

MINUTES

Capital Area Regional Planning Commission

February 11, 2010

City-County Building Rm 315, 210 MLK Jr Blvd, Madison WI

7:00 p.m.

Present: Zach Brandon, Curt Brink, Martha Gibson, Peter McKeever, Ed Minihan, Jeff Miller, John Murray*, Kurt Sonnentag, Susan Studz, Phil Van Kampen

Absent: Kristine Euclide, Steve Hiniker, Larry Palm

Staff Present: Chris Gjestson, David Greene, Mike Kakuska, Kamran Mesbah, Barbara Weber, Attorney John St. Peter

* arrived late

1. Roll Call

Chair Miller called the meeting to order at 7:06 p.m.; roll was recorded. He introduced new members Peter McKeever, appointed by the Dane County Executive, and Susan Studz, appointed by the Dane County Towns Association.

2. Election of Officers: Chair, Vice-Chair, Secretary, and Treasurer

Moved by Mr. Sonnentag, seconded by Mr. Brink, to defer action to the next meeting, due to incomplete attendance. Motion carried unanimously on voice vote.

3. Selection of Executive Committee membership

Moved by Mr. Sonnentag, seconded by Mr. Minihan, to defer action to the next meeting. Motion carried unanimously on voice vote.

4. Approval of minutes of the January 14, 2010 meeting

Moved by Mr. Van Kampen, seconded by Mr. Hiniker, to approve the minutes of the January 14, 2010 meeting. Mr. Gjestson stated the last clause of the second sentence of the last paragraph on page 2 (“...as amended on the agenda cover sheet”) was incorrect and should be deleted. Recognized as a friendly amendment without objection. Motion to approve amended minutes carried unanimously (Mr. McKeever and Ms. Studz abstaining).

5. Review of agenda

There were no changes requested.

6. Public comment for items not on the agenda

Arnold Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, stated that the proposal for a county-wide FUDA analysis should supersede the current process, with all potential development areas being analyzed simultaneously. This is a unique opportunity to prioritize areas that take into consideration elements beyond those required by NR 121, and would take out the politicized process of USA amendment reviews. He stated that individual members would be contacted to discuss this approach. He thanked the Chair for his service to CARPC.

Stefi Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, requested that the website show developable acres of CUSA and municipalities, and 20-year population forecasts for each USA, and the methodology for how the developable acreage figures were derived. She requested the public be given more than three minutes to speak and give presentations.

Gary Werner 2302 Lakeland Ave., Madison, representing Capital Region Advocacy Network for Environmental Sustainability (CRANES), thanked the Chair for his service to CARPC. He stated that CRANES was not opposed to all development in Dane County; it opposed the current process for reviewing USA amendment requests that were in sensitive areas, which perpetuated the unsustainable auto-dependent growth pattern of the previous 60 years; we can't afford to continue this approach due to climate change, water quality degradation, roads and other infrastructure costs, and loss of farmland. We need to keep farmland that can sustain the local population. He asked for help for communities to get serious about infill development. He stated that LEED standards were eclipsed by International Living Building Institute, which should be promoted. He encouraged dialogue regarding standards for development in Dane County.

Jon Becker, 4233 Kenwood St., Madison, stated that there was momentum to address the gap left by Smart Growth state laws; local government such as Middleton and Westport worked together on development proposals, but adjacent communities and counties were not sufficiently part of the process. He encouraged the conduct of regional economic impact analyses of development proposals such as Bishops Bay. He referred to a news report that REALTORS data indicated a five percent return on local housing stock over a fifteen-year period; he stated that if lost revenue from farmland loss or downstream impacts were factored, there may not be any return on investment. Infill should be encouraged as cost-effective development. He asked how Madison can be stopped from becoming a Waukesha; he described the benefits of living in a bikeable and aesthetically pleasing area. He described the diminishing supply of fossil fuel and the need to plan for its depletion.

Jerry Derr, 1595 CTH V, Columbus, representing Dane County Towns Association, registered to speak (Mr. Murray arrived). Mr. Derr stated that the four appointing authorities and staff needed to be in agreement on how FUDA will proceed; he recognized the difficulties in proceeding without sufficient resources. He read a resolution adopted by the DCTA executive board directing its CARPC representatives to support a policy that will prioritize completion of the FUDA process; DCTA did not advocate a single way to do this, and it did not support a moratorium on development while FUDA is completed.

Harry Read, 2545 Van Hise Ave., Madison, representing Audubon Society, described the dependency of human well-being on natural resources; land should be treated as a finite resource. CARPC was final arbiter of where development would occur; decisions need to make sense on a regional scale, and need to protect its natural resources. When CARPC formed, FUDA was supposed to allow CARPC to make informed decisions on development, but it has proceeded too slowly while large sprawling developments have been approved.

Mr. Miller stated that a discussion on FUDA would take place at the meeting. He asked if the separation of the MPO would preclude a truly effective regional planning entity. Mr. Derr stated that although likely difficult to do, it would be good to discuss its re-integration into RPC.

Don Hammes, 3507 Valley Ridge Rd., Middleton, stated that due to the permanency of urban development, CARPC members should not make decisions on USA amendments until all information had been reviewed. Some USA amendments do not provide enough information to review all water quality impacts, such as those from roadway runoff. He questioned how CARPC could make a decision on a 900-acre proposal without more detail on infrastructure requirements; Mr. Miller requested that comments be limited to items

not on the agenda. Mr. Hammes questioned the accuracy of build-out forecasts. He asked for a pause on USA amendment reviews until FUDA could be completed.

Sally Kefer, 3015 Elm Ln., Middleton, stated that as a former commissioner, she knew that CARPC had worked on policies and criteria for an extended period; it should lead the way in encouraging compact, efficient development without overwhelming existing facilities, rather than large proposals that aren't easily assimilated into existing urban areas. She expressed concern that staff is put into a position to review incomplete proposals which require staff to fill in the blanks. She stated that the future calls for more energy efficiency.

7. New business

None.

8. Re-consideration of Resolution CARPC No. 2009-14 amending the *Dane County Land Use and Transportation Plan and Dane County Water Quality Plan* by revising the Central Urban Service Area boundary, the Fox Bluff Limited Service Area boundary and Environmental Corridors in the City of Middleton and Town of Westport

The following individuals registered in support of the proposal: Eileen Kelley, 4626 Mineral Point Rd., representing the City of Middleton; Tom Wilson, 5387 Mary Lake, Waunakee, representing Town of Westport; and Andy Inman, 4206 Savannah Ct., Middleton, representing himself and T-Wall Properties. The following individuals registered in opposition to the proposal: Constance Threinen, 2121 Gateway St. Middleton, representing CRANES; and Mary Anglim, 2134 E. Washington Ave., Madison.

Mr. Miller stated that the item was on the agenda pursuant to CARPC bylaws (Section 7). Mr. McKeever stated that due to his role as an attorney, he was obliged to recuse himself from discussion and consideration of Resolutions 2009-14 and 15.

Moved by Mr. Sonnentag, seconded by Mr. Van Kampen, to approve Resolution CARPC No. 2009-14 with the conditions of the staff analysis dated Nov. 6, 2009. Mr. Sonnentag stated he was disappointed in the outcome of the last vote; he refuted statements made implying that information was lacking. He described the competency of city planning staff, and stated that CARPC staff considered the proposal a model for others.

Ms. Gibson asked if re-consideration would continue to be placed on the agenda until a full body was present. Attorney St. Peter stated that the bylaws provided that as long as there was an absence, re-consideration would be scheduled if adoption failed and the number of absentees plus the number of Aye votes equaled eight or more. Mr. Miller asked staff to address comments made regarding inadequate water supply and impacts on groundwater drawdown. Mr. Mesbah stated that staff estimates of per capita water use were in the upper range in order to be safe, even though planned conservation efforts would likely produce lower usage; the infrastructure plans to meet estimated water demands in the 20-year planning horizon are adequate. Groundwater impacts are a regional issue, and long-term solutions to drawdown included both conservation and recycling efforts. Mr. Miller asked if the proposal provided adequate infiltration; Mr. Mesbah answered yes, and stated that the standards proposed by the applicants were advanced; the proposal was to maintain pre-development volumes and would likely recharge more water than currently occurs due to reduced evapotranspiration after development. Mr. Miller asked if measures would be in place that would prevent lake

impacts similar to the Lake Mendota plume from erosion during the Bishops Bay Golf Course construction; Mr. Mesbah stated that the plume occurred in the late '80's prior to County standards. Construction phasing and mitigation practices by installing stormwater ponds before land disturbing activities, which are required as a condition of approval, would prevent a repeat of such a plume. The proposed measures are above all current standards. Mr. Miller asked how the completion of a county-wide FUDA, rather than proceeding with the current USA-by-USA approach, would better inform the proposal; Mr. Mesbah indicated that a county-wide FUDA was untenable due to the level of collaboration required among 61 units of government. He stated that FUDA needed to eventually be part of a regional plan; the establishment of USA boundaries as part of the county-wide water quality plan is a comparable model. He stated that when staff first presented the approach to FUDA planning, identifying the urban growth boundary based on a county population forecast was the first step, to be followed by a watershed-level plan that establishes the rural elements to be accounted in the process; the *Land Use and Transportation Plan* would then be comprehensively updated through the 2014 – 2019 period creating a regional framework within which FUDA plans would fit. Opening up the process to all municipalities simultaneously would invite inter-municipal competition, which would be detrimental given the Commission's lack of authority as an advisory agency. Mr. Miller asked about impact on the North Mendota Parkway; Mr. Mesbah stated that MATPB staff indicated that the need for the Parkway was driven by regional needs; the proposal alone would not cause the need for the Parkway.

Mr. Minihan stated that the Parkway studies greatly preceded the proposal, and the transportation impacts of the proposal should have been included in the Parkway considerations. He described the need for assurances that the engineered stormwater measures of the proposal would work properly, and would not be paid for by taxpayers. He referenced instances in which municipalities neglected failed stormwater measures. Mr. Miller asked what mechanisms would provide these assurances; Ms. Kelley stated that the Town requires that the deeds for every property in the development have stormwater maintenance provided or paid for by owners, and the City has required maintenance agreements for all stormwater management facilities. She stated that a third party could be authorized to ensure maintenance of stormwater management facilities. Mr. Miller asked if the applicants would agree to provide these assurances as conditions of approval; Ms. Kelley indicated yes dependent upon Plan Commission concurrence, and as long as the standards were objective and all agreed on the third party.

Mr. Wilson suggested that the addition of a condition of approval, which was standard in all Town of Westport development agreements, would provide the requested assurances: "The Dane County Land & Water Resources Department shall have construction and maintenance review and enforcement authority over erosion control and stormwater management structures and facilities in the amendment area." He stated that a second condition could be added to ensure enforcement of the staff conditions of approval: "The City of Middleton and Town of Westport shall condition approval of the development in the amendment area (whether by zoning or land division or both as appropriate) on all of the approval conditions of this Resolution." He stated that the traffic patterns of the proposal were fully considered by the North Mendota Parkway Advisory Committee, as indicated in the map he had distributed at the public hearing (Nov. 12, 2009).

Mr. Miller asked if Mr. Minihan would prefer the two proposed conditions of approval be added to the motion as a friendly amendment; he answered yes. Messrs. Sonnentag and Van Kampen agreed to amend the motion; there were no objections.

Ms. Gibson stated that she had water quality concerns over infrastructure; a proper analysis had not been done regarding the size of the sewer lines, whether they required replacement, and the impacts of replacement and other improvements such as roadway widening. She expressed concern over impacts of drawdown on Dorn Creek, and comments made at the public hearing by Cal DeWitt over inadequate consideration of impacts on threatened species and water. She expressed support for a condition which would require restoration of the wetland to priority 1 and restoration of the lower reaches of Dorn Creek by removing phosphorus and related sediment. She expressed concern for the overall size of the proposal; the proposal met about one quarter of 2030 CUSA land demand, and combined with the Fitchburg and Madison proposals, nearly half of the CUSA demand would be met. She stated that she would be more comfortable approving large USA amendments if there were consensus among the other players that the proposed size was appropriate. Mr. Mesbah stated that the CARPC policy provides that all units of government in the CUSA are solicited for comment when amendments over 300 acres of developable land are proposed. CUSA expansions are considered for those communities which are ready and able to provide services to expanded urban areas. He clarified that the proposal with the other two amendment requests proposed approximately 1,400 developable acres, of about 4,400 acres of demand. The City of Middleton has indicated that this proposal should satisfy its demand to 2030. He stated that the proposals, although large, represent an appropriate pace of forecast development.

Ms. Studz stated that the proposal was large, but other CUSA communities are notified and able to provide input, and the planning and design appeared to support local and regional goals. Opposing the proposal based on unknown issues was problematic. She stated that the location of the proposal seemed reasonable, and the intergovernmental cooperation among communities near the amendment area appeared to be ideal.

Ms. Gibson asked if the applicants would be willing to restore the lower reaches of Dorn Creek. Mr. Inman stated that the referenced amendment area – 40 acres north of Oncken Road – was planned to remain undeveloped except for one wilderness lodge, the wetland and its 300-foot buffer would be protected in environmental corridor. Mr. Mesbah stated that most of the area surrounding the Dorn Creek wetland complex was publicly owned; studies on Dorn Creek indicate that wetland restoration would require addressing the farmland north of the area, a source of silt in the creek. Restoration of the wetland complex would be appropriate if and when the agricultural operations implemented advanced conservation practices and when the other public entities are ready to undertake a system-wide restoration project for the wetland complex. Mr. Mesbah stated that the staff analysis indicated that staff recommended completion of a wetland protection/restoration plan and implementation approach for the Dorn Creek wetland complex. Ms. Gibson requested the recommendation be a condition of approval; Mr. Wilson expressed support. Amendment accepted as friendly without objection.

Motion to adopt carried 8-1 on roll call vote (Ms. Gibson voting no).

9. Consideration of Resolution CARPC No. 2009-15 amending the *Dane County Land Use and Transportation Plan and Dane County Water Quality Plan* by revising the *Central Urban Service Area boundary and Environmental Corridors in the City of Fitchburg*

Mr. Mesbah reported that Mayor Allen had requested that action be deferred to the next meeting. Moved by Mr. Murray, seconded by Mr. Brandon, to defer action to the March meeting. Motion carried unanimously on voice vote (Mr. McKeever recused).

10. Public Hearing: Consideration of Resolution CARPC No. 2010-1 amending the Dane County Land Use and Transportation Plan and Dane County Water Quality Plan by revising the Central Urban Service Area boundary and Environmental Corridors in the City of Madison, the Town of Blooming Grove, and the Town of Burke

a. Staff Presentation

Mr. Mesbah suggested it may be more helpful to the flow of information if the applicant provided a presentation first. There were no objections.

Rick Roll, City of Madison Planning, 215 MLK Jr. Blvd., gave a PowerPoint presentation on the proposal, which was the first phase of the City Northeast Neighborhood Development Plan, a short-term (0-5 years) growth area of the City Comprehensive Plan adopted in 2006. He described cooperative planning with local governments in the amendment area, the proposal's consistency with City sustainability goals, and the geographic boundaries of the request which proposes compact mixed-use land uses which provide a complete range of housing types. The proposal provided transit-oriented development with high residential densities and easy access to park and recreational land; net density of the neighborhood was proposed for 10.7 dwelling units per acre.

CARPC staff made PowerPoint presentations. Ms. Weber described the request, which proposes to add 776 acres (459 acres developable) to the CUSA., including 179 of existing development and 146 acres of environmental corridor. She described the proposed land uses, housing, and the proposal's consistency with local plans, CARPC policies and the goals of the *Land Use and Transportation Plan*. Mr. Kakuska described the natural resources of the amendment area, which drains to the headwaters of Door Creek. He stated that staff recommended that a wetland protection/restoration plan be prepared. He stated that low gradient of the area restricted proper drainage; he described the importance of controlling the impacts on hydrology. Mr. Mesbah described the stormwater conditions of approval as described in the staff analysis dated Feb. 5, 2010, which include control of peak rates of the 1-, 2-, 10- and 100-year storms. The applicant's goal that 25% of infiltration be done by rain gardens was a good goal; however, it didn't address increase in volume due to increase in imperviousness. Staff recommended post-development runoff volume maintained to pre-development runoff for the 1-year rain series. He described the importance of a watershed-wide stormwater strategy. Staff recommended deferral of action; the City-proposed standard was based on City negotiation with landowners of the amendment area, so City staff needed to re-visit the stormwater volume issues with landowners. Staff and City staff responded to questions by commissioners.

Mr. Miller stated that he would be interested if the City would consider the same two conditions added to the Bishops Bay proposal.

b. Open Public Hearing to take testimony from registrants; close Public Hearing

Mr. Miller opened the public hearing. Gary Werner, 2302 Lakeland Ave., Madison, representing CRANES, registered to speak in opposition to the proposal. Mr. Werner stated that the proposal had laudable goals, but CRANES supported the staff recommendation to defer action. He paraphrased from a written letter from CRANES, which had opposed essentially all USA amendments recently because FUDA should be completed prior to considering USA proposals. He stated that many of the ideas for the proposal have come from Madison's sister city in Germany, which is essentially walkable; this does not seem to emulate that model. In terms of infiltration issues, he

urged planning staff to review the International Institute for Living Buildings website, which exceeds LEED standards. He requested that CARPC push the standards in Dane County the best it can.

The following registered in opposition to the proposal: Don Hammes, 3507 Valley Ridge Rd, representing the Wisconsin Wildlife Federation. The following registered in support of the proposal: Rick Roll, City of Madison Planning, 215 MLK Jr. Blvd.; Brian Grady, City of Madison Planning; and Mike Dailey, City of Madison Engineering, 210 MLK Jr. Blvd. There were no other registrants; Mr. Miller closed the public hearing.

c. Consideration of Resolution CARPC No. 2010-1

Moved by Ms. Gibson, second by Ms. Studz, to postpone action to the next meeting or until staff determines the proposal ready for action. Motion to defer carried unanimously on voice vote.

11. Authorization for the Deputy Director to sign agreements with the U.S. Geological Survey, the cities of Middleton and Madison to perform water resources monitoring activities

Moved by Mr. Sonnentag, seconded by Mr. Van Kampen, to authorize the signatures. Motion carried unanimously on voice vote.

12. Report and Discussion on the FUDA planning process

13. Discussion of the CARPC 2010 Unified Planning Work Program

Mr. Miller suggested that items 12 and 13 be combined for the purposes of a seamless discussion; there were no objections. Mr. Miller described the budget limitations placed on CARPC by the petitions for CARPC creation adopted by local units of government, which limited the certifiable budget amount from .3 mils, as allowed by state statute, to .17 mils of equalized property valuation. Mr. Mesbah described the 2010 Work Program and the associated work deadlines; the budget and work program are developed on a rolling basis, starting with the 2008 program. He referred to a two-page timeline which outlined planned work activities for 2008 through 2014, and described the activities and associated deadlines. Mr. Miller asked what work was required; Mr. Mesbah stated that all the water quality planning activities, other than the FUDA-related work, were required by law; the FUDA work was required by local agreement. With the increased FUDA responsibilities staffing levels remained unchanged, including one employee in effect serving two roles. Questions and discussion continued. Mr. Mesbah made a PowerPoint presentation on the FUDA process and the relevant issues. Discussion followed. Mr. Miller asked about the legal requirements of FUDA; Attorney St. Peter stated that he would provide the Commission with his formal opinion prior to the next meeting.

Mr. Miller asked members to think about how FUDA can be carried out, and to discuss with their local officials their thoughts on FUDA. Ms. Studz suggested a meeting be held solely to discuss FUDA; Mr. McKeever agreed, perhaps meeting as a committee of the whole, but goals of the meeting should be identified and materials provided prior to the meeting. Mr. Miller stated he would work with staff to identify an appropriate time.

14. Consideration of Resolution CARPC No. 2010-2 amending the 2010 Budget by increasing the "Recruitment" operating expense line item from \$0 to \$23,000, and allocating \$23,000 from Operating Reserves as a revenue line item entitled "Operating Reserve Allocation for Recruitment" and authorizing Chair to sign

Agreement with The Mercer Group Inc. to conduct the recruitment of the Executive Director position

Motion by Mr. Van Kampen, seconded by Ms. Studz, to adopt Resolution CARPC No. 2010-2. Mr. Murray stated that it would be important for Panel members to agree in writing on a position description; motion amended to require Panel agreement on the position description prior to recruitment, without objection. Amended motion carried unanimously by voice vote.

15. Consideration of letter in response to Environmental Protection Agency solicitation of comments to provide input on modifying federal stormwater regulations

The proposed letter of comment dated February 11, 2010, was provided at members' places. Motion by Mr. Sonnentag, second by Mr. Minihan, to submit the letter. Motion carried unanimously on voice vote.

16. Consideration of Resolution CARPC No. 2010-3 expressing appreciation to Sally Kefer for her service and contribution to the Capital Area Regional Planning Commission

Motion by Mr. Brandon, second by Ms. Gibson, to adopt Resolution CARPC No. 2010-3. Motion carried unanimously on voice vote.

17. Consideration of Resolution CARPC No. 2010-4 in honor of and appreciation to Harold Krantz for his service and contribution to the Capital Area Regional Planning Commission

Motion by Mr. Brandon, second by Ms. Studz, to adopt Resolution CARPC No. 2010-4. Mr. Derr thanked members on behalf of Mr. Krantz, and described the satisfaction Mr. Krantz had felt in serving on the Commission. Motion carried unanimously on voice vote.

18. Communications

The following were placed at members' places: a memo dated Feb. 11, 2010, from Sally Kefer, indicating opposition to the Bishops Bay proposal; and memo dated Feb. 11, 2010, from CRANES urging deferral on the City of Madison "Northeast Neighborhood" CUSA amendment request.

19. Report of Chair / Discussion**a. Report on Executive Committee meeting of February 11**

The meeting had been cancelled due to lack of quorum.

20. Report of Deputy Director / Discussion

None.

21. Future agenda items

Mr. Murray suggested that members gather informally with family in order to encourage a more effectively communicative body; there was general agreement.

22. Adjournment

Moved by Ms. Gibson, seconded by Mr. Sonnentag, to adjourn; motion carried at 11:13 p.m.

Recorded by Chris Gjestson