

# AGENDA

## Annual Meeting

### of the Capital Area Regional Planning Commission

January 13, 2011      City-County Building Room 351, 210 Martin Luther King Jr. Blvd., Madison WI      7:00 p.m.

#### RPC Meeting Procedures and Deadlines

**Registering and Speaking at RPC Hearings and Meetings:** Persons wishing to speak on any RPC public hearing or agenda item must register and give the registration form to the meeting recorder before the item comes up on the agenda. The time limit for testimony by registrants will be between 3 and 5 minutes as determined by the Chair. Speakers may *not* yield their time to other speakers; however, applicants for USA/LSA amendments may be granted from 10 to 25 minutes which may be allocated to one or more speakers. The RPC may alter the order of the agenda items at the meeting.

**Deadlines for Written Communications:** Written communications intended to be provided to the Commission and considered as part of the information package for a public hearing or agenda item should be received in the RPC office no later than noon, 7 days prior to the meeting. Written communications received after this deadline will be reported and provided to the Commission at the meeting.

**RPC Action Scheduling:** If significant controversy or unresolved issues are raised at the public hearing, the RPC will usually defer or postpone action to a future meeting.

1. Roll Call
2. **Election of Officers: Chair, Vice-Chair, Secretary, and Treasurer (*actionable item*)**
3. **Selection of Executive Committee membership (*actionable item*)**
4. **Approval of minutes of the December 9, 2010 meeting (*actionable item*)**
5. Review of agenda
6. Public comment for items not on the agenda
7. New business
8. Presentation on SCRP Grant and connection to the FUDA planning process
9. **Consideration of FUDA brochure (*actionable item*)**
10. Public Hearing: Consideration of Resolution CARPC No. 2011-1 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
  - a. Staff Presentation
  - b. Open Public Hearing to take testimony from registrants; close Public Hearing
  - c. **Consideration of Resolution CARPC No. 2011-1 (*actionable item*)**
11. Presentation by the City of Stoughton of upcoming USA amendment request
12. **Consideration of policy governing public comment at CARPC and CARPC standing committee meetings (*actionable item*)**
13. **Consideration of policy governing the order of roll call votes (*actionable item*)**
14. Discussion of a Northern Yahara River watershed study group
15. Discussion of designation of CARPC by DNR as areawide water quality planning agency
16. Communications
17. Report of Chair / Discussion
  - a. Report of Executive Committee meeting of January 13, 2011

18. Report of Deputy Director / Discussion
19. Future agenda items (next meeting is scheduled for February 10, 2011)
20. Adjournment

*NOTE:* If you need an interpreter, translator, materials in alternate formats or other accommodations to access this service, activity or program, please call the phone number below at least three business days prior to the meeting.

*NOTA:* Si necesita un intérprete, un traductor, materiales en formatos alternativos u otros arreglos para acceder a este servicio, actividad o programa, comuníquese al número de teléfono que figura a continuación tres días hábiles como mínimo antes de la reunión.

*LUS CIM:* Yog hais tias koj xav tau ib tug neeg txhais lus, ib tug neeg txhais ntawv, cov ntawv ua lwm hom ntawv los sis lwm cov kev pab kom siv tau cov kev pab, cov kev ua ub no (activity) los sis qhov kev pab cuam, thov hu rau tus xov tooj hauv qab yam tsawg peb hnuv ua hauj lwm ua ntej yuav tuaj sib tham.

CARPC staff 608-266-4137 + TDD 608-266-4529

# Draft MINUTES

## Capital Area Regional Planning Commission

December 9, 2010

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

7:00 p.m.

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

Absent: Caryl Terrell

Staff Present: Chris Gjestson, Mike Kakuska, Kamran Mesbah, Mike Rupiper, Steve Steinhoff, Barbara Weber, Attorney John St. Peter

### 1. Roll Call

Chair Van Kampen called the meeting to order at 7:03 p.m.; roll was recorded.

### 2. Approval of minutes of the November 11, 2010 meeting

Moved by Mr. Miller, seconded by Mr. Sonnentag, to approve the minutes of the November 11, 2010 meeting. Motion to approve carried.

### 3. Review of agenda

There were no changes requested.

### 4. Public comment for items not on the agenda

Phil Salkin, 944 Autumn Woods Lane, Oregon, stated that a registered speaker at the November meeting incorrectly suggested he was not a professional archaeologist; he stated he had been a professional archaeologist for over 40 years, and described his academic and professional background and credentials. He stated that the mound investigation referenced by the speaker at the last meeting was an environmental audit which identified the mound as 20<sup>th</sup> century in origin, which precluded its identification as an Indian burial ground.

Gary Werner, 2302 Lakeland Ave., Madison, commented on how CARPC determines developable land available to be added to USAs; he suggested that the standard – tied to 20-year population projections – limited CARPC in its ability to consider and apply more advanced sustainable standards; CARPC should consider a shorter time-frame.

Phyllis Hasbrouck, 3113 View Rd., Madison, representing CRANES, stated that it was folly to approve any USA amendments for areas with an over-supply of housing stock, or those that had potential for exacerbating flooding problems. She urged CARPC to consider the long view in its decision-making.

Arnold Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and the Environment, stated that the DNR decision regarding the Mazomanie USA amendment request was forthcoming and may bring into question the viability of CARPC; he suggested the Commission lobby DNR to support its decision to deny the request.

Stefi Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and the Environment, stated that CARPC was charged by the Governor with identifying areas suitable for development, which it had not yet started. USA amendment requests for developable acres far beyond that needed based on population projections should not be considered. CARPC was not doing its job.

**5. New business**

None.

**6. Consideration of Resolution CARPC No. 2010-17 amending the *Dane County Land Use and Transportation Plan and Dane County Water Quality Plan* by revising the Northern Urban Service Area boundary and Environmental Corridors in the Village of DeForest, Town of Vienna and Town of Windsor**

(Motion to adopt was tabled at the meeting of November 11.) Motion by Mr. Brink, second by Mr. Sonnentag, to take consideration of Resolution CARPC No. 2010-17 from the table; motion carried by unanimous consent. The main motion to adopt was before the body. Commissioners asked questions of staff. Mr. Palm stated that the planned residential density in the Country View area should be increased. Ms. Gibson stated there was not a need for the proposal; she stated that the number of buildable lots currently in the Village exceeded the number needed to support 20-year population projections, and a 420-acre surplus of existing developable commercial land also exceeded existing demand. She stated that the proposal was not consistent with CARPC goals and policies, which were crafted to encourage infill and prevent leapfrog development. She expressed concern for the proximity to springs and the impact of groundwater drawdown.

Questions continued. Ms Weber briefly described the CARPC population forecast methodology. Mr. Imes expressed concern over the lack of need to expand the urban service area with the amount of developable areas already in the USA. Mr. Miller described the bases for the amendment request, and stated that it had been prepared at a time when the “flexibility factor” applied to USA amendment policies, which allowed the Village to apply for amendments for land which would accommodate twice the projected 20-year population growth. When CARPC removed the flexibility provision in February 2008, members expressed at that time that exceeding 20-year population demand would be acceptable in some cases with good development proposals with special needs; he read from the minutes of the meeting of February 28, 2008. He described the need for revenue from the amendment to pay for needed repairs which had been done to sewer facilities. Ms. Studz described concern over a lack of need for the proposal. Mr. Brandon described the need for members to consider each of the three amendment areas on their own merits and to not dismiss the entire request for perceived weaknesses in one area. Discussion continued. Mr. Minihan expressed appreciation for the intergovernmental agreement between the Town of Windsor and Village of DeForest, and expressed hope for permanent preservation of the high-yield agricultural land in the area. He stated that both this and the “Bishop’s Bay” amendment in Middleton were large proposals which were well-planned; he suggested approval, followed by a moratorium on amendments in the Upper Yahara watershed while the viability of the two amendment areas are closely reviewed: if they show success, the moratorium could be lifted. Discussion continued.

Mr. Miller stated that the Village was willing to address Mr. Palm’s expressed concern over density in the Country View amendment area by adding a condition of approval: “The residential development density in the Country View Estates NUSA expansion area shall be increased in such a manner so as to exceed the 2010 residential development density

in the NUSA as a whole.” Motion by Mr. Palm, second by Mr. Miller, to amend the Resolution by adding the condition of approval as stated. Motion carried unanimously on voice vote.

Ms. Studz asked if the Village had begun its FUDA process; Mr. Mesbah answered yes, its steering committee had been appointed and was scheduled to meet in January. Ms. Studz asked about the rationale for conducting FUDA in this area if the amendment was approved; Mr. Mesbah stated the scenario planning in the FUDA process included pertinent infill and redevelopment opportunities and many other elements of community advanced community planning and design which would result in better long-term development in the urban service area, and in a much more efficient use of available land even if the amendment is approved. Discussion continued.

Mr. Imes expressed opposition to approval due to concern for setting precedent by expanding the planning horizon too far; Ms. Gibson agreed. Discussion continued.

Motion by Mr. McKeever, second by Ms. Gibson, to amend the Resolution by changing water-related recommendations to conditions of approval: as indicated in the agenda item cover sheet, recommendations #1, 3, 5 and 6 of the Bear Tree amendment, and #2 and 3 of the Country View amendment. Mr. Palm asked why the subject recommendations had not been proposed by staff as conditions of approval; Mr. Mesbah stated that conditions need to be enforceable by CARPC at the time of sewer extension review. If the Commission does not have the authority as part of state rules to require something it should only be a recommendation. Likewise, if the nature of the condition is such that one municipality cannot implement it (such as a multi-jurisdictional watershed plan), or its timeline and scope puts implementation after the sewer extension review, then enforcement would also be unlikely. Motion by Mr. Palm, second by Mr. Murray, to divide the question in order to consider recommendation #2 (for Country View amendment) separately from the other recommendations. Motion to separate carried unanimously on voice vote. Motion by Mr. Palm, second by Mr. Murray, to change recommendation #2 to a condition of approval. Motion carried unanimously on voice vote.

Mr. Miller expressed the Village position on each of the subject recommendations. Mr. Murray stated that while the recommendations were meant to improve the proposal, they appeared to be more related to local zoning considerations rather than CARPC issues; he expressed support for calling the question. Discussion continued.

Motion by Ms. Gibson, second by Mr. Miller, to divide the question in order to consider recommendation #1 of the Bear Tree amendment separately from the other recommendations. Mr. Miller asked if changing the subject recommendation to a condition of approval would garner support by Ms. Gibson; she answered no. Motion to separate failed on roll call vote 4-7 (Gibson, Imes, McKeever, and Studz voting yes; Mr. Palm was absent for the vote).

Motion by Mr. Miller, second by Mr. Sonnentag, to call the question to amend; motion carried without objection. Motion to amend failed on roll call vote 3-8 (Gibson, Imes and McKeever voting yes).

Motion by Mr. Brink, second by Mr. Sonnentag, to call the question on the main motion; motion carried without objection. Main motion to adopt Resolution CARPC No. 2010-17 as amended carried on roll call vote 8-4 (Gibson, Imes, McKeever, and Studz voting no).

The following registered in support of the proposal: Daniel A. Paulson, 136 W. Holum St., DeForest, representing Acker Family Country View Estates, Bear Tree Development and Three Bridges Development; Brad Ziegler, 104 Hill St., Hartland, representing Della Properties, Ltd and Three Bridges; Mark Roffers, Vandewalle & Associates, 120 E. Lakeside St., Madison, representing Village of DeForest; Craig Mathews, 400 Viking Dr., Reedsburg, representing Village of DeForest; Steve Fahlgren, 4918 Easy St., Waunakee, representing Village of DeForest; Kate Stalker, 2033 Rutledge St., representing Three Bridges and Bear Tree; Bonnie McDaniel, 586 River Rd. #5, Columbus, representing the Village of DeForest; Deane Baker, 621 Acker Pkwy, DeForest, representing Village of DeForest; Kelli Bialkowski, representing Village of DeForest; Ron Guthrie, Mead & Hunt, 6501 Watts Rd., Madison, representing Country View Estates.

The following registered in opposition to the proposal: Phyllis Hasbrouck, 3113 View Rd., Madison, representing CRANES; Richard Reinke, 314 Virginia Terrace, Madison.

The meeting was recessed for five minutes.

Members agreed by unanimous consent to take up the remaining agenda out of order in order to consider actionable items which may require legal comment. (Ms. Gibson left the meeting.)

**10. Consideration of Purchases of Services Agreement with Dane County to receive an additional \$10,000 to pass-through to sub-contractor in support of the Yahara Lakes project, and to amend the contract between CARPC and sub-contractor to reflect the Agreement**

Motion by Mr. Palm, second by Mr. McKeever, to approve the agreement and amend the contract. Motion carried unanimously on voice vote.

**14. Consideration of entering into contract to provide water quality management planning services to DNR effective July 2010 through June 2011**

Motion by Mr. Palm, second by Ms. Studz, to enter into the contract; motion carried unanimously on voice vote. Attorney St. Peter was excused from the meeting.

**9. Consideration of Resolution CARPC No. 2010-18 amending the 2010 Budget**

Moved by Mr. Miller, second by Mr. McKeever, to adopt. Mr. Gjestson provided a brief explanation of the need for the amendment as detailed in the agenda cover sheet. Motion carried unanimously on voice vote.

**11. Consideration of Resolution CARPC No. 2010-19 amending the CARPC Personnel Manual by updating the salary schedule**

Mr. Gjestson provided background information as described in the agenda cover sheet, and reported that the Personnel Committee had recommended approval at its June meeting. He noted that the salary schedule table provided in the materials should be amended to include hourly *and* annual rates. Motion by Mr. Palm, second by Mr. Miller, to adopt. Motion carried unanimously on voice vote.

**7. Report and Discussion on the FUDA planning process**

Deferred by unanimous consent. Mr. McKeever described the importance of having a thorough discussion at a future meeting; Ms. Studz agreed, and requested a meeting be conducted to solely discuss the item.

**8. Discussion of draft FUDA brochure**

Mr. Van Kampen requested members review the brochure for the next meeting, when action on distribution will be considered.

**12. Consideration of CARPC 2011 meeting calendar**

Motion by Mr. McKeever, second by Mr. Palm, to approve the calendar. Motion carried unanimously on voice vote.

**13. Consideration of directing Chair to sign Memorandum of Understanding with Dane County to continue receiving GIS services from Aaron Krebs in 2011**

Motion by Ms. Studz, second by Mr. Miller, to approve; motion carried unanimously on voice vote.

**15. Communications**

Four items were provided at commissioners' places: DeForest housing data from 2000 through 11/24/10, as forwarded by Mr. McKeever; letter from Village of DeForest dated December 9, 2010, regarding status of a dam in DeForest; print-out of PowerPoint presentation on HUD grant for Agenda Item #7 (deferred); and 2009 Regional Trends Report. E-mails had been sent to commissioners through the week leading up to the meeting regarding the DeForest amendment request.

**16. Report of Chair / Discussion****a. Report on Executive Committee meeting of November 11**

Mr. Van Kampen reported that the Committee had approved the monthly bills.

**17. Report of Deputy Director / Discussion**

None.

**18. Future agenda items**

Ms. Studz requested that CARPC consider an entire meeting dedicated to FUDA, or at least allow the discussion to be first on the agenda. She requested an item to consider allowing roll call votes to be taken in an order other than alphabetical. Mr. Minihan requested an item be added to discuss a moratorium on USA amendments in the Upper Yahara River-Lake Mendota. Mr. McKeever requested an item be added to discuss the meaning and implications of potential CARPC designation by DNR as the water quality planning agency for the region.

**19. Adjournment**

Moved by Mr. McKeever, seconded by Mr. Palm, to adjourn; motion carried at 10:15 p.m.

Recorded by Chris Gjestson

**Re: Election of Officers: Chair, Vice-Chair, Secretary, and Treasurer**

**Decision Items:**

1. Elect the CARPC officers

The CARPC Bylaws provide for four officers to be elected by the body as the first order of business at its Annual Meeting, although the Commission may choose to elect other officers if deemed necessary. Members remain in office for one year until the next Annual Meeting, or until they resign or are removed by the body. Other than the Chairperson, who also serves as Chair of the Executive Committee, officers are not automatically members of any committee of the Commission. However, in the past CARPC has set Executive Committee membership with all four officers plus one at-large member selected by the Commission. If CARPC elects to continue this practice, it may also wish to consider continuing the practice of ensuring that all four appointing authorities are represented in the offices.

The following summarizes the duties of each office, as indicated in the bylaws.

**Chairperson.** The Chairperson presides with full voting rights at all meetings of the Commission and the Executive Committee. The Chairperson is responsible for seeing that the agenda for each meeting of the Commission is prepared, and is authorized to sign or execute documents on behalf of the Commission. The Chair also performs other duties as required by law, the CARPC Bylaws, or as assigned by the Commission, and presents to the body any matters which, in his/her judgment, require its attention.

**Vice Chairperson.** In the absence of the Chairperson or in the event of his/her inability to act, or in the event of a vacancy in the position of Chairperson, the Vice Chairperson performs the duties of the Chairperson. The Vice Chairperson also performs other duties as assigned by the Commission.

**Secretary.** The Secretary ensures that all records of the Commission, including its resolutions, transactions, findings, determinations and any other records required by law, the Bylaws and the Commission to be maintained. The Secretary also executes all documents and papers of the Commission required to be countersigned, and performs other duties as assigned by the Commission.

**Treasurer.** The Treasurer of the Commission ensures that an accurate record of all receipts and disbursements of the Commission are maintained, and performs other duties as assigned by the Commission.

Commissioners should be prepared to nominate and elect officers at the meeting.

**Materials Presented with Item:**

1. None

**Contact for Further Information:**

Chris Gjestson, Administrative Services Manager  
266-4138  
ChrisG@CapitalAreaRPC.org

**Re: Selection of Executive Committee membership**

**Decision Items:**

1. Select Executive Committee members

The Commission (and the previous RPC) has had an informal practice of selecting five Commissioners to serve on the Executive Committee. The Chairperson of the CARPC is the only automatic Executive Committee member (serving as Committee Chair), the other four have been the other three CARPC officers plus one at-large member selected by the Commission.

Excerpt from the CARPC Bylaws:

**Executive Committee.** The purpose of the Executive Committee is to provide advice and counsel to the Executive Director on management, budget, and personnel matters to the extent specified in this section. The Executive Committee is not intended to make recommendations on policy matters. The Executive Committee shall be appointed by the Commission. The Chairperson of the Commission shall serve as Chairperson of the Executive Committee. The Executive Committee (i) shall be responsible for seeing that a proposed annual budget is presented to each Commissioner on or about June 1<sup>st</sup> of each year, and the Budget and Personnel Panel on or about July 1<sup>st</sup> of each year; (ii) shall have the authority to approve or disapprove disbursements on behalf of the Commission; (iii) shall have the authority to approve transfers between expenditure line items of the adopted Commission budget; (iv) shall lead the performance evaluations of the Executive Director; and (v) shall have only such additional powers and responsibilities as may be specified from time to time by the Commission. In no event shall the powers of the Executive Committee extend to adoption of the annual budget, the amendment of any urban or limited service area, the voting of any appropriation, the adoption of any part of any plan for the Commission's region or the rendering of planning advice on regional problems. The Executive Committee shall report its action on all matters to the Commission at the next meeting of the Commission following the taking of such action. A majority vote of the members when a quorum is present shall be controlling on any matter voted upon.

**Materials Presented with Item:**

1. None

**Contact for Further Information:**

Chris Gjestson, Administrative Services Manager  
266-4138  
ChrisG@CapitalAreaRPC.org

**Re: Consideration of Resolution CARPC No. 2011-1 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**

**Decision Items:**

1. Consider adoption of Resolution CARPC No. 2011-1

The proposed amendment will add 141.4 acres to the Central Urban Service Area on both sides of Sugar Maple Lane south of Valley View Road, on the southwest side of the City of Madison in the Mid-Town Neighborhood. Approximately 20% of the amendment area is in the City of Madison (28.9 acres) and 80% is in the Town of Middleton (112.5 acres). The amendment request proposes 88.5 acres of residential development with 683 housing units, accommodating approximately 1,679 persons including an estimated 214 school-aged children. The development proposal also includes two parks totaling 5.8 acres, 35.5 acres of street right-of-way, and 11.6 acres for stormwater management and open space. There are 26.7 acres of existing residential development, a U.S. Forest Service testing facility that comprises 8.5 acres of existing institutional use, and 5.0 acres of existing right-of-way.

The 141.4 acre amendment area is Phase A of the 2010 Amendment to the Mid-Town Neighborhood Development Plan (NDP). Phase A is one of three development phasing areas identified in the NDP amendment. The NDP amendment provides more detailed recommendations for the lands north and west of the existing subdivisions in the Mid-Town Neighborhood. The predominant recommended land uses within the three phases of the amendment to the NDP are residential land uses and open space uses including parks, extensive stormwater management facilities, and other non-developable open space. The three phases include an estimated 1,329 housing units on 192.2 residential acres, for an overall residential density of 6.9 units per acre. Phase A includes over half of the estimated housing units proposed for the three phases, including a higher proportion of the low-medium density Housing Mix 2 and all of the proposed medium density Housing Mix 3 for the area, and has an estimated residential density of 7.7 units per acre.

The proposed amendment area is located in the Lower Badger Mill Creek sub-watershed of the Sugar River Watershed in the Sugar-Pecatonica River Basin. The amendment area generally drains to the south and southwest. The nearest stream is the headwaters of Lower Badger Mill Creek, approximately 0.2 miles distant. Lower Badger Mill Creek is an intermittent stream that drains west side neighborhoods in the cities of Madison and Verona, as well as areas within the towns of Middleton and Verona.

The proposed amendment provides the full range of urban services and is well within the twenty-year service area land demand for the Central Urban Service Area. The area proposed for service area expansion is surrounded on three sides by existing service area, and is

adjacent to existing urban services. The proposed development fulfills regional goals of promoting compact development, providing diverse housing options and promoting a system of open space corridors.

Prime agricultural soils comprise approximately 54 percent of the proposed amendment area (approximately 76 acres). The area has been identified by the City of Madison as a planned growth area.

The existing stormwater ordinance in the City of Madison includes performance standards that are more stringent than those in NR 151 and the Dane County Chapter 14 in some areas. The proposed amendment includes peak flow rate control for a wide range (1-yr, 24-hr to 100-yr, 24-hr) of design storms. This standard will help mitigate the potential adverse impacts of erosive velocities and flashier stream flows from the proposed development.

Infiltration and groundwater recharge is necessary to maintain base flow discharge to downstream water resources. Staff recommends a performance standard based on the WGNHS study pre-development groundwater recharge rates for the amendment area of 9 to 10 inches per year. Experience has shown that this criterion is generally met when the volume control standard is achieved by infiltration practices. Improvements in modeling will result in a better understanding of the degree of groundwater recharge that results from infiltration practices.

CARPC staff recommends approval of this amendment, based on the land uses and services proposed, and conditioned on the City of Madison's acceptance and pursuit of the following:

1. Submit a detailed stormwater management plan for CARPC and DCL&WCD staff review and approval prior to any land disturbing activities in the amendment area. The stormwater management plan should include the following:
  - a. Install stormwater and erosion control practices prior to other land disturbing activities. Protect infiltration practices from compaction and sedimentation during land disturbing activities.
  - b. Control peak rates of runoff for the 1, 2, 10, and 100-year 24-hour design storms to "pre-development" levels (i.e. maximum Runoff Curve Number = 68 for agricultural land use and hydrologic soil group B).
  - c. Maintain the post development stay-on volume to at least 90% of the pre-development stay-on volume for the one-year average annual rainfall period, as defined by WDNR.
  - d. Maintain pre-development groundwater recharge rates from the Wisconsin Geological and Natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Wisconsin, Estimated by a GIS-Based Water-Balance Model* (an average of 9-10 in./yr. for the amendment area) or by a site specific analysis.
  - e. Mitigate the thermal impacts of stormwater discharge in accordance with existing ordinances.
  - f. Provide at least 80% sediment control for the amendment area in accordance with existing ordinances.
  - g. Stormwater practices should have perpetual legal maintenance agreements with the City, to allow the City to maintain facilities if owners fail to do so.

It is also recommended that the City of Madison pursue the following:

Attempt to maintain the post development stay-on volume to 100% of the pre-development stay-on volume for the one-year average annual rainfall period, as defined by WDNR.

**Materials Presented with Item:**

1. The staff analysis was mailed and posted to the website on December 14, 2010, concurrent with the Public Hearing Notice
2. Draft Resolution CARPC No. 2011-1

**Contact for Further Information:**

Kamran Mesbah, Deputy Director  
266-9283  
KamranM@CapitalAreaRPC.org

**Resolution CARPC No. 2011-1**

**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 Mid-Town Neighborhood in the City of Madison and Town of Middleton**

WHEREAS, the Capital Area Regional Planning Commission has adopted, amended and reaffirmed the *Dane County Land Use and Transportation Plan* and *Water Quality Plan*; and

WHEREAS, said plans delineate urban service areas as amended through December 2010; and

WHEREAS, the City of Madison has requested an addition to the Central Urban Service Area, and is consistent with the City of Madison Mid-Town Neighborhood Development Plan, as amended August 2010, the Town of Middleton Comprehensive Plan, adopted in April 2009, the City of Madison Comprehensive Plan, adopted January 2006, and the City of Madison and Town of Middleton Intergovernmental Cooperative Plan, adopted in 2003; and

WHEREAS, a staff analysis of the proposed amendment has been prepared, which indicates that the amendment is generally consistent with adopted regional plans and policies.

NOW, THEREFORE, BE IT RESOLVED that in accordance with §66.0309, Wis. Stats., and Sec. 208 of Public Law 92-500, the Capital Area Regional Planning Commission amends the *Dane County Land Use and Transportation Plan* and recommends the amendment of the *Dane County Water Quality Plan* by revising the Central Urban Service Area boundary and environmental corridors as shown on the attached map.

Adoption of this amendment is based on the land use and urban service plans submitted in support of this amendment, and conditioned on the City of Madison pursuing the following:

(to be added by CARPC)

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Date Adopted

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CARPC Chairperson

**Re: Presentation by the City of Stoughton of upcoming USA amendment request**

**Decision Items:**

1. None

The City of Stoughton is preparing a request to amend the Stoughton USA. The following provides preliminary information on the proposal.

Stoughton USAA proposal: West End Commercial Area

The 2035 land demand calculations for the Stoughton Urban Service Area indicate that 933 additional developable acres will be needed to accommodate the anticipated 2035 population. The proposed USA addition of approximately 200 acres includes existing commercial development, existing right-of-way, and proposed environmental corridor accounting for over half of the area. The resulting addition of less than 100 developable acres is well within the 2035 land demand for the Stoughton USA.

The amendment area is currently in the Town of Rutland and the existing commercial development is unsewered. The Future Land Use Plan map in the Town of Rutland Comprehensive Plan calls for continuation of the existing commercial use and development of Medium Density Residential (1-acre lots) to the west of the existing commercial development. The development plan proposed by the City of Stoughton is not completely consistent with the Town Plan. The proposal calls for additional commercial development along US Highway 51, south of the existing commercial, and residential development to the west. The residential development is proposed to be composed of a mixture of unit types averaging 5.5 units per acre with higher densities east phasing to lower densities west. The proposed USA expansion and the development plan for the amendment area are consistent with the Stoughton Comprehensive Plan. The City expects an annexation request for at least the undeveloped eastern portion of the amendment area soon after approval of the USA expansion, and developed properties may seek annexation and sewer extension if they choose to do so.

The City of Stoughton does not have an intergovernmental agreement with the Town of Rutland. The City has met with the Town to inform them of the proposed USA amendment but has not worked with the Town to address differences in the jurisdictions' plans for the area. CARPC staff is available to provide assistance facilitating discussions between the town and city.

The proposed amendment area is internally drained to a kettle wetland. Mitigation of the potential natural resource impacts of the proposed development will require stormwater management measures that maintain zero runoff from the closed basin under normal conditions, in addition to maintaining a hydrologic regime suitable for sustaining the wetland.

**Materials Presented with Item:**

1. None

**Contact for Further Information:**

Barbara Weber, Senior Community Planner  
266-9113  
BarbaraW@CapitalAreaRPC.org

**Re: Consideration of policy governing public comment at CARPC and CARPC standing committee meetings**

**Decision Items:**

1. Consider adopting a policy regarding how the public provides comments to the Commission

CARPC practice has been to allow oral public comment by persons registered to do so 1) at public hearings, 2) during the “Public Comment” agenda item for comment to be made on topics not on the agenda, and 3) *at the Commission discretion* on items that *are* on the agenda. Individuals are afforded 3 to 5 minutes to speak, as determined by the Chair. At the April 2010 meeting, the Commission interpreted the standard agenda language to allow for public comment on *any* agenda item, regardless of whether a public hearing was being held on the item. Attendees who had registered to do so were allowed to speak on items for which a public hearing was not scheduled. Some commissioners expressed disapproval of this practice because it provided for inefficient and unnecessary long meetings, since those who would provide comment have either already expressed their views to individual commissioners outside of the meeting, or have already had an opportunity to speak during a public hearing. Additionally, the Commission has an existing policy which allows written comments on any topic.

Commissioner Palm provided a proposed policy (attached) for discussion by the body. Commissioner McKeever has submitted a memo (attached) to the Commission which describes the problems raised by limiting public comment and participation.

The policy ultimately adopted by the Commission will be reflected on each agenda.

**Materials Presented with Item:**

1. Commissioner Palm proposal for discussion
2. Commissioner McKeever memo to CARPC

**Contact for Further Information:**

Chris Gjestson, Administrative Services Manager  
266-4138  
ChrisG@CapitalAreaRPC.org

Commissioner Palm has proposed the following policy for Commission discussion and consideration. Initially provided at the meeting of August 12, 2010.

1. Items designated as a “Public Hearing” on the Agenda
  - a. Staff should make the initial presentation to inform the Commission and visitors of the basics of the project and review the staff’s recommendation.
  - b. Speakers would have a consistent three minutes. This would alleviate the need for the Chair to make a decision as to the length of time, which can cause negative sentiments.
  - c. If there is an application (for a USA amendment), applicant can pool their time up to 15 minutes max. Afterwards, others may speak as individuals.
  - d. After the pooled applicant time, Chair will alternate between opponents and supporters until all public comments are heard.
  - e. After all comments are heard, Chair will close the public hearing.
  - f. The Commission should next ask questions of any registrant, prior to discussion.
  - g. After questions of registrants, a motion should be made to begin discussion.
  - h. During discussion, questions may be asked of staff.
  - i. In the event that staff is unable to answer a question, specific questions may be asked of individual registrant. Registrants would be permitted to only speak on the question.
  
2. Items not designated as a “Public Hearing” on the Agenda
  - a. An agenda item will be listed early in the agenda that will be for public comments for any item on the agenda that is not a public hearing.
    - i. There will not be an opportunity for public comments at the time of discussion of individual agenda items (with the exception of public hearing items).
  - b. Each registrant will have three minutes to speak.
  - c. After a registrant speaks, Commission members will have an opportunity to ask questions of the speaker.

**To: CARPC Commissioners**

**From: Peter McKeever**

**Date: January 7, 2011**

**Subject: Three Minute Democracy**

**For the reasons stated below, I object to a policy that imposes an arbitrary time limit on speakers at public hearings or those wishing to provide public comment on CARPC issues.**

**This is an adaptation of a column I wrote in 2005 that was published in the magazine of the Wisconsin League of Municipalities.**

It has become increasingly common for mayors, village presidents, town chairs, aldermen, school board chairpersons and other local elected officials to impose an arbitrary time limit on how long members of the public can speak at public hearings. Often, residents are given only three or five minutes to make their views known on proposed actions to be taken by government. I have even seen occasions recently where citizens were given only one minute to present their opinions and questions.

A related problem is that too often the public comment period is scheduled before the proposal has been fully aired. Residents are somehow expected to be prescient about what issues will be raised and what questions they will have.

Citizens have ideas and suggests, not just an “I support” or “I oppose” position. Arbitrary time limits effectively discourage public interest and participation in local government. In three minutes it is difficult to make thoughtful comments on multi-million dollar budget proposals, critical zoning decisions, proposed subdivisions or building projects, difficult and complex education issues, or challenging operational questions. By the time the speaker has stated his or her name and address, and begun to introduce his or her interest in the issue under consideration, a minute or more of the time is already used up. There is precious little time left for substantive detailed suggestions or questions.

The time limits assume that “ordinary” residents, have only a single concern or issue they want to raise, when often the very complexity of the proposal may cause the citizen to have multiple concerns and questions about education, municipal services, building projects, land use, traffic, landscaping, tax and budget impacts, aesthetics, policy implications, pollution, noise, etc.

Complex and expensive proposals raise many different issues, and for citizens who pay the bills with their taxes or have to live with the consequences in their neighborhood or their community, the implications of the decisions made can be significant.

Time limits tell citizens that government does not care what we think, or that government cares, but not that much. A three-minute limit devalues the expertise and or experience the resident has about the issue. Local residents are engineers, social workers, lawyers, law enforcement officers, educators, contractors, business people or workers with particular expertise on the issues under consideration. They might also be anyone who has given thought to an issue and spared a precious evening to attend a council or commission meeting and share their thoughts.

The time limits shortchange the community by denying the decision makers the benefit of the ideas, suggestions and observations of residents. This diminishes the quality of the decision making process.

Three minutes is rarely enough time for a farm family that has invested its entire life on the land to express its views about the subdivision proposed next door or the suburban homeowners to express their feelings about the Walmart, factory farm, or gravel pit proposed to be built adjacent to their subdivision. It is not enough time for the senior citizen on a fixed income to express her feelings and tell what really matters about the proposed tax increase, or the reduction in the transit or other local services she depends on. It is not enough time for parents to question expensive school construction projects, or explain the impact that cuts in staffing will have on their children.

To add insult to injury, the applicant is almost never subjected to the same time limits. The developer, the business owner, the municipal staff member, or the consultant is given unlimited time to explain, push, and promote his or her scheme. This input is more valued than that of the public.

Of course the reason for the time limits is the fear that a speaker will go on and on, taking up lots of time and making it difficult for others who want to speak to have a chance. This can happen, albeit rarely. A good chairperson will find that a gentle and polite request to the speaker to wrap it up usually suffices. Most people accept courtesy, and resent arbitrary time limits and gavel banging. As commission members, we have an obligation to listen.

One of the critical problems of our democracy today is the lack of public participation. Too many people do not vote. They do not run for office and they pay too little attention to what happens in government. One of the reasons for this lack of participation is they believe their opinions and their actions do not matter. Too often we hear a cynical view of government: "No matter what I do or say, it is not going to make any difference. Why bother to get involved?"

Public comments serve a vital role in the exchange of ideas and opinions among the citizens themselves. They learn from one another, and often ideas occur and opinions change. A well-informed public is vital to a healthy community and a healthy democracy, and public comment helps assure that the public has all the facts and opinions it needs for the system to thrive.

People will accept a decision of government with which they disagree far more readily if they feel they have had a chance to be heard. If they never get a meaningful opportunity to make their views known, they are less likely to accept the decision, their cynicism and alienation increases, and their willingness to participate in the civic process is further diminished. Time limits have a chilling and cumulative impact.

The lack of civic participation has the potential to threaten the very foundations of our way of government. It threatens to leave government in the hands of the few, the wealthy and powerful who can hire people to work full time to represent their interests. The least we can do is make sure we give the public every opportunity to participate, and take the time to listen to those few who show up at public hearings.

**Re: Consideration of policy governing the order of roll call votes**

**Decision Items:**

1. Adopt a policy on the order of names to be called for roll call votes

This item was added for discussion at the request of Commissioner Studz.

Article VIII Section 2 of the CARPC Bylaws provide that meeting procedures follow Robert's Rules of Order, unless they conflict with the Bylaws. Because the Bylaws do not include procedures for roll call votes, the Commission follows Robert's Rules, which provide that votes be called in alphabetical order, except that the presiding officer's name is called last (the Commission has historically allowed the Chair to have his or her name called in order, if he or she chooses).

Commissioners have indicated a desire to consider changing this procedure. Because individual members always have the option to "pass" during roll call voting, staff is unsure of the need to change the current procedure. However, should the body decide to follow a different procedure, staff recommends 1) ensuring consistency in the body's application of the procedure, and 2) codify the procedure as an amendment to the Bylaws. An amendment to the Bylaws would require introduction at this meeting, and action at the next meeting, and requires a Supermajority vote (8) for adoption.

**Materials Presented with Item:**

1. None

**Contact for Further Information:**

Chris Gjestson, Administrative Services Manager  
266-4138  
ChrisG@CapitalAreaRPC.org

**Re: Discussion of a Northern Yahara River watershed study group**

**Decision Items:**

1. None at this time

This item was added for discussion at the request of Commissioner Minihan.

Over the past year, CARPC recommended the expansion of urban service areas to include over 1,000 additional developable acres in the Upper Yahara River-Lake Mendota basin. Mr. Minihan has suggested that phasing for the new developments be monitored for planned growth and successful impact mitigation, while CARPC concurrently facilitates a workshop or similar activity among the affected municipalities with a goal of reaching a watershed-wide agreement on the timing of future USA amendments. Mr. Minihan has suggested that this may also be beneficial in that it may result in a watershed-wide FUDA agreement.

The communities in the basin include: The towns of Bristol, Dane, Middleton, Springfield, Vienna, Westport, and Windsor; the villages of Dane, DeForest, Maple Bluff and Waunakee; and the cities of Madison, Middleton and Sun Prairie.

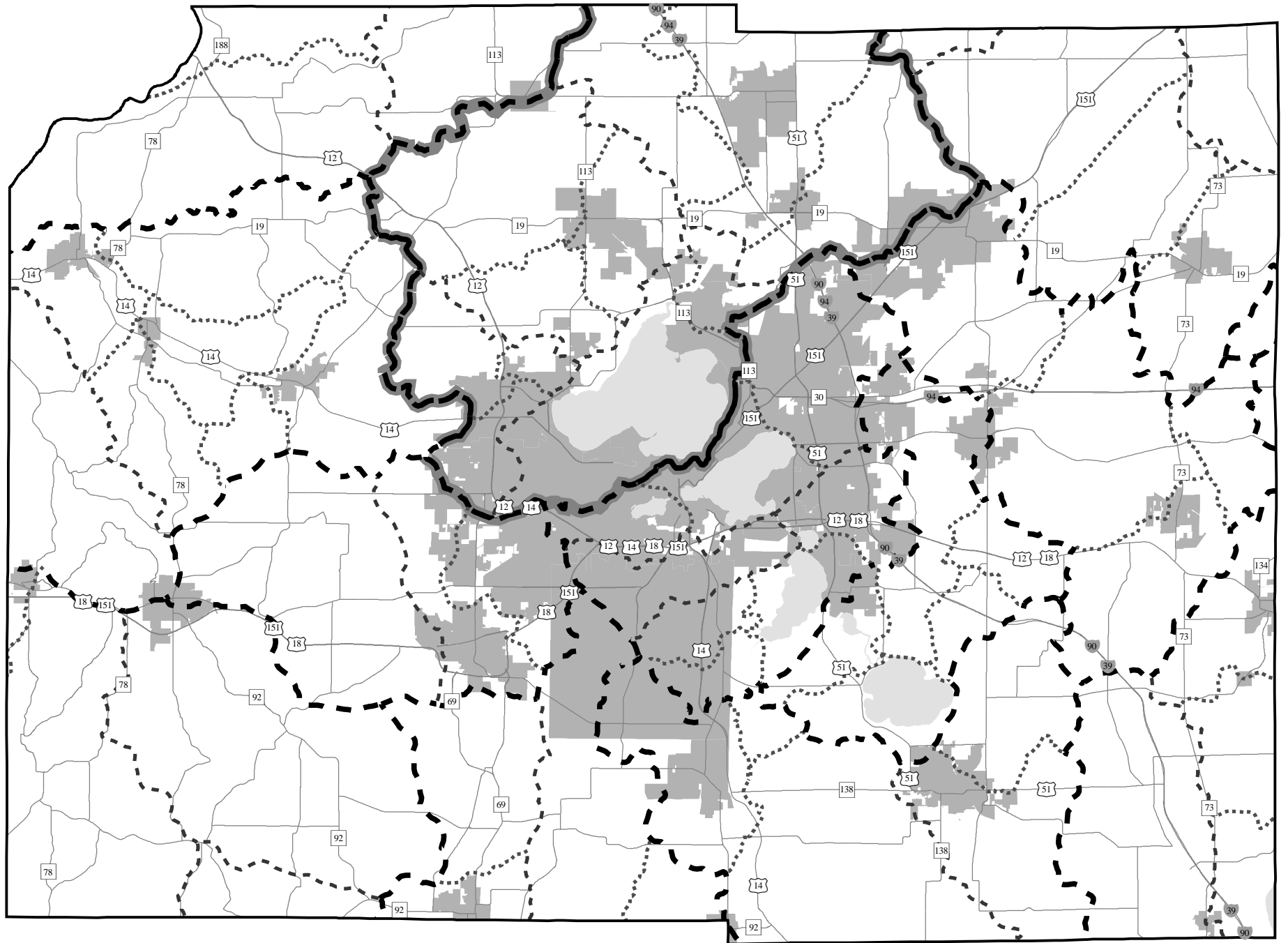
The Commission is authorized through §66.0309(7), Wis. Stats, to appoint “advisory committees or councils” to advise the Commission on matters, and the CARPC Bylaws (Article IV Section 4) provides that the appointments to these advisory committees may be made “as it deems necessary to the effective fulfillment of its purposes.” The Section continues to add that “Any local unit of government within the Commission’s region which does not currently have an individual residing in its jurisdiction serving on an existing advisory committee may request that such an individual be so appointed.”

**Materials Presented with Item:**

1. Map of the Upper Yahara River-Lake Mendota basin

**Contact for Further Information:**

Kamran Mesbah, Deputy Director  
266-9283  
KamranM@CapitalAreaRPC.org



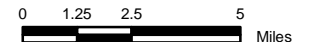
**Watershed and Subwatershed Boundaries**  
Dane County, Wisconsin

- Major Watershed
- - - Minor Watershed
- ..... Subwatershed
- Upper Yahara - Lake Mendota

Prepared by: The Capital Area  
Regional Planning Commission

Jan., 2011

Projection:  
Lambert Conformal Conic  
Dane County Coordinates NAD - 83(91)



**Re: Discussion of designation of CARPC by DNR as the area-wide water quality management planning agency for the region**

**Decision Items:**

1. None

This item was added for discussion at the request of Commissioner McKeever.

Area-wide water quality management planning is a requirement of Section 208 of the federal Clean Water Act. The 208 Program provides for the review of infrastructure projects in areas designated as having complex water pollution control problems, to assure they are consistent with the certified water quality management plan of the designated planning agency (“DPA”). DPAs in Wisconsin are required to develop areawide water quality management plans in coordination with Wisconsin Department of Natural Resources (WDNR) (NR 121), the state planning agency for water quality (Ch. 281, Wis. Stats.). The areawide plans are incorporated into the State Water Quality Management Plan through the state continuing planning process (§283.83, Wis. Stats.), as required under Section 303.e.(1) of the Clean Water Act.

Designation of the DPA is made by the Governor as recommended by WDNR. The DPA, as required by NR 121.06(2), must: 1) be an RPC or a representative organization, 2) demonstrate “substantial local support”, and 3) demonstrate the technical capability to complete the plan in a timely manner. The Dane County region was designated by the Governor as having complex water pollution control problems, and Dane County Regional Planning Commission (DCRPC) designated as the DPA in 1975. DCRPC completed the *Dane County Water Quality Plan* which was certified in 1979 as the official area-wide water quality management plan for the region. DCRPC continued to work as the DPA until dissolution in 2003. Since completion and certification of the initial *Water Quality Plan* in 1979, it has been continually revised, updated, and expanded.

When CARPC was created in 2007, the intent was for it to serve as the DPA for the continuing planning process for the region. WDNR outlined the required elements for designation in a letter dated Dec. 11, 2006 (attached). The requirements include procedures, policies and management systems for planning activities. This was to be fulfilled through the adoption of updated policies and criteria for service area amendments amongst other undertakings. However, when CARPC adopted policies and criteria for the amendment of urban service area boundaries in 2008, significant opposition was expressed by some of the same local governments which had petitioned for the creation of CARPC (Dane County Cities and Villages Association and Dane County Towns Association letters to WDNR in response to the adoption of policies and criteria are attached). While WDNR approved the policies and criteria as an amendment to the water quality plan, it noted that it was waiting for more information showing “substantial local support” for the agency prior to considering its designation (see attached letter of approval dated Dec. 11, 2008). This point was further highlighted in the WDNR response to DCTA and DCCVA letters dated Dec. 11, 2008 (attached).

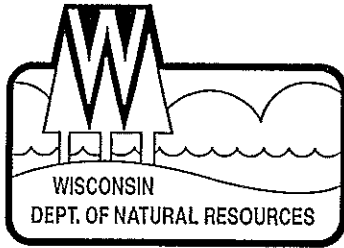
While CARPC is currently not the designated agency, it is contracted on an annual basis by WDNR to conduct area-wide water quality management planning for the region. Because the CARPC is not a designated agency, it is not authorized to adopt amendments to the *Dane County Water Quality Plan*; it can only recommend such adoption to the WDNR. The Wisconsin Department of Natural Resources has the final authority to approve an amendment to the *Plan* (if CARPC is designated, it will have authority to adopt amendments, with the WDNR retaining the final approval authority).

**Materials Presented with Item:**

1. Letter dated December 11, 2006 from WDNR to appointing authorities
2. Letters from DCTA (March 3, 2008) and DCCVA (March 17, 2008) to WDNR expressing concern about designation of CARPC
3. Letter dated December 11, 2008 from WDNR to CARPC approving policies/criteria
4. Letters dated December 11, 2008 from WDNR in response to DCTA and DCCVA

**Contact for Further Information:**

Kamran Mesbah, Deputy Director  
266-9283  
KamranM@CapitalAreaRPC.org



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

December 11, 2006

Jeff Miller, President  
Village of Deforest and  
President, Dane County Cities & Villages Association  
306 DeForest Street  
DeForest, WI 53532

Kathleen Falk  
Dane County Executive  
City County Building, Room 421  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703

The Honorable Dave Cieslewicz, Mayor  
City of Madison  
210 Martin Luther King, Jr. Boulevard, Room 403  
Madison, Wisconsin 53703

Jerry Derr, Chair  
Town of Bristol and  
President, Dane County Towns Association  
7747 CTH N  
Sun Prairie, Wisconsin 53590

Subject: Capital Area Wisconsin Regional Planning Commission

Dear Mr. Miller, Ms. Falk, Mayor Cieslewicz and Mr. Derr:

The Governor's office has forwarded petitions from a number of local governments in Dane County and a joint request which you signed to create the Capital Area Wisconsin Regional Planning Commission and, once it is created, to designate the entity as the water quality management planning entity for Dane County. We have been asked to provide recommendations to the Governor on the designation process. In order for the Department to complete this task, we request that documentation be developed to demonstrate that the newly created entity has the qualifications to carry out these activities.

We have outlined in the paragraphs that appear below the criteria that will be used to demonstrate the qualifications needed to assume the role of Designated Planning Agency for Water Quality Management Planning in Dane County. We request that narratives and documentation be developed in the following general areas to support the designation request and to maintain compatibility with the WDNR's Water Pollution Abatement (Clean Water Act) Program:

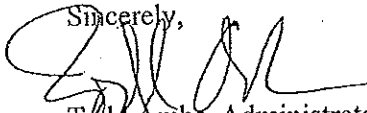
- The procedures, policies and management systems that will be in place for 1) provision by the designated agency of population estimates, planning information and other relevant data to

management agencies (for example, municipalities owning wastewater treatment facilities) for developing wastewater facility plans and, 2) the conformance review and approval of (wastewater) facility plans that are submitted by management agencies. The procedures, policies and management systems should also address how agreement will be reached between the areawide planning agency and affected management agencies.

- The procedures, policies and systems that the proposed designated agency will follow to assure that the planning efforts of the designated agency will be coordinated with statewide basin planning activities. The areawide plan, as it is updated in the future, has and will continue to be an integral part of the DNR's basin plans that address Dane County. For this reason, studies and investigations must be coordinated. This work affects and is affected by the state's priorities and recommendations articulated in its basin/watershed plans (paper or electronic).
- The process, procedures, policies and management systems that will be used to share water quality planning work and resulting data and interpretation materials with WDNR and make this data and materials available to WDNR data systems for long-term archiving and use in related statewide water quality program decision making and reports.
- The policies and procedures that will be implemented and strengthened to provide opportunities for meaningful citizen participation.
- The policies and procedures that will provide support for cooperative partnerships to implement creative solutions for rural runoff, water quantity (surface and groundwater), and land use related water quality management issues among the designated agency, Dane County, federal and state agencies, local governmental jurisdictions and affected land owners.

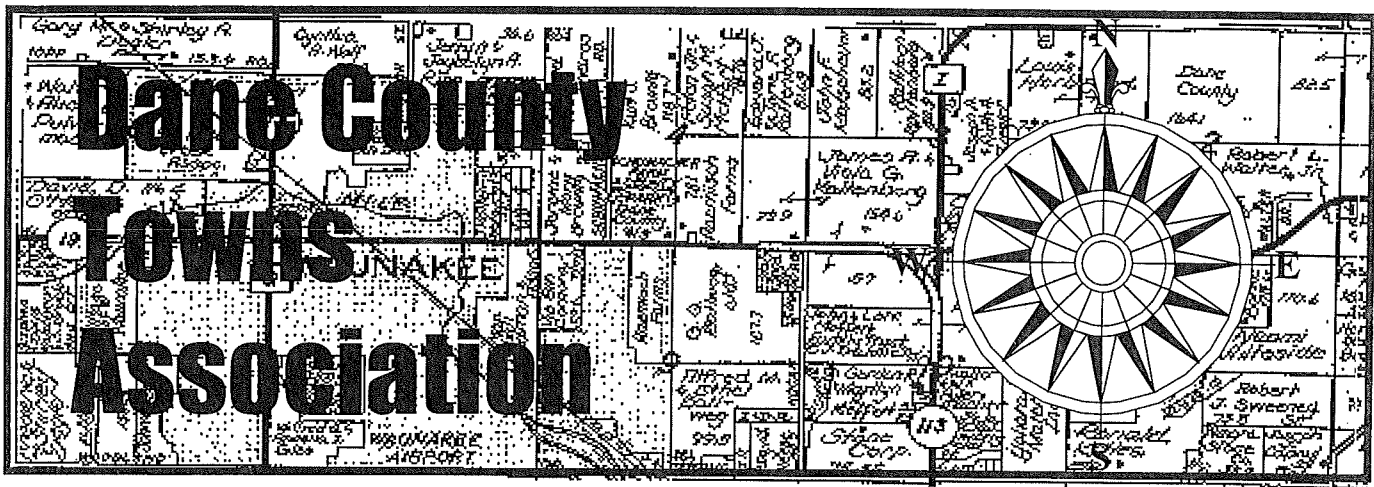
If you have questions regarding these criteria, please contact either Roger Larson (608-266-2666) or Lisa Helmuth (608-266-7768)

Sincerely,



Todd Ambs, Administrator  
Division of Water

Cc: Governor Doyle  
Department of Administration  
Dane County Dept. of Planning & Development – Community Analysis & Planning Division



Plat map used by permission of Rockford Map Company

March 3, 2008

Mr. Matthew Frank  
Secretary, Wisconsin Department of  
Natural Resources  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

RE: Capital Area Regional Planning Commission

Dear Secretary Frank:

I write to alert you that there are serious problems with the new Capital Area Regional Planning Commission which require your Department to defer designating CARPC as the Water Quality Planning Agency for Dane County.

As you may be aware, there has been a long, intense controversy about the structure of the water quality planning in Dane County. This dispute led the Dane County Towns Association to urge towns and a number of cities and villages to adopt resolutions to dissolve the former water quality planning agency. After extensive study, we reached agreement on a format for a successor regional planning commission. The Governor of Wisconsin, as you may know, signed Executive Order 197 last May creating this new agency as the Capital Area Regional Planning Commission.

The hope behind this new Commission was that there would be an attempt to work together to avoid the divisiveness of the past Commission. To boil it down to the most basic, the former Commission too often chose to exercise raw political power as if the Commission were a regulatory agency instead of providing guidance as a general planning agency. Unfortunately, we are seeing signs that this pattern is recurring.

On February 28, 2008, the CARPC adopted what it purported to be "criteria" for the delineation of sewer service areas. These so-called criteria were amended to replace former

policies that awarded a "flexibility reserve" of additional sewer service area based on a defined percentage of the 20-year growth area. That definite language was replaced with the following italicized wording:

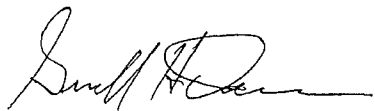
Generally, the urban service area boundaries represent the outer limits of planned urban growth over the long-term planning period – at least 20 years – and include more than enough land and flexibility to accommodate anticipated growth. *However, CARPC recognizes that the needs of communities may differ. For this reason CARPC may approve more land in an urban service area than that called for by the 20-year growth projection where a demonstrated special need for additional land has been established based upon factors such as, but not limited to; inaccurate population projections, previous municipal infrastructure financing plans, displacement of development, intergovernmental agreements, a small USA size, and deficiencies in certain land uses (e.g. inadequate industrial development area). This provision applies until such time as a community and CARPC have adopted the 25-year Future Urban Development plan for the area. [Emphasis supplied].*

I am sure you are familiar enough with administrative law to know that the language cited above is so vague that it is meaningless. The sewer service area to be delineated will be at the complete discretion of the Regional Planning Commission. In other words, there are no standards whatsoever other than the whim of the Commission. Delegating authority to an administrative agency without standards is improper and an invitation to abuse of power. It is also, in our opinion, contrary to the requirements of the Federal Clean Water Act and Wisconsin law, sec. NR 121.05 (1)(g), Wis. Adm. Code, which requires that area-wide water quality planning agencies exercise their authority pursuant to a plan which applies the criteria enumerated in the rule. It does not provide for local agencies to act arbitrarily.

The criteria adopted by the Commission are not a plan at all, but rather, a provision for subjective decision making. We and other municipal officials intend to address this issue and try to reach a formula agreeable to the broad segment of the community. But, you should be aware that if this issue is not addressed, this new RPC may be doomed before it even moves into full operation. I am sure that you would rather defer immediate action on certifying this agency to encourage a compromise rather than act and risk stoking heightened dissension. You may be hearing from representatives of the Cities and Villages in Dane County indicating that they have these and other concerns.

We all want there to be a process in place which results in good urban planning that protects water quality. We are not going to achieve that result if the same kind of power politics that prevailed in the past becomes the dominant pattern of the new Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gerald H. Derr". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gerald H. Derr, President  
Dane County Towns Association

cc: Dane County Cities and Villages Association  
Local Officials  
Dane County Legislative Delegation

# DANE COUNTY CITIES' & VILLAGES' ASSOCIATION



**President:**

Thomas Clauder  
Mayor  
City of Fitchburg  
(608) 276-9107

**Vice President:**

Jon Hochkammer  
Mayor  
City of Verona  
(608) 845-5833

**Treasurer:**

Patrick Cannon  
City Administrator  
City of Sun Prairie  
(608) 825-1193

**Secretary:**

Donald Peterson  
Village Administrator  
Village of McFarland  
(608)838-3153

**Past President:**

Jeffrey Miller  
President  
Village of DeForest  
(608) 225-5216

**Communications Director:**

Forbes McIntosh  
DCCVA Lobbyist  
Broydrick & Associates  
(608)332-5205

**Address:**

P.O. Box 110  
McFarland, WI 53558

Monday, March 17, 2008

Secretary Matthew Frank  
Department of Natural Resources  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

**Re: Capital Area Regional Planning Commission  
Revised Dane County Water Quality Plan Policies and Criteria**

Dear Secretary Frank:

On behalf of the Dane County Cities' & Villages' Association (DCCVA), I am writing to outline our concern about, and articulate our opposition to, the Revised Dane County Water Quality Plan Policies and Criteria that the Capital Area Regional Planning Commission (CARPC) amended and adopted on Thursday, February 28, 2008.

Since 1998, public officials have debated the dissolution and re-creation of the original entity, the Dane County Regional Planning Commission. After negotiations between the DCCVA, Dane County Towns Association, the City of Madison and the Dane County Executive, an agreement was reached; area governments passed identical resolutions requesting creation of the new entity; and Governor Doyle approved the newly created CARPC, which held its first meeting less than a year ago on June 14, 2007.

We are all aware of the controversy that forced the dissolution of the original Regional Planning Commission. It is my fear that the recent actions of the new CARPC will fragment this organization and render it ineffective as a planning agency. I personally want the new CARPC to move forward. However, the DCCVA is concerned with the adoption of controversial amendments to the existing Water Quality Plan in the Revised Dane County Water Quality Plan Policies and Criteria; the lack of public participation throughout the process, as required in NR121; and the lack of participation and consideration by CARPC of the concerns identified by cities, villages and towns.

Since the Department of Natural Resources (DNR) is responsible for the general supervision of the continuing water pollution control planning process under NR121, DCCVA believes that the DNR has an obligation to be involved and to act on the concerns identified in this letter and the attached document. DCCVA requests that the DNR hold a hearing on the designation of CARPC as the area-wide water quality planning agency and on the revised water quality plan policies and criteria, under Chapter 227, Wis. Stats., and NR 121, since DCCVA believes the CARPC action is inconsistent with NR121.

Sincerely,

Mayor Thomas Clauder, President  
Dane County Cities' and Villages' Association

*cc: Patrick Henderson, Deputy Secretary  
Mary Vollbrecht, Executive Assistant  
Todd Ambs, Administrator, Division of Water  
Tom Gilbert, Wastewater Facility Planning Coordinator  
Gerald Derr, President, Dane County Towns Association  
Members, Dane County Cities' & Villages Association*

### **Lack of Public Participation Process - Lack of Substantial Local Support**

The DCCVA believes that the CARPC did not meet requirements under NR 121, relating to the public participation process that is required throughout plan development. It is unfortunate, but the CARPC only held one public hearing, in which the majority of those who testified during the hearing on January 24, 2008 did so in opposition. In addition, the vast majority of cities and villages provided written and verbal testimony opposing the amendments. The CARPC disregarded the recommendations of the cities, villages and towns, which the Commission is meant to work in conjunction with, and at the next meeting of the CARPC on February 28, 2008, the Commission voted to approve amended goals, policies and criteria of the Water Quality Plan in conflict with the view of the cities, villages and towns. No regional or public informational meetings, consensus building efforts, surveys, or other commonly used public participation techniques were employed by the CARPC, other than the one public hearing and the written comment deadline tied to the public hearing schedule.

Clearly the CARPC did not provide the type of "public participation process," as defined in NR 121.03(12). In addition, DCCVA feels that the CARPC did not work with, nor take into account, the concerns and recommendations provided by the local cities, villages and towns in the creation and adoption of the amendments to revise the Dane County Water Quality Plan Policies and Criteria. According to the CARPC meeting minutes of December 13, 2007, the commission discussed reaching out to local professional staff of the cities, villages and towns to obtain their input in advance of the one public hearing – but commissioners rejected this opportunity to work with their local government partners and to again focus on holding only one public hearing.

It is critical to the successful preparation and implementation of an areawide water quality management plan that CARPC obtain substantial local community support. Again, based on the testimony provided by cities, villages and towns at the January 24, 2008 public hearing – it is clear there is a lack of support.

### **Flexibility Margin**

The CARPC has eliminated the Flexibility Margin and replaced these provisions with a new policy that requires communities to petition the CARPC and show that a "demonstrated special need for additional land has been established". Although a municipality can petition and obtain approval from CARPC for additional land, the elimination of the Flexibility Margins has created sewer service area boundaries that are unrealistically sized to accommodate the projected growth for a 20-year planning period for each community.

Sec. NR 121.05 (1)(g)2.b. states that, in preparing the area-wide water quality plan, "The sewer service areas are delineated based on a 20-year population forecast approved by the department, and municipally approved population density standards."

DCCVA believes the CARPC did not give careful consideration of this new policy and did not work with local units of government in its creation, since cities and villages overwhelmingly opposed the new policy during the one opportunity the CARPC provided- the one public hearing held on January 24, 2008.

In addition, the DCCVA believes that the elimination of the flex acres between water quality plan updates, given the past growth and the anticipated growth in these communities, has placed the water quality plan in violation of the requirement contained in NR 121.05(1)(g)2.b., as the plan no longer contemplates the 20-year planning horizon of the original plan for each community.

Finally, NR121.05(1)(o) states that the water quality plan must contain “an assessment of the environmental, social and economic impacts of carrying out specific significant recommendations of the plan.” DCCVA believes that the amendment adopted by CARPC on February 28, 2008 is legally defective because it did not contain an assessment of the impacts of getting rid of the flex factor on the communities affected.

### **Density, Infill and Agricultural Mitigation**

DCCVA supports responsible and predictable regional planning, but the document adopted on February 28 is seriously deficient with regard to policies relating to density, infill and agricultural mitigation. The proposed amendments do not provide the specific criteria the Commission will use for the approval or denial of a USA application in this area. This is a prime example of a vague requirement that could become more of a subjective, rather than a defined or measurable criterion, for an approval or denial of an application for a USA amendment.

In addition, the provisions relating to density, infill and agricultural mitigation do not recognize the local planning process and the varying factors that can negatively impact the land available for infill or redevelopment within a community. It also ignores the Smart Growth-compliant Comprehensive Plans most cities and villages have adopted (and all will have adopted soon). A needs assessment by CARPC, in addition to these locally-adopted plans, is not necessary.

Also of note, is that NR121.05(1)(g)2.b suggests that the area-wide agency is not to interfere in local government density policies, which are still a matter of local control, not DNR or CARPC control.

Finally, NR-121.05(1)(o) states that the water quality plan must contain “an assessment of the environmental, social and economic impacts of carrying out specific significant recommendations of the plan.” This requirement has not been met with respect to the new policies and criteria relating to density, infill and agricultural mitigation.



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

December 11, 2008



DNR File No. DC-0118

Mr. Kamran Mesbah, Deputy Director  
Capital Area Regional Planning Commission  
City County Building, Room 362  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703

Subject: Amendment to the *Dane County Water Quality Plan*, Revising the Policies and Procedures Related to Urban and Limited Service Area Expansions and Environmental Corridors

Dear Mr. Mesbah:

We have completed our review of the subject plan amendment that was submitted to the Department on May 7, 2008 by the Capital Area Regional Planning Commission. The Department hereby approves the Amendment to the Dane County Water Quality Plan.

The proposed amendment was adopted by the Capital Area Regional Planning Commission per Resolution CARPC No. 2008-1 on February 28, 2008. The specific plan revisions are as contained in the document entitled: "CARPC – Urban and Limited Service Area Policies, Environmental Corridors Policies, and Criteria for the Review of Urban and Limited Service Area Amendments – CARPC Redline Review Draft 12/14/07 as Amended and adopted on 2/28/08."

The Department has determined that CARPC followed an acceptable public participation process in accordance with ch. NR 121, Wis. Am. Code, and adequately analyzed and addressed the received comments. We recognize that there were a number of comments and objections expressed by local citizens, communities, and community associations. In consideration of this, the Department wishes to emphasize that our approval is, in part, premised on the expectation that an advisory group and various other efforts will be initiated to study and possibly further revise certain plan policies and procedures. A number of possible initiatives were mentioned in the "Staff Analysis of Comments" document and referred to further development and possible adoption of policies and procedures as a result of the Future Urban Development Area (FUDA) process. We also view the implementation of an advisory group, as it was adopted in the CARPC Resolution No. 2008-1, as an important and necessary step.

In general, we strongly encourage CARPC to consider some of the more controversial aspects of the newly adopted policies and procedures as short-term measures that should be subjected to additional study in conjunction with the developing FUDA process and advisory group with additional outreach and educational efforts, as warranted.

As you know, the Department is still awaiting the submittal of additional information before proceeding with the process to recommend designation of CARPC as the areawide water quality

planning agency for Dane County. One important aspect of this recommendation, per s. NR 121.06(2)(b), Wis. Adm. Code, is that there is a demonstration of “substantial local support” for the designation.

If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing Department decisions.

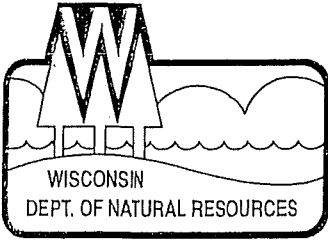
To seek judicial review of the Department’s decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. Such a petition shall be filed with the appropriate circuit court and shall be served on the Department. The petition shall name the Department of Natural Resources as the respondent.

Sincerely,



Todd L. Ambs, Administrator  
Division of Water

cc: Tom Gilbert – WT/3  
Ken Johnson - SCR - Fitchburg



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

December 11, 2008

Mr. Gerald H. Derr, President  
Dane County Towns Association  
1595 CTH V,  
Columbus, WI 53925



Subject: Capital Area Regional Planning Commission

Dear Mr. Derr:

Thank you for your letter sent earlier this year, in which you expressed several concerns about the Capital Area Regional Planning Commission (CARPC) and their recently adopted criteria relating to a "flexibility reserve" that is intended for use in delineating sewer service areas in Dane County.

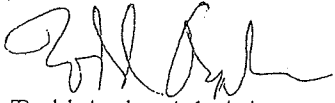
Attached to this letter is a copy of an approval letter for the Amendment to the *Dane County Water Quality Plan*, Revising the Policies and Procedures Related to Urban and Limited Service Area Expansions and Environmental Corridors. As the letter indicates, the approval is based "on the expectation that an advisory group and various other efforts will be initiated to study and possibly further revise certain plan policies and procedures" and that "We also view the implementation of an advisory group, as it was adopted in the CARPC Resolution No. 2008-1, as an important and necessary step". We believe that the study process can address concerns related to the "flexibility criteria" and address public review of the amendment.

The submittal of the amended plan included the rather substantial record of all public comments provided by governments, special interest groups, and individuals. This is of primary interest to assess whether there is "substantial local support" for designating CARPC as the official water quality planning agency for Dane County in accordance with NR 121, Wis. Adm. Code. Again, we believe that implementation of the advisory group and other possible study efforts can be an effective means to address the public comments. Because of this positive step, the Department is not scheduling a public hearing at this time, however such a step could be made in the future prior to designation.

Much work has been invested into creating CARPC and the Department strongly believes a regional agency is critical for effective study and planning for the complex water quality issues in Dane County, and for guiding the accommodation of future development in a manner that protects water resources. I urge all interested parties to work together to enable CARPC to function effectively and with local support.

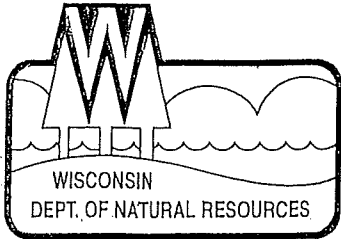
If you have questions please contact Roger Larson (phone 266-2666) or Ken Johnson (phone 275-3243).

Sincerely,



Todd Ambs, Administrator  
Division of Water

cc: Kristine Euclide, Secretary; Capital Area Regional Planning Commission;  
Ken Johnson - DNR – SCR - Fitchburg  
Secretary Matt Frank – DNR – AD/8  
Tom Gilbert – DNR - WT/3



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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December 11, 2008

Mayor Thomas Clauder, President  
Dane County Cities and Villages Association  
P.O. Box 110  
McFarland, WI 53558



Subject: Capital Area Regional Planning Commission

Dear Mayor Clauder:

Earlier this year, you sent a letter expressing several concerns about the Capital Area Regional Planning Commission (CARPC). Your letter and the accompanying document raised three related concerns; lack of public participation and substantial local support, flexibility margin, and other factors related to NR 121 requirements. You also requested that a public hearing be scheduled by the Department on the designation of CARPC.

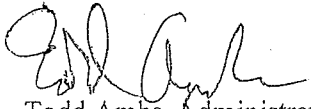
Attached to this letter is a copy of an approval letter for the Amendment to the *Dane County Water Quality Plan*, Revising the Policies and Procedures Related to Urban and Limited Service Area Expansions and Environmental Corridors. As the letter indicates, the approval is based "on the expectation that an advisory group and various other efforts will be initiated to study and possibly further revise certain plan policies and procedures" and that "We also view the implementation of an advisory group, as it was adopted in the CARPC Resolution No. 2008-1, as an important and necessary step". We believe that the study process can address concerns related to the "flexibility criteria" and address public review of the amendment.

The submittal of the amended plan included the rather substantial record of all public comments provided by governments, special interest groups, and individuals. This is of primary interest to assure there is "substantial local support" for designating CARPC as the official water quality planning agency for Dane County in accordance with NR 121, Wis. Adm. Code. Again, we believe that implementation of an advisory group and other possible study efforts can be an effective means to address the public comments. Because of this positive step, the Department is not scheduling a public hearing at this time however such a step could be made in the future prior to designation.

Much work has been invested into creating CARPC and the Department strongly believes a regional agency is critical for effective study and planning for the complex water quality issues in Dane County, and for guiding the accommodation of future development in a manner that protects water resources. I urge all interested parties to work together to enable CARPC to function effectively and with strong local support.

If you have questions please contact Roger Larson (phone 266-2666) or Ken Johnson (phone 275-3243).

Sincerely,



Todd Ambs, Administrator  
Division of Water

cc: Kristine Euclide, Secretary; CARPC  
Secretary Matt Frank – DNR – AD/8  
Ken Johnson - DNR – SCR – Fitchburg  
Roger Larson – DNR – WT/3  
Tom Gilbert – DNR - WT/3