

Draft MINUTES

Capital Area Regional Planning Commission

November 10, 2011

City-County Building Rm 351, 210 MLK Jr Blvd, Madison WI

7:00 p.m.

Present: Jeff Baylis, Zach Brandon, Martha Gibson, Ken Golden, Eric Hohol, Jason Kramar, Ed Minihan, Warren Onken, Larry Palm, Kurt Sonnentag, Susan Studz, Caryl Terrell

Absent: Peter McKeever

Staff Present: Chris Gjestson, Jason Granberg, Mike Kakuska, Kamran Mesbah, Mike Rupiper, Barbara Weber; Attorney John St. Peter

1. Roll Call

Chair Palm called the meeting to order at 7:04 p.m.; roll was recorded.

2. Approval of minutes of the October 13, 2011 meeting

Moved by Mr. Hohol, second by Mr. Onken, to approve the minutes of the October 13, 2011 meeting; motion carried on voice vote (Mr. Baylis abstained due to absence).

3. Review of agenda

No changes.

4. Public comment on matters not for Public Hearing

Comments were made under the corresponding agenda item.

5. Verona "Southwest" USA Amendment: Re-Consideration of Revised Resolution CARPC No. 2009-10 amending the *Dane County Land Use and Transportation Plan* and *Dane County Water Quality Plan* by revising the Verona Urban Service Area Boundary and Environmental Corridors in the Town of Verona.

The following registered in support of the proposed amendment, representing City of Verona: Jon Hochkammer, Mayor, City of Verona, 198 Acker Ct.; Bill Burns, City Administrator, 111 Lincoln St., Verona; Bruce Sylvester, City Planning Director, 111 Lincoln St., Verona; and Rob Montgomery, Water Resources Engineer, Montgomery Associates Resource Solutions, 119 S. Main St., Cottage Grove. The following registered in opposition: Constance Threinen, representing League of Women Voters; Gary Werner, 2302 Lakeland Ave., Madison, representing CRANES; Stefi Harris, 3427 CTH P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and the Environment. Available for questions: Russell Rasmussen, Deputy Administrator, Division of Water, DNR.

Mr. Hochkammer expressed City commitment to following the conditions of approval placed on USA amendment requests by CARPC, and urged approval. Mr. Burns stated that the two-and-a-half year process for CARPC review of the amendment request had resulted in a good proposal that supported water quality; he requested that the Commission consider the proposal as a single amendment, rather than two areas. Mr. Sylvester stated that the City conducted neighborhood planning for all areas with varying degrees of detail, but CARPC purview was limited to impacts on water quality and should consider the proposal on that basis. Mr. Montgomery described stormwater standards which would apply to the proposal that went beyond most local standards, including application to small areas normally exempted from standards, and runoff volume reduction for areas with low soil infiltration rates. He described extensive environmental corridors which were designed for water quality

improvement and habitat restoration, and a commitment to a detailed program for design review, monitoring and an adaptive management approach.

Ms. Harris stated that CARPC was under pressure from DNR to approve the proposal, which intended to approve the proposal itself. She described USA amendment review as a minor activity of DNR; it was important for CARPC, as the local authority, to consider the amendments in more detail. She stated the City was making promises about stormwater management for the proposal while existing basins in the city were failing. Mr. Werner described the natural resources of the Sugar River and Badger Mill Creek confluence area as among the greatest in the County. He stated the proposal conflicted with the Town of Verona Comprehensive Plan, and the *Dane County Parks and Open Space Plan*, which identified the area as a Natural Resource Area. He stated that FUDA planning should be completed prior to consideration of USA amendments.

Ms. Terrell asked Ms. Harris about Badger Mill Creek fisheries classification status, and referred to a report dated Nov. 4, 2005 by Kurt Welke (Dane County Fisheries Manager, DNR) report which provides documentation that could provide a basis for state Administrative Rule changes. Ms. Harris stated that the report was intended to request that Badger Mill Creek be classified as a Class II trout stream. She stated that state law (NR 102) protects cold water communities such as Badger Mill Creek regardless of stream classification; the proposal violated NR 102. Discussion continued.

Mr. Rasmussen stated that the DNR position on the proposal has not been pre-determined, and urged the Commission to consider the proposal using criteria in NR 121 and other applicable state and codified local standards. Initial review by DNR indicates the proposal met state standards. Mr. Baylis asked if the cold-water stream designation was a state or local designation. Mr. Rasmussen stated it was a County Planning designation; the streams in the amendment area were not designated trout fisheries. He expressed departmental support for protecting all species, but review of the proposal must be made under current standards. Questions and discussion continued.

Mr. Golden referred to a letter dated Feb. 5, 2011 from DNR to CARPC staff (pg. 4, par. 5) which suggests that if CARPC determined that best management practices would not prevent adverse water quality impacts in an area, it could recommend to DNR how environmentally sensitive areas are specifically defined; he asked for clarification. Mr. Rasmussen stated that NR 151 provided a mechanism to apply targeted standards for an area, but it would need to go through administrative rule change process. Mr. Golden expressed concern for the adequacy of the environmental corridor in the steep slopes area of Area E. Mr. Rasmussen stated that the conditions of approval appeared to address the concerns, including going beyond state standards in some areas. Departmental review ensures there is a legal basis for the conditions; should CARPC believe a higher standard should apply, it could make a recommendation to DNR to make changes to the standards. Mr. Golden stated that the letter indicated that the method by which commissioners could provide advice to DNR was by voting on a proposal and indicating for the record the basis for the vote; DNR staff could then consider making modifications to the proposal to address the concerns. Questions and discussion continued.

Mr. Baylis referred to a map (provided by CARPC staff) of springs near the amendment area, and asked how long the spring near the confluence area had been dry; Mr. Kakuska suspected about 30 years but would have to verify. Mr. Baylis referred to the groundwater map from the Montgomery report and stated it appeared that the area wells reversed

groundwater flow direction; Mr. Kakuska stated that the wells intercepted the flow but were not themselves the cause of groundwater flow reversal.

Motion by Mr. Sonnentag, second by Mr. Hohol, to adopt the Resolution inclusive of both amendment areas in the proposal.

Mr. Golden expressed concern about adequacy of vegetative buffer in the northern area within Area E with steep slopes that abut Badger Miller Creek; he requested that DNR carefully consider expanding the environmental corridor in this area and any other area with steep slopes. Mr. Mesbah stated that the current standard provided that slopes with a 12% or higher grade be protected by environmental corridors; stormwater management facilities would provide additional protection for the steep slopes by preventing direct runoff towards these slopes. Mr. Golden stated his concerns were still worrisome; his comments were made in response to the referenced DNR letter, to identify for DNR site specific characteristics that merit standards beyond those provided by best management practices.

Ms. Terrell identified a gap in environmental corridor in Area E between the areas with steep slopes; she suggested they be joined to provide habitat connectivity. Mr. Mesbah stated that the corridors as mapped were continuous along the floodplain, and were consistent with current standards; designating corridors outside those in the map, such as the upland areas, would be a recommended designation. Ms. Terrell described her concerns and expressed support for more protective buffers; Mr. Mesbah stated that changes to the corridor standards would appropriately be made through updating the "Environmental Corridors" technical appendix of the *Water Quality Plan*, which was scheduled for update in 2012. Discussion continued. Ms. Terrell expressed concern for increasing costs to the sanitary district in order to serve the proposed development, and the environmental costs associated with the location of the proposal.

Mr. Baylis described opposition to the proposal, based on its location among steep slopes and impact on sensitive natural resources from lowered infiltration rates due to impervious surfaces, and pollutant contamination from residential and transportation uses. Mr. Minihan described his concerns as unchanged from those he cited at the previous meeting. Mr. Onken suggested the meeting recess briefly in order to talk with the applicant about how an agreement might be reached. Ms. Gibson described her bases for opposition, which would not be swayed by minor changes to buffer width. Mr. Brandon stated that with the understanding that DNR would overturn a CARPC denial, the Commission should focus on improving proposals the best it can and approving them. Mr. Sonnentag suggested a brief recess; the meeting recessed by unanimous consent without objection at 8:50 p.m.

The time for recess expired at 9:05 p.m. Mr. Golden called the question; main motion to approve failed on roll call vote 7-5 (Baylis, Gibson, Golden, Minihan and Terrell voting no). Mr. Gjestson indicated that the bylaws required re-consideration at the next meeting.

6. Report and Discussion on FUDA planning process

Mr. Steinhoff reported on the FUDA planning activities, as described in the meeting materials. Members discussed measures to improve meeting attendance at FUDA steering committee meetings.

7. Report and Discussion on results of 2012 budget charge Arbitration

Mr. St. Peter summarized the results of arbitration. Mr. Palm noted that the results emphasized the importance of the CARPC Bylaws.

8. Consideration of convening a Bylaws Workgroup

Mr. Golden stated that the document should be reviewed to consider removing contradictory or negative language in order to clearly serve as the guiding document for both CARPC and the BPP. Motion by Mr. Golden, second by Mr. Baylis, to create a Bylaws Workgroup. Mr. Palm asked commissioners interested in serving to contact him or Mr. Mesbah; he stated that the goal for membership is to include at least one commissioner from each of the appointing authorities. Motion carried unanimously on voice vote.

9. Approval of November disbursements and Treasurer's Report for October 2011

Motion by Mr. Hohol, seconded by Mr. Onken, to approve the November disbursements (in the total amount of \$88,826.01) and October Report. Mr. Gjestson stated that a number of line items, including legal services, were expected to exceed their budgeted amounts, although the total budget would not be exceeded. Motion carried unanimously on voice vote.

10. Report from Commissioner McKeever on status of CARPC Retreat planning and potential discussion of the recommendations of the Policies and Criteria Advisory Group

Mr. Mesbah stated that he was scheduled to meet with Mr. McKeever and the item would be discussed.

11. Communications

Four items were provided at members' places: 1) memo dated Nov. 2, 2011 from Jeremy Balousek, Urban Conservation Engineer, Dane County Land Conservation Division, to Joseph Parisi, Dane County Executive; 2) e-mail dated Nov. 9, 2011, from Michael Rupiper to Commissioners, regarding the Balousek memo; 3) memo dated Nov. 10, 2011, from Steve Gaffield and Rob Montgomery, Montgomery Associates Resource Solutions LLC, regarding the Balousek memo; and 4) e-mail dated Nov. 10, 2011, from Stefi Harris regarding the Rupiper e-mail.

12. Report of Chair/Discussion

Mr. Palm reported on the Annual Conference of October 27 and 28.

13. Report of Deputy Director / Discussion

Mr. Mesbah reported that he and Mr. Steinhoff had attended the HUD-sponsored conference in Washington D.C. as required (and paid for) by the SCRP Grant.

14. Future Agenda Items

Mr. Palm stated budget amendment and work program adoption would be considered at the next meeting, and a Town of Windsor presentation on a forthcoming USA amendment would be made. He noted that a future meeting would include a discussion on Robert's Rules and its application at CARPC meetings.

15. Adjournment

Moved by Mr. Brandon, seconded by Mr. Sonnentag, to adjourn; motion carried at 10:20 p.m.