



Citizens for a Scenic Wisconsin



www.scenicwisconsin.org

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Imagine

Working to Preserve

Wisconsin's Scenery

Scenic Byways Program Approved

Outdoor Advertising Companies sue City of Greenfield

Are billboard rules unconstitutional?

GREENFIELD | *Milwaukee Journal Sentinel* 02/16/05 Two of the largest outdoor advertising companies in the nation are suing the City of Greenfield, claiming that its sign ordinance, that will lead to removal of billboards starting in 2010, is unconstitutional. The lawsuit filed in February by Clear Channel Outdoor and Lamar Outdoor claims that the 1998 ordinance violates state and federal constitutions.

The ordinance has a provision that allows existing billboards to stand for 12 to 17 years, during which the companies derive income from the advertisements on them, and then be removed. Similar ordinances around the country have been upheld by courts as allowing enough time for companies to recoup investments in their billboards.

Attorney Michael Whitcomb said his clients want compensation if the city takes down the signs around 2010 when the provision takes effect. According to the lawsuit, Clear Channel and Lamar have 19 billboards in the city worth \$6.4 million. "Just compensation" for private property taken is required by the US Constitution, Whitcomb said.

Editor's Note: An article in the Zoning and Planning Law Report, February 2004, about provisions such as are in effect in Greenfield, concludes that those provisions are constitutionally acceptable as providing just compensation. ●

APPLICATION GUIDE EXPECTED IN JULY

MADISON | Scenic Byways, a program designed to protect scenic highways, was published as Trans 202 of the Wisconsin Administrative Code on March 1. Scenic Byways is a federally subsidized scenic conservation program that allows states to designate and preserve sections of highways that have outstanding scenery to provide an exceptional travel experience that will attract tourists and foster business.

The new chapter in the code, which will be administered by the Department of Transportation, establishes an advisory committee to review and approve applications for Scenic Byways. To qualify for Scenic Byway status, a route must have scenic or historical characteristics that are unique. Archeological, cultural and recreational features are taken into consideration. The regulation provides for scenic byways to be established on state highways, not on county roads or interstate highways. The section of the route to become a scenic byway must be at least 30 miles long. One of the local governments along the route must be the initiator of the application for a Scenic Byway, and a Corridor Management Plan must be submitted.

It is expected that local citizen, civic and business groups will collaborate for scenic byway designation and corridor management.

Under the regulation, no off-premise signs (billboards) visible from the road may be erected. Directional and other official signs are allowed, as are signs advertising activities conducted on the property on which they are located.

Scenic Wisconsin was one of the supporters of Scenic Byways. Executive director Chuck Mitchell spoke at the public hearings in July and October of 2004. Revisions requested by the transportation committees in the state legislature were done by the DOT in December. The application forms, guidebook and other materials necessary to implementing the program should be available by July, according to Jane Carrola, Scenic Byways Coordinator at the DOT, 608-257-4994.

When in effect, Wisconsin will join its neighboring states Illinois, Iowa, Michigan and Minnesota in having this beneficial program. ●



Citizens for a
Scenic Wisconsin



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pro-Wisconsin,
pro-tourism.

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national organization dedicated
to protecting natural beauty
and the distinctive character
of our communities.

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A message from your Executive Director

BY CHUCK MITCHELL | EXECUTIVE DIRECTOR | CITIZENS FOR A SCENIC WISCONSIN

Bills in the Legislature, Lawsuits in the Cities

AS EXPECTED, bills and rule-making initiatives have been introduced in the legislature that relate to billboards and impact scenery. Bills SB89 & AB155 would deny cities the power to enforce billboard ordinances by the use of amortization. There is a bill to allow logo signs for attractions, and a bill to prohibit new billboards. There is an initiative that might allow more tree-trimming in front of billboards. Refer to the list of scenic issues below



for a summary of recommended action on legislation.

Meanwhile in the cities, as you can see in three articles in this newsletter, billboard operators are aggressively attacking sign ordinances in our communities. The outcome of the lawsuit in Greenfield will set a precedent that will impact enforcement of ordinances.

CHUCK MITCHELL

Current Scenic Issues

Scenic Byways. This a great new program for good management of landscape along scenic roads. Guidebooks and application forms are due from the DOT in July.

Publicize this program to communities and citizens groups.

Logo Signs. We welcome increased use of small, tasteful, uniform, directional signs. Increased availability of small signs on the highway right of way will decrease the demand for oversize billboards.
Support AB20 Logo Signs for Attractions.

Trees & Shrubs. Allow natural trees and shrubs to flourish along highways. We don't want wide areas of trees cut down to provide a better view of billboards. Trees provide beauty, also erosion control, light & noise barriers, and snow screens.
Don't change DOT trimming policy.

Non-Conforming Billboards. Ugly billboards exist in scenic areas, areas not zoned commercial or industrial, before the federal law prohibited them. They are supposed to come down, not be rebuilt and used indefinitely.
Refine and clarify rules to limit rebuilding N-C billboards.

Removal of objectionable Signs by "Amortization". Continue the validity of amortization as a fair process for municipalities to remove objectionable structures such as signs and billboards after a reasonable period of time.
Defeat AB155 & SB89.

Stop Putting up new Billboards. A bill in the legislature would simply prohibit new billboards being put up along state highways.
Support SB77. ●

CSW Board Member

LOWELL KLESSIG has built variety into his life - in education, in educating, in hobbies, and in the species of trees on his farm. Lowell has degrees in biochemistry, molecular biology, sociology, and environmental management from UW-Madison and Vanderbilt University.

Lowell recently retired from a career at UW-Stevens Point where he taught Resource Management and Land Use Planning. At the same time, he served as the lake management specialist for UW-Extension and was active in the Wisconsin Rural Leadership Program, serving a term as Executive Director. As a consultant to the Global Environmental Management Education Center, he is currently involved in rural leadership education in China.

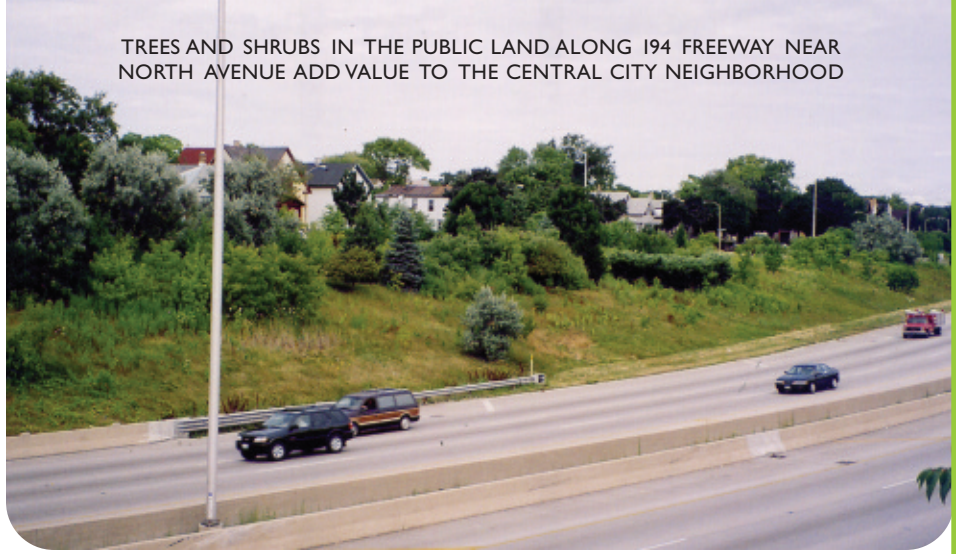
For hobbies, Lowell raises and shows beef cattle with his sons, fishes from Alaska to Mexico, and does adventure traveling with his wife. His travel goal is to add one new country each year. In November it was Bhutan.



Although retired, Lowell invests a great amount of time in forest management. He manages two hundred acres of forests - primarily for aesthetics, biodiversity, and wildlife. Harvesting is done only to promote those values. A conservation easement has been donated to prevent majestic white pine and white oak from ever being cut. He is proud that he has been able to nurture over 20 species of trees. Lowell serves on the board of Wisconsin Family Forests.

In his professional and personal contacts, Lowell has tried to raise awareness of natural beauty as a precious resource that requires care and respect. ●

The \$\$\$ Value of Scenery



BY RICHARD CHENOWETH | PROFESSOR OF URBAN & REGIONAL PLANNING

“IT’S THE COST OF PROGRESS.” How many times have you heard these words spoken in defense of public projects or private development that will detract from the existing scenic quality of a place near you. The value of the scenic quality that will be lost is assumed to be trivial compared to the benefits of the “progress.” But if the costs of the scenic quality loss are never estimated and never included in the cost-benefit analysis, scenic quality is effectively considered to have zero dollar value. A well-intentioned claim by those who champion the cause of retaining our heritage of natural scenic beauty is that scenic beauty is “priceless”, a claim so vague that it leads to trivializing the value of scenery.

But for “cost-benefit” analysis to have validity, it must include all of the costs and benefits. But how can the costs associated with the loss of scenic quality be estimated?

In a recent issue of *Environmental Practice*, a publication of the National Association of Environmental Professionals, Dr. Thomas Kapper wrote about a technique called contingent valuation that he has used to value aesthetic damage. Dr. Kapper is a graduate of the University of Wisconsin-Madison. The technique did not receive much public attention until damage assessment emerged as major issue following the Exxon Valdez oil spill in Prince William Sound, Alaska.

Dr. Kapper demonstrated the application of contingent valuation techniques for a highway-widening project in an ordinary rural landscape in southern Wisconsin. The site contained no extraordinary natural features and also showed signs of man’s imprint on the land. The question was would landowners consider highway expansion within view from their property to be aesthetic damage, and if so, how much would they be willing to pay to avoid the damage. The results demonstrated that people believed the highway expansion was indeed an aesthetic damage, and that people would pay to avoid it, although the amount was small relative to the cost of the highway construction.

Another demonstration of the use of contingent valuation occurred in the City of Lake Geneva WI in the 1980s. TCI Cablevision suddenly refused to pay the city its fees for use of public right-of-way, in part on the grounds that it was a public service news provider. The city claimed that the cables strung on poles created an aesthetic blight on the community and that the fees were in part a compensation to the city for that aesthetic damage. I used contingent valuation to estimate the economic value of the aesthetic blight caused by

the poles and cables. The difference in what people were willing to pay to live in an identical house in a neighborhood where the cables were underground was significant – approximately \$5,000 for a house with an assessed valuation of \$80,000. On the total number of households in the City near the cable, the tax revenue loss due to aesthetic blight far exceeded the amount of the annual fee TCI had been paying! TCI decided to continue to pay the fee rather than to test the contingent valuation study in the courts.

These are only two examples of studies that have shown clearly the value of scenic beauty. Neglecting scenic issues comes at a cost to our quality of life, and has an economic cost as well. Public projects and private developments should give careful consideration to aesthetic impacts and take steps to mitigate those impacts. ●

Elsewhere in the nation:

Lawyer Fights for Billboards

from PAUL FOWLER

ATLANTA | *Atlanta Journal-Constitution* 07/28/03

Edward Webb’s first love is a billboard 60 feet up in the sky, hawking new cars, Bud Light, or a personal injury lawyer. The 32-year old Atlanta attorney has over 100 new billboards to his credit and he’s gunning for more. The secret to his success is a confrontational legal strategy that has drawn critics but won cases across Georgia. Billboard companies hire him when they want to erect billboards in communities that don’t want them. Webb’s specialty is scouring ordinances looking for restrictions he believes are unconstitutional. Treat a garage sale sign different from a bake sale? He’s all over that. Don’t set a time limit for acting on permit applications? There’s trouble. Fail to state purposes for limiting signs? You’re in court. So far he’s sued 25 cities and counties in Georgia.

Webb’s crusade is the modern front in the long stand-off between outdoor advertisers and city councils, garden clubs and municipal attorneys. Critics accuse him of wielding legal technicalities to spread visual blight. It’s a sign code shake-down, says Randal Morrison, a California lawyer defending a city against Webb. Not at all, Webb says. What I’m doing is defending free speech against government officials who don’t like signs. ●



Scenic Byways Program Starts this Summer

See Page 1

Regional Planning East Central Wisconsin

MENASHA | January 18

At a conference set up by the East Central Wisconsin Regional Planning Commission, Tom Wilson attended a meeting of the Open Space, Recreation and Regional Character Committee as a representative of Scenic Wisconsin. Of particular interest to East Central and participants were the potential scenic impacts of wind generation facilities. Wilson provided information and research on scenic quality issues and opportunities such as small highway signs, off premise billboards, and general aesthetics. This meeting is part of the preparation of a new Regional Comprehensive Plan. ●



Regional Planning: Scenic Wisconsin director Tom Wilson (right) sees to it that aesthetics are part of the plan.

Conservationists meet with Natural Resources Board

SHORELAND RULES AMONG TOPICS

MADISON | March 23

A breakfast meeting with the Natural Resources Board (NRB) was arranged by the League of Conservation Voters (LCV) for their member organizations. Representatives of about 20 organizations had breakfast with the 7-member NRB. Caryl Terrell, director of the Wisconsin Sierra Club, served as informal chairperson of the conservationists. The main topics were Act 118 DNR Permitting Rules, NR115 Shoreland Zoning Rules, and manure run-off.

Chuck Mitchell, representative for Scenic Wisconsin, in a statement about shoreland rules, reminded the group that the main point of the rules is to protect the lakes and streams. That means that “mitigation” (restoring/maintaining the natural vegetative buffer along the shores to absorb polluted run-off) is an important part of the rules. It means resisting the special interests that want to weaken the rules. Trees and shrubs along the lakes are also the biggest factor in good scenery.

The revised rules, which include allowing unlimited maintenance, limited rebuilding and limited expansion of non-conforming houses, are expected to be approved by the NRB at their April meeting, and to go out for public hearings in the summer. ●

City of Madison Wins Outdoor Advertising Case

MADISON | (Public Record) February 24

The City of Madison won a property tax case against Adams Outdoor Advertising. Bucking the trend of assessing billboards at what they cost to build, less depreciation, the city evaluated Adams’ billboards at market value, taking into account income generated by ads. Instead of \$400,000, this year the city assessed Adams’ billboards at \$6 million, resulting in an increase in property taxes of \$180,000 for Adams to pay. This case closes a big tax loophole on outdoor advertisers and sets a precedent for other cities, but it may be appealed to the Wisconsin Supreme Court. ●



Conservationists: Chuck Mitchell addresses the meeting with the Natural Resources Board.