9), raise substantial political, fiscal, and legal questions. It is the author's hope that regional cooperation will occur through the implementation of the latter suggestions.

211. It should be pointed out that the Transportation Policy Committee of the Public Policy Forum in Milwaukee released a report in October 1996 entitled, "Setting Transportation Priorities for the East-West Corridor." This report does a commendable job of outlining the broad needs of the I-94 East-West corridor and discussing transit and HOV (high occupancy vehicle) alternatives. However, the report is deficient insofar as it ignores any substantial and realistic improvement in road capacity in Milwaukee County. The report does not discuss the impact that the demapping decisions (of planned freeways) have had on traffic in the county, particularly relating to the freeways that were built. It is more realistic to say that the report is a discussion of politically acceptable alternatives, not necessarily of *all* alternatives. To that extent, the report does not effectively advance the intellectual discus-

2. Regional Studies To Improve Plan Implementation

The second alternative, the use of regional studies to analyze and seek ways to improve plan implementation, was conducted in 1992-93 by SEWRPC (and WISDOT, in a related study) relating to implementation of the regional land use plan.²¹² The basic purpose of the regional land use plan implementation study was to analyze the extent to which development in the region was conducted in conformity or at variance with the adopted land use plan and to recommend steps that would result in greater conformity to the adopted plan where variance did exist.²¹³

At the beginning of the report the Commission reaffirmed the basic need for regional planning:

Areawide or regional planning has become increasingly accepted as a necessary governmental function in the large metropolitan areas of the United States. This acceptance is based, in part, on a growing awareness that problems of physical and economic development and of environmental deterioration transcend the geographic limits and fiscal capabilities of local units of government and that sound resolution of these problems requires the cooperation of all units and agencies of government and of private interests as well.²¹⁴

sion of what the County or Region needs. Elected officials in Milwaukee County, and the region in general, need to present to their constituents all possible transportation options, not just those favored by certain elected officials and/or their supporters. The failure to complete the freeway system as designed in the 1960s has forced an increasing amount of traffic onto a system not designed to handle those volumes.

212. SEWRPC, REGIONAL LAND USE PLAN IMPLEMENTATION IN SOUTHEASTERN WISCONSIN: STATUS AND NEEDS (May 1993) [hereinafter SEWRPC STATUS AND NEEDS]. These land use plan studies were undertaken after two studies were completed. The earlier studies raised questions and concerns about the extent to which the approved regional land use plan was being implemented. *Id.* at 1

213. *Id.*

214. *Id.* at 5. The Commission noted the following:

The questioning of the validity of the comprehensive plan concept came about in the late 1960s and early 1970s during a time of much social unrest in the United States, including unrest in the college and university communities. That unrest was reflected in a questioning of many aspects of American life, including the processes and practices of traditional public planning. Some planning academicians advanced arguments that traditional publicly prepared end-state plans were irrelevant to the resolution of the social and political problems then facing American society. These arguments were coupled with calls for the substitution of policy planning for traditional public system planning. A further dimension of this movement involved the introduction of what became known as "advocacy planning," with the aim of reforming the traditional public planning processes to meet the perceived needs of disadvantaged and disenfranchised groups of individuals.

Based upon a comprehensive analysis of the current land use plan and local government activities in conformity or variance with that plan, the Commission Advisory Committee drew the following conclusions:²¹⁵

1. *Protection of Primary Environmental Corridors from Incompatible Urban Development*—There is a need to strengthen efforts to implement the plan recommendation dealing with the protection and preservation of primary environmental corridors.
2. *Preservation of Prime Agricultural Lands*—There is a need to strengthen efforts to implement the plan recommendation dealing with the preservation of prime agricultural lands. The findings indicate that there have been substantial losses of prime farmlands in excess of the minimal losses envisioned in the adopted regional land use plan.
3. *Acquisition for Public Use of the Recommended Regional Parks*—The efforts of the state, county, and local park agencies concerned have implemented to a significant degree the regional land use plan recommendations attendant to the provision of regional parks.
4. *Location and Density of New Residential Development*—There is a *significant* need to strengthen efforts to implement the plan recommendation dealing with the location and density of new residential development and the provision of such development with both public sanitary sewer and water supply services.
5. *Location of Major Industrial and Commercial Centers*—There is a need to abate a *significant* trend toward the decentralization of job locations in the Region. The findings related to the proposed major industrial and commercial centers, which represent the locations of most of the jobs in the Region, indicate that, while all of the major industrial and commercial centers recommended in the regional land use plan have come about, or are coming about, as planned, employment at many of the older and more centrally located major industrial and commercial centers is declining below plan envisioned levels. Taken together, these findings indicate a strong trend toward the decentralization of jobs in the Region contrary to the objectives of the regional land use plan.²¹⁶

Id. at 6.

215. *Id.* at 77-78.

216. One of the major contributing factors to this problem are physical/spatial factors such as transportation. As noted in the report,

[C]urrent production and distribution methods place a premium on spatial efficiency and on freeway access. That premium can be realized only in new horizontal structures located in proximity to freeway interchanges. A shift of goods movement

After a series of preliminary recommendations and further deliberation, the Advisory Committee came forth with a series of final recommendations, which are now outlined in their entirety:

1. *Evaluate State Farmland Preservation Program and Consider Changing the Basis for Farmland Assessments and Attendant Property-Tax Relief*—The Wisconsin Department of Agriculture, Trade and Consumer Protection should evaluate the effectiveness of the current Wisconsin Farmland Preservation Program and, as may be necessary or desirable, make modifications thereto. In such study, the Department should consider the first two modifications to the Program listed below. The Wisconsin Department of Revenue, in its proposed 1993 study of the assessment of agricultural land, should consider the last two modifications listed below.²¹⁷

2. *Promote Compact and Contiguous Urban Development*—The State of Wisconsin should take the following two actions to address problems associated with continued diffusion of low-density urban development, supported by on-site sewage disposal systems and private wells, over large areas of the Region: (1) Formulation and adoption by the state legislature of a comprehensive State policy favoring and promoting more compact, efficient urban development; and (2) Linking state and county regulatory decisions concerning the number and location of private sewage disposal systems to the recommendations and provisions of the State Water Quality Management Plan, as adopted by the Wisconsin Department of Natural Resources.²¹⁸

3. *Protect and Preserve Upland Environmental Corridors*—The Wisconsin Department of Natural Resources should seek the following changes through administrative rules, and, if necessary, legislation to ensure that, through state oversight, all primary environmental corridor areas are protected and preserved in the manner recommended in the regional land use plan: (1) The

from railway to truck has placed a premium on locations with good freeway access Even though an older industrial area may be located relatively close to the freeway network, if the sites cannot be seen from the freeway the sites are at a competitive disadvantage with newer sites in outlying areas selected with freeway access in mind.

Id. at 124. This has staggering implications for the north and northwest side of the city of Milwaukee, which is not served by any freeway access except freeways to the far east and west. This should call into question the decisions to demap the Park-West/Stadium-North Freeway. If it were constructed, this freeway would have provided necessary access for commercial and industrial development.

217. *Id.* at 144.

218. SEWRPC, STATUS AND NEEDS, *supra* note 212, at 144-45..

existing state-county and state-local floodplain-shoreland zoning partnership should be broadened to include all the delineated primary environmental corridor areas; (2) the statutory basis whereby the Wisconsin Department of Natural Resources denied approval of sanitary sewer extensions needed to effect urban development conflicting with the plan recommendations should be broadened to encompass other adverse environmental impacts consistent with the Department mission as the public steward of the natural resources of the state; and (3) working with the Wisconsin Department of Industry, Labor and Human Relations, the Wisconsin Department of Natural Resources should effect a change in the Administrative Code to eliminate the current "loophole," whereby private sanitary sewer extensions to serve certain residential and commercial structures are exempt from the water quality management plan review conformance process.²¹⁹

4. *Ameliorate Problems Created by Job Decentralization*—(a) Those local units of government within the Region which have aging industrial centers, such as Milwaukee, Kenosha, Glendale, Racine, Waukesha, West Allis, and West Milwaukee, should undertake strategic and physical planning efforts for each such center; and (b) a special study should be undertaken to examine the causes of, and possible means for modifying, the present trend of industrial, commercial, and office job decentralization and ameliorate its effects, including the potential institution of some form of tax base sharing mechanism.²²⁰

This internal study by SEWRPC goes a long way towards increasing discussion of implementation at the local level and addressing the most significant weakness of SEWRPC—its advisory character and lack of powers of implementation at the local level. Perhaps through these studies SEWRPC will be more influential at the local level to effectuate implementation, but these efforts will be undercut where the local sentiment is such that implementation becomes impossible. The propagation of reports for local officials and their consideration does not permanently address the problem of implementation, but it goes a long way toward promoting regional cooperation. The only permanent manner to guarantee local implementation of regional plans is by granting SEWRPC monitoring and enforcement powers once the regional plans are adopted by the local units of government. This would require a change in the legal status of SEWRPC, which is considered below.

219. *Id.* at 145.

220. *Id.* at 145-46.

3. Change in the Legal Status of SEWRPC

Changing the legal status of SEWRPC is at the same time equally complex and more useful in tackling regional issues. This alternative was brought forth twenty seven years ago by George Berteau, Chairman of SEWRPC from 1961-71.²²¹ At that time, he suggested the following changes in status in order to provide for a more effective regional planning effort:²²²

1. A firmer stability attained through a changed legal or statutory basis.
2. A suggested change in funding where the state would alleviate the much beleaguered local property tax burden through a biannual appropriation equal to not less than one-half of the required local tax levy. The property tax alone was never intended to defray the costs of various public infrastructure costs.
3. Examine the need for legislation directed to state departments and agencies requiring implementation, or at least conformance, to adopted regional plans, especially where the implementing agency was instrumental to the preparation and finalization of that adopted plan, as well as having representation in the making of that plan.
4. Examine the need or desirability for either state or regional veto authority where local government action is clearly in direct contradiction to adopted regional plans.
5. Examine the needs and means to strengthen the role of federal agencies in implementing adopted regional plans by making clear to local units of government its intentions in the matter.

It is clear from his writing that something had to be done to improve the efficiency of the Commission.²²³ The ground rules under which the Commission operated—advisory capacity, no powers or authority other than persuasiveness and staff competence, statutory tax limitation, and

221. Interview with George Berteau, Chairman of SEWRPC from 1961-71, in Milwaukee, Wisconsin. The authors of a 1959 *Wisconsin Law Review* article correctly pointed out the deficiencies in the then-new Wisconsin statute (advisory capacity, voluntary withdrawal provision, equal representation without regard to population, the financing mechanism), but they did not have the benefit of nearly four decades of experience upon which to gauge the statute. Melli & Devoy, *supra* note 9, at 71-72. Theoretical analysis aside, regional planning commissions in Wisconsin have successfully provided basic information and planning functions. However, but the success in terms of implementation has been mixed. In terms of comparison with local extraterritorial controls in a regional context, the regional planning commission is the preferred course of action. *Id.*

222. Berteau, *supra* note 221.

223. *Id.*

the constant threat of member withdrawal—have not changed.²²⁴ However, the operating requirements have vastly increased.²²⁵

Against this background, his analysis indicates that at that time there were questions raised about the effectiveness of the Commission, whether "Metropolitan Government" is a viable alternative (one example being then-Governor Lucey's Task Force on Metropolitan Government), and expressions from Milwaukee County purporting to damage or limit SEWRPCs financial viability.²²⁶

Mr. Berteau justifiably raised the question—especially pertinent twenty-seven years later—whether the 1957 concept of regional planning is still viable. His comments are worth considering:

We should in a more constructive and statesmanlike manner examine today's problems and make sound recommendations to the units of government that brought us into being, looking toward the solution of these problems.²²⁷

While Mr. Berteau justifiably raised these issues regarding the operation of the Commission and the more fundamental legal underpinnings of the Commission, his comments should not be construed as suggesting any new concepts or new layer of government (such as Metropolitan Government, which SEWRPC was opposed to), but rather as an affirmative and positive suggestion to provide for greater effectiveness.²²⁸

Given the events which have transpired since 1971—demapping of planned and acquired freeway corridors in Milwaukee County and elsewhere, continuing decentralization of land use and residential patterns, and the spread of the inner core of the city of Milwaukee—the time has come to revisit the legal underpinnings of the Commission. Specifically, the advisory nature of the Commission, and points 3, 4, and 5 raised by Mr. Berteau should be raised, and:²²⁹

1. Whether state departments/agencies should have powers to

224. *Id.*

225. *Id.*

226. *Id.*

227. *Id.* The concept is "to develop courses of action requiring decisions today to meet tomorrow's needs in avoidance of costly intervening acts inconsistent with, and often diametrically opposed to, the fulfillment of the previously agreed upon needs." *Id.* The reference to the "1957" concept refers to the year the Wisconsin legislature passed the enabling legislation to create regional planning commissions to perform the regional planning function. *Id.*

228. *Id.*

229. Mr. Berteau is not the only ex-public official who has called for increased power for SEWRPC. Frank Zeidler has also stated that more power should be conferred on regional planning authorities to develop regional transportation plans. Letter from Zeidler [2], *supra* note 170.

implement and conform to adopted regional plans.

2. Whether the State of Wisconsin and/or SEWRPC should have veto power over local actions that are in contradiction to the adopted regional plan.

3. Whether the federal government, through its agencies, should have increased "powers of persuasion" in ensuring the implementation of adopted regional plans.

These questions, although controversial, should be considered in the context of increasing the implementation rate of adopted regional transportation and land use plans. These suggestions raise constitutional questions concerning the federal nature of the American political system by directly confronting the nature of power distribution between national, state, and local units of government, as well as powers given to special quasi-governmental entities such as SEWRPC. Politically, such a course of action can be expected to arouse opposition in urban, suburban, and rural areas by elected officials, citizens, and organizations who do not want to cede authority to another governmental body. Are the people of southeastern Wisconsin truly serious about regional approaches to regional problems?

VI. CONCLUSION

This article seeks to contribute to the southeastern Wisconsin body politic by addressing and analyzing the Southeastern Wisconsin Regional Planning Commission (SEWRPC). In doing so, this article provides an overview of the development of regional planning in the United States; provides an in-depth look at regional planning commissions in the state of Wisconsin, particularly SEWRPC; and considers whether and to what extent regional planning commissions such as SEWRPC can help bridge the political, economic, and cultural divides in southeastern Wisconsin.

From this research, it should be clear to the reader that the primary obstacles to true regional cooperation lie with: (1) local officials and citizens who are unwilling to adopt public policies that benefit the entire region, in spite of short term political fallout or damage; and (2) the identified problems with the SEWRPC enabling statute, primarily the twin deficiencies of advisory capacity and lack of implementation power.

Giving SEWRPC and/or the State of Wisconsin, through its constituent agencies, the power to implement adopted regional land use and transportation plans where local communities refuse to adopt local policies implementing these plans, would go a long way in breaking the

political, economic, and social gridlock in southeastern Wisconsin. It must be reemphasized, however, that such power should only be used in those situations where local governments fail to implement policies in conformity with adopted regional plans. Any expansion of that power past this scenario would have serious political consequences and would raise serious constitutional questions.

In the end, true regional cooperation can only occur when local elected officials and citizens voluntarily recognize that it is in their long term interests to support regional solutions to regional problems. In the meantime, alteration of the Wisconsin regional planning statute may be the next best solution.