

AGENDA

Meeting of the Executive Committee of the Capital Area Regional Planning Commission

October 8, 2009

City-County Building Rm 315, 210 Martin Luther King Jr. Blvd., Madison WI

6:00 p.m.

All CARPC Commissioners have been invited to this meeting, and a quorum of the full CARPC may be present. It is intended that actions at this meeting will be voted on by only those Executive Committee members present.

1. Roll Call
2. Approval of minutes of the meeting of September 10, 2009
3. Review of agenda
4. Public comment
5. Approval of disbursements and Treasurer's Report for October 2009
6. Discussion of approach to Commissioner contact regarding sewer service area amendment applications
7. Discussion of providing commissioners a period of one month to review staff analyses of service area amendment requests
8. Communications
9. Future agenda items
10. Adjournment

<p>If you need a sign language interpreter, materials in alternate formats, or other accommodations to access this meeting, please contact CARPC staff at 266-4137, or TDD 266-4529, at least 72 hours in advance of the meeting.</p>

MINUTES

Meeting of the Executive Committee of the Capital Area Regional Planning Commission

September 10, 2009 City-County Building Rm 201, 210 Martin Luther King Jr Blvd, Madison WI 6:45 p.m.

Present: Kristine Euclide, Martha Gibson, Steve Hiniker, John Murray, Phil Van Kampen

Absent: Jeff Miller

Staff Present: Chris Gjestson, Kamran Mesbah

1. **Roll Call**

Vice-Chair Euclide called the meeting to order at 6:50 p.m.; roll was recorded.

2. **Approval of minutes of the meeting of August 13, 2009**

Moved by Mr. Hiniker, second by Ms. Gibson, to approve the minutes of the meeting of August 13, 2009; motion carried unanimously on voice vote.

3. **Review of agenda**

None.

4. **Public comment**

Caryl Terrell, 19 Red Maple Trail, Madison, spoke as Interim Secretary for Capital Region Advocacy Network for Environmental Sustainability (CRANES). Ms. Terrell requested that CARPC consider adopting a policy providing more time for public review and input during the urban service area amendment process. The policy should disallow the Commission from voting on USA amendments at the same meeting they are proposed, and comments on the proposals should be accepted by CARPC up to one week prior to Commission action. CRANES had requested such a policy in September 2008; she stated that the current process was unworkable and requested the Commission discuss the topic sooner than later. She provided her comments in writing.

5. **Approval of disbursements and Treasurer's Report for September 2009**

Provided at members' places were the list of September voucher bills (in the total amount of \$58,276.53) and Treasurer's Report, and the August 31, 2009 year-to-date revenues and expenditures report. Treasurer Van Kampen had reviewed and signed the Report, and had also reviewed and signed the August 2009 Report due to his absence at the August meeting and Committee action requesting his review. Moved by Mr. Van Kampen, seconded by Mr. Hiniker, to approve the disbursements and September Report. Motion carried unanimously on voice vote.

6. **Communications**

None.

7. **Future agenda items**

Ms. Gibson requested that the items noted on the agenda regarding CARPC policies which were to be discussed at a future meeting be added for the next meeting. Discussion

followed; Mr. Mesbah stated that staff was working on a draft Public Participation Plan, which would support the discussion. Mr. Hiniker stated that members should be given sufficient time – at least one week – to review any materials prior to their consideration.

8. Adjournment

Moved by Ms. Gibson, seconded by Mr. Hiniker, to adjourn. Motion carried at 6:59 p.m.

Recorded by Chris Gjestson

Re: Discussion of approach to Commissioner contact regarding sewer service area amendment applications

Decision Items:

1. None

Attached is from Northwest Power and Conservation Council which has been provided by CARPC legal counsel as an example of an *ex parte* communications policy.

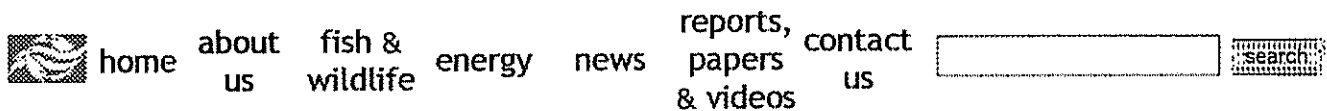
This item is for discussion only.

Materials Presented with Item:

1. Example *ex parte* policy from NPCC

Contact for Further Information:

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



About us Public policies

Ex parte communication

These guidelines for dealing with ex parte communications were developed after review of statutes and numerous cases interpreting the ex parte doctrine. The law is not at all clear as to whether, when or how ex parte restrictions apply to the Council. These guidelines are similar to those used during the development of the original Fish and Wildlife Program and Power Plan, and are designed to chart a safe, workable course through the many different standards developed in the case law.

SCOPE OF THESE GUIDELINES

These guidelines apply to Council members and Council staff, from the beginning of the public comment period regarding any amendment of the Plan or Program through the Council's adoption of the final amendments.

PURPOSE OF THESE GUIDELINES

The purpose of these guidelines is to reduce the risk of legal challenge to the Council's final amendments. While allowing Council members and staff to conduct their normal business, our concern is that a court could overturn the final amendments or require the Council to re-open its public comment period because the amendment process was tainted by ex parte communications. At the least, the Council could be embarrassed. An ex parte contact is not a cardinal sin. The courts, however, have developed restrictions on ex parte communications for two reasons. First, private communications with decision makers create an appearance of undue influence and favoritism and deprive others of their right to comment. Ex parte communications with agency decision makers create one process and record for the public and another secret process and record for those "in the know." Second, ex parte communications are by definition outside the record, and consequently are unavailable to a reviewing court. A court cannot review the Council's amendment process for compliance with the law unless it is confident that the official administrative record reflects the entire decision making process. As explained below, ex parte contacts are not prohibited. What is required is that they be revealed on the record.

HOW TO HANDLE EX PARTE COMMUNICATIONS

1. What is an ex parte communication?

- communications (telephone calls, conversations, letters, memoranda, etc.),
- that are "off the record" (i.e., not recorded in the Council's official administrative record for amendment process. The administrative record includes testimony at public hearings, written comments filed with the central Council's office, minutes of Council meetings, and records of open meetings of advisory committees and consultations with interested groups and individuals. Each document in the record is indexed by number, date, subject

- and source and is available for use by staff, Council and members of the public.),
- that relate to the merits of the Council's proposed amendments, and
 - that comes from outside the Council or Council staff. ("Council staff" is defined narrowly to include only those necessary to the Council's deliberative process. Accordingly, "Council staff" includes all members of the Council's central and state staffs, but does not include any employees of state fish and wildlife agencies or any other state agencies that may from time to time work closely with the state Council offices. One purpose of the ex parte doctrine is to avoid giving advantages to some commenter's that are not available to all commenter's.)

The courts recognize that the definition of ex parte communications is subject to reasonable limits. Casual or social encounters, newspaper editorials or communications between Council members and Council staff, for example, are not treated as ex parte communications.

A few illustrations:

- A utility representative meets with a Council member to discuss the model conversation standards. During the meeting, the representative reminds the Council member of the utility's arguments in opposition to certain proposed Fish and Wildlife Program amendments. This is clearly an ex parte communication, because it is off the record, on the merits and comes from outside the Council and staff.
- A representative of an environmental organization chats with a Council Fish and Wildlife Division staff member at a party. During the conversation, the representative makes several jokes about fish, the Council and various utility representatives. As long as these remarks are casual and unrelated to the merits of the amendments, they are not ex parte communications.
- A Bonneville employee makes extensive telephone inquiries of a Council staff member regarding the time and place of the Council's amendment hearings, the Council's rules for submitting public comments, and the Council's procedures for responding to the public comments. These are not ex parte communications, because they relate not to the merits of the amendments, but only to the procedural details of the amendment process.
- During a public hearing on the proposed amendments, a Council member asks one of the persons testifying to provide the Council with supporting data. At the end of the hearing, the person hands the Council member a handwritten table of scientific data. The person does not formally submit that table for inclusion in the administrative record. Because it is off the record, on the merits and from the outside, it is an ex parte communication. It makes no difference that the Council member requested the data or that the person did not intend it to be a formal written comment.

2. What to do about ex parte communications.

- A. During the public comment period, record any significant ex parte communications you receive. By providing the attached form to Information Coordinator, place in the official administrative record copies of letters and brief summaries of meetings or phone calls, along with any documents received. The Associate Counsel will periodically review all forms that are filed. Limiting this requirement to "significant" communications recognizes that off the record contacts are bound to occur during this period. An ex parte communication is significant if it:

- provides data or arguments not already in the official administrative record, or
- addresses a controversial subject, or
- is long, detailed, specific, or important, or
- comes from an important participant in the amendment process.

Basically, significant comments are those which the public should be aware of and to which interested parties may wish to respond. To provide the public with an opportunity to respond, significant communications should be logged in the record as soon as possible, and by all means before the close of the public comment period.

For example:

- During a telephone conversation, a biologist for an Indian tribe discusses with a Council staff member the tribe's technical objections to a particular proposed amendment. This is probably significant because it comes from an important participant and focuses specifically on the pros and cons of a proposed amendment.
- At a cocktail party a utility executive remarks briefly to a Council member that the proposed amendments, if adopted will substantially increase electric rates. This argument has already been raised at the public hearings. Unless the executive launches into a long, detailed discussion of the issue, the comment should be treated as insignificant.

- B. After the close of the comment period, all ex parte communications should be avoided. Even relatively minor ex parte communications are a problem at this point because, even if they are duly logged in the administrative record, the comment period is closed and other members of the public would have no opportunity to respond to or rebut the views or data contained in those communications. At the very least, such communications risk creating the appearance of impropriety. At worst, such communications create serious legal problems. Some courts have required agencies to formally reopen their public comment periods to provide interested persons with an opportunity to respond to ex parte communications received after the deadline for public comment. To comply with this guideline, Council meetings held between close of the comment period and final decision on amendments will not allow for public comment regarding the amendments. A similar practice was followed during final development of the power plan.

If in doubt, ask the legal division.

If you have any questions regarding these guidelines or a particular communication, please do not hesitate to contact the Legal Division.

EX PARTE COMMUNICATION RECORD

Please file this completed form with the information coordinator immediately after receiving an ex parte communication relate dto the proposed program amendments.

1. Your Name: _____

2. Source of Communication _____

3. Type of Communication

_____ Telephone call _____ Letter _____ Other

_____ In-Person Conversation

4. When communication received: _____

5. Where communication received: _____

6. Today's date: _____

7. If the communication was a telephone call or in-person conversation, please attach (or print below) a brief summary of the substance of the communication.

Latest revision approved by Executive Committee: August 21, 1984

Re: Discussion of providing commissioners a period of one month to review staff analyses of service area amendment requests

Decision Items:

1. None

Staff has been working on a draft Public Participation Plan for a number of months, but has yet to finish the entire report. We have, however, finished Part 1 (attached), which is the foundation for making specific recommendations. Staff would like Commissioners' guidance on Part 1 in order to make necessary edits and to complete Part 2 *Public Participation Implementation*, which is currently 80 pages in length.

This item is for discussion only, and to provide staff with guidance.

Materials Presented with Item:

1. PPP: Part 1, *Introduction to the foundations and elements of the public participation program*

Contact for Further Information:

Kamran Mesbah
266-9283
KamranM@CapitalAreaRPC.org

CARPC PUBLIC PARTICIPATION PROGRAM

DISCUSSION DRAFT

INTRODUCTION

The Capital Area Regional Planning Commission (CARPC) is the regional planning agency for the territory of Dane County and the municipalities that have incorporated territory within the county boundaries. CARPC was created on May 2, 2007, by [Executive Order #197](#) of Wisconsin Governor James Doyle pursuant to §66.0309 Wis. Stats.

The function of the Commission is to serve as the regional planning and area-wide water quality management planning entity for the Dane County region, consistent with §66.0309, Wis. Stats. and State Administrative Code NR 121. The Commission is charged with the duty of preparing and adopting a master plan for the physical development of the region, and maintaining a continuing area-wide water quality management planning process in order to manage, protect, and enhance the water resources of the region, including the relationship of water quality to land and water resources and uses. Therefore, the Commission is tasked with the challenge of striking the proper balance between growth and development on the one hand and conservation of natural and recreational resources, preservation of agricultural production, and maintenance of a high quality of life on the other. This is a particularly complex task because the region is located in the headwaters of four major river basins, is a highly productive agricultural area, and is one of the fastest growing regions of the state.

The Commission recognizes the value and function of engaging and involving the citizens and stakeholders of the region to effectively carry out its responsibilities. To implement CARPC plans, policies, and programs, cooperative and coordinated action between the public, private, and non-profit sectors of the region is necessary. This Public Participation Program is developed to address this need.

The purposes of the CARPC Public Participation Program are the following:

- i. To establish a basis for a meaningful public participation program.
- ii. To document the approach to involving the public and other stakeholders in CARPC decision-making processes.
- iii. To establish standard guidelines, processes, and tools to implement an optimal level of public participation that provides the Commission and the community with the information and input needed to make informed and supported regional planning decisions.

How to use this document.

The principal document is organized into two parts. Part I is titled *Introduction to the foundations and elements of the public participation program* and is divided into the following sections.

- Section 1. Introduction. This section outlines the duties and responsibilities of the CARPC and explains the need for a public participation program. This section presents the organization of the remaining document, and general implementation roles and responsibilities. A list of acronyms can also be found in this section.
- Section 2. Foundations of Public Participation. This section discusses the historical roots and modern contributions to successful public participation programs. This section also outlines the benefits and challenges of public participation.
- Section 3. Elements of a Good Public Participation Program. This section presents the guiding principles of public participation, and the elements that need to be addressed in CARPC public participation programs including plans for specific events or activities.

- Section 4. CARPC Planning Activities Requiring and Benefiting from Public Participation. This section provides an overview of CARPC planning activities for which public participation is required. Additionally, this section describes the CARPC role as a participant in the planning and management activities of other governmental entities.

Part II, titled *Public participation Implementation*, is separated into the following sections:

- Section 5. Public Participation Programs. This section is organized by planning activity. For each activity the elements of a public participation program presented in Section 2 will be identified and explained. These programs are to be used to develop public participation plans for specific events, and will identify in greater detail each event, and the event objectives, activities, needed materials, timeline, and budget. Two major aspects of participation presented include stakeholder and citizen participation in CARPC planning activities and CARPC as a participant in other agency and government planning and management activities.
- Section 6. Methods, Tools, and Meeting Activities. This section provides descriptions for the many ways CARPC can promote participation in its activities.

Program Implementation.

The Commission and its staff are responsible for implementing the processes and practices outlined in this program. The Commission and its staff will utilize this Public Participation Program to identify appropriate participation levels, processes, methods, tools, and regulatory requirements when preparing public participation plans for specific planning processes or activities.

Roles and Responsibilities.

In general, the roles and responsibilities are as follows:

1. Capital Area Regional Planning Commission: The Commission establishes policy, fosters and participates in public involvement initiatives, and takes into its considerations the results of public participation activities in making key decisions.
2. Commission staff are to encourage public participation through the following initiatives:
 - a. Providing easy access to information.
 - b. Identifying parties likely to be affected by or interested in a Commission activity or action.
 - c. Informing affected or interested parties about ways to participate.
 - d. Identifying opportunities to increase public participation.
 - e. Evaluating the public participation program for improvements.
 - f. Providing recommendations about public participation strategies.
 - g. Maintaining information and resources.
 - h. Executing or assisting with planning and implementing specific participation activities.

Updating and Amending this Program.

Updating and amending this program will follow the processes outlined in Planning Activities 2.1 and 3.2, respectively.

Acronyms.

CARPC- Capital Area Regional Planning Commission

PPP- Public Participation Program

FUDA: Future Urban Development Area

SA(s): Service Area(s)

USA(s): Urban Service Area(s)

LSA(s): Limited Service Area(s)

RMP: Regional Master Plan

FOUNDATIONS OF PUBLIC PARTICIPATION

Involving the public in decision-making is essential to the planning process. As appointed officials, the commissioners are charged with helping to ensure that the process and procedures of democracy are valued, maintained, and implemented in their decision-making processes. The founders of this country outlined their conditions necessary for an effective democracy:

- Informed citizenry: Citizens have a responsibility to inform themselves about the issues and problems of society.
- Active Participation: Citizens participate in their governance.
- Public Judgment: An informed public can make considered decisions without reliance on the input of experts. Public judgment about the issues that affect their lives is valid and valuable.¹

“Let a person have nothing to do for his community, and he will not care for it.” -John Stuart Mill

The founders of this county envisioned an educated and active public that partakes in creating and maintaining the community. In more recent years, other important aspects of ensuring an effective democracy have also come to light and have been incorporated in numerous public participation planning activities. These include:

- Equality of opportunity: All citizens are to be provided with the opportunity to develop to their full potential, inclusive of race, religion, ethnicity, gender, sexual preference, or physical capacity. Each citizen is to be treated without discrimination and afforded equal protection under the Bill of Rights.
- Citizen influence: Citizens should have influence on the decisions that affect their daily lives.
- Civility and respect: Matters of governance are to be conducted with civility and respect.²

Lawmakers have also recognized the value and functional purposes of public participation. By law, CARPC is required to notify the public of meetings, hold open meetings, hold public hearings to solicit public comment, and to provide open records of meeting minutes and decisions. These procedures are outlined in Wis. Stat. § 19.81 through § 19.98 for the open meetings law and Wis. Stat. § 19.31 through § 19.39 for the Public Record Law (see Appendix A: Resources, for links to the legal texts). For purposes of water quality planning, Wisconsin Administrative Code NR 121.03 (12) defines public participation process:

“Public participation process” means those activities developed for involving individual members of the public, local government officials, and interest groups in the areawide

¹ Walsh, Mary L. 1997. *Building Citizen Involvement: Strategies for Local Government.*

² Ibid.

water quality management planning process. These activities may include: the dissemination of information to the public including plan documents and summaries in lay terms, outreach activities to identify interested members of the public, the actual involvement of the public in the decision-making process which leads to the preparation and implementation of an areawide water quality management plan, and response to the public on how their input was used. This process usually includes both public meetings and public informational meetings.

These legal requirements are known as procedural public participation.³ Public hearings and access to information forces a certain degree of openness and creates a legal record on which decisions can be based and challenged in court. However, they can also become a procedural hoop, where comments made may not have much impact on the decision. This is because the input from the public has been limited to public judgment after much of the decisions have already been made, limiting citizen input to a reactionary form of public participation.

Improvements upon these requirements are those required by the Comprehensive Planning Law (Wisconsin Statutes, Section 66.1001(4)(a)), which states:

“The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services, and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for a wide distribution of proposed, alternative, or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments.”

This requirement expands the scope of public participation beyond the procedural public participation requirements.

By establishing a proactive public participation program, the Commission can create a forum that allows for collaborative problem solving so that public participation is both functional for the Commission and meaningful to the public. Public participation is functional when it helps to create better decisions and more thoughtful plans. Participation is meaningful when the public has opportunities to influence decisions and feels a sense of ownership for the plan.⁴ A functional and meaningful public participation program will greatly benefit the Commission in achieving its charge, and will help the regional community in finding workable solutions to the challenges faced by the region.

Benefits of Proactive Public Participation.

Professional public participation practitioners have outlined many advantages of a more inclusive and involved program that is functional to planning and meaningful to the public. These include the following:

- A more educated, informed, and interested public that can be more active and participate more fully in decision-making. An active and energetic civil sector can offer much-needed support for local governments and enhance governance.

³ Creighton, James L. 2005. *The Public participation Handbook: Making Better Decisions Through Citizen Involvement.*

⁴ Miskowiak, Douglas. Nov 2004. *Crafting an Effective Plan for Public Participation.*

- The public often possesses crucial information about existing conditions or about how a decision should be implemented. This collective wisdom is valuable and distinct from technical expertise.
- Community values and perspectives from all groups can be expressed and heard in a forum that is fitting with democratic principles of public engagement in government.
- Decision-makers are able to better understand the goals, concerns, values, and perspectives of citizens, and hear the ramifications of specific decisions on the public. Likewise, citizens can more fully understand the complexities of the issues decision-makers have to address.
- Stakeholders will experience an increased ability to reach solid long-term agreements and commitments between otherwise divergent parties. This builds consensus and understanding between the parties, reduces political controversy, and gives legitimacy to decisions.
- By involving everyone who has a stake in a community issue in win-win problem-solving processes, the likelihood of conflict, 'we-they' perspectives, and the need for divisive polarized opposition coalitions are reduced, resulting in a gradual enhancement of a sense of community with shared goals and visions.
- Early public participation can help reduce the probability of painful confrontations, and avoid the formation of hard, inflexible "positions".
- Community ownership of plans, programs, policies, or other solutions increases the likelihood of successful implementation. Once a decision has been made, the community is more likely to be invested in its successful outcome, and groups and individuals may even enthusiastically assist in the effort. Citizens are far less likely to sabotage planning efforts or to oppose a solution at the very end of the process, and the proposed solutions are likely to be more effective and more lasting.
- Participatory processes minimize overall project cost and delay. While public participation takes more time upfront and unilateral decisions are always the quickest to make, unilateral decisions are often very expensive to implement, or there is so much resistance that decisions are never implemented. The efficiency of making a decision must take into account delays and costs created by how the decision is made.⁵
- The Commission and staff become increasingly sensitized to the public's concerns and how the public views the agency's operations.
- Allows a balanced and comprehensive consideration of all concerns, and generates information through a joint fact-finding technical approach through the Commission's technical staff. Such an approach obviates the need for advocacy science where each side brings its own experts which results in increased conflict and divisive "position-taking". A positional debate does not provide any opportunity for a comprehensive discussion of the interests of the parties or the interests of the region.
- Finally, a decision-making process that is visible and credible and involves all stakeholders will maintain and increase the Commission's credibility and legitimacy.

⁵ Creighton, James L. 2005. The Public participation Handbook: Making Better Decisions Through Citizens Involvement.

These benefits are gained through a public participation program that goes beyond the procedural requirements for open meetings and public hearings, and incorporates the democratic and public involvement principles mentioned at the beginning of this section.

ELEMENTS OF PUBLIC PARTICIPATION

Some essential elements must be defined in developing a public participation program. These include defining public participation, defining the different levels of participation, and defining the public. This section also presents the philosophy behind an effective, functional, and meaningful program, as well as the challenges of implementing the program. Lastly, this section provides a methodology for developing plans for specific CARPC planning activities.

Defining Public Participation

In creating a public participation program it is important to define what is meant by public participation and identify the essential elements that encourage a functional and meaningful public participation processes. The Commission defines public participation as follows:

A process by which interested and affected individuals, organizations, agencies, and business and government entities are informed, consulted, and collaborated with, such that their concerns, needs, and values are incorporated into decision making.

Previous CARPC public participation processes followed the legal requirements for informing and consulting through the procedural processes mentioned in the previous section (open records, open meetings, and public comment at public hearings). This, however, is not an effective level of public participation for incorporating the concerns, needs, and values of all stakeholders in decisions. In some cases more involved and proactive participation may be appropriate or necessary.

Levels of Public Participation

The spectrum of public participation ranges from simply informing and educating the public of a planning issue, activity, or decision, all the way to partnering with other governmental units and agencies in decision-making and implementation of the decisions that have been made. The spectrum covers following levels of participation, starting from the lowest to the highest level, where each level is inclusive of lower levels:

Informing: This involves providing informational resources and actively presenting and reporting pertinent information to educate the public about the issue(s), activity(ies), or decision(s). This is a one-way educational and informational process for a defined objective.

Consulting: Listening to the public's comments and questions, to obtain public input on decisions through methods such as public hearings. This is public judgment, where citizens judge the proposed decisions that the governing body is already set to make. Alternatively, a lead agency may solicit the consultation of other government units and agencies to complete a part of or all of a planning activity. Comments and recommendation may or may not be incorporated in the final decision. Typically, public participation stops here, and in some cases, this might be all that

“Public participation is training in working together effectively. Today, individuals may represent only groups or interests. Tomorrow, they can form the pool from which regional and national leadership can be drawn. Through public participation, future leaders learn the skills of pulling together to solve problems.”-Michael Creighton

is necessary.

Incorporating: This involves consulting with the public before decisions have been proposed, to determine the factors that need to be considered in decisions. Also, this level incorporates the information from the consulting phase into the final decision. These methods allow for upfront or proactive involvement by promoting citizen participation and actively soliciting input to minimize creating unnecessary conflict and contention. This level of participation empowers the public and directly demonstrates that their input and involvement affects the final outcome. This provides the public with a sense of ownership and increases the likelihood of success in implementation.

Collaborating: This level of involves citizens, stakeholders, and local government units and agencies in the decision-making process and seeks their consent, while the lead agency maintains sole decision-making authority. Successfully implementing certain decisions, policies, or plans requires cooperation and collaboration, although the parties may have different objectives and interests.

Partnering: This level involves the public and invites them to be equal decision-makers in and implementers of this process and subsequent decisions. In this case all decision-makers would be lead agencies or organizations sharing the workload to accomplish a shared objective. Successfully implementing certain decisions, policies, or plans requires cooperation and collaboration amongst many partnering parties. Through successful partnerships decision-makers can improve their ability to resolve regional issues.

CARPC planning activities engage various levels of participation depending on the complexity of the task and the desired outcome. Likewise, CARPC engages as a participant in the planning and management activities of other agencies and governments. The level of participation varies across planning activities and phases. An analysis of CARPC planning activities and the appropriate levels of participation for each are discussed in later sections.

Defining the Public

CARPC must ensure that input from all affected parties is actively solicited as part of the process, as failing to do so may result in conflict and dysfunction in the implementation phases of a decision. For the purpose of this public participation program the following persons or groups of persons have been identified:

- *Public Citizens:* All citizens of the CARPC Planning Area that are affected, indirectly or directly, by the CARPC decisions. It is helpful to involve as many members of the general public as possible to get a broad public perspective and learn of special situations and conditions.
- *Local Jurisdictions and Public Agencies:* Local, county, and state agencies and governments affected by CARPC policies, including land development and use, economic development, agricultural preservation, and environmental protection. Town, village, city, county, and state officials and agency staff are important stakeholders.
- *Special Interest Groups and non-governmental organizations:* Representatives of these organizations help in the planning process by bringing particular perspectives and extensive knowledge of their issue areas. Some of these groups or organizations are represented on CARPC ad hoc committees. Examples of these groups include: bicycle, pedestrian, and transit advocacy organizations; affordable housing advocates; historic preservation advocates; chambers of commerce and business groups; environmental organizations; food systems advocates; and neighborhood organizations.

In identifying the specific participants and stakeholders, it is helpful to determine the issues that may be raised and the most affected groups. Citizens whom are directly affected need to be actively sought out and encouraged to participate to prevent a backlash in the implementation stages of a project. After the participants are identified, and their roles are defined, the commission can determine the level of participation that is most meaningful and helpful to the commission and the public. More details on this process are described in the Elements of Effective Public Participation section below.

Challenges

Implementing an effective public participation program can seem like a tall order. Many challenges would have to be foreseen and overcome to ensure full and fair participation. The following list outlines some of the most important of these challenges:

Reaching Underserved Populations: Ensuring that the public has been properly notified and has the opportunity to participate may require special efforts to reach under-represented and under-served sectors of the community. The federal government has identified environmental justice populations that include minority and low-income populations, while the Madison Planning Organization (MPO) has also identified the elderly, physically disabled, the auto-less, and populations that communicate primarily in foreign languages as populations that may also warrant special outreach and communication efforts⁶. CARPC is committed to an outreach and communication program that ensures that all interested persons are informed and involved in CARPC decision-making.

Minority

According to the US Census 2000 data, the minority population in Dane County is 54,529 persons (about 12 percent of the total population). Minority populations are concentrated in the urbanized portion of the county, with nearly 45,000 living in the metropolitan planning area. The African American/Black population makes up about 4 percent of the county population with about 16,829 persons. Asians and Pacific Islanders are the next largest minority group, with about 14,773 persons making up about 3 percent of the total county population. The third largest minority population is the Hispanic or Latino population with 14,387 persons, which is slightly less than 3 percent of the county population. There were 1,198 American Indians and 6,232 persons who identified as more than one race.

Within the urbanized areas, minority populations are fairly dispersed throughout the Madison area, with some concentrations in the south Madison area along the Beltline corridor, downtown area, and in Madison's north side neighborhoods. These and other areas with concentrations of environmental justice populations have been identified and mapped by the MPO and can be used by CARPC to identify and develop the best measures for including these populations in the regional planning process. CARPC also maintains a list of organizations representing or working with racial and ethnic minorities.

Low-income

The 2000 US Census indicates that 38,815 people lived below the poverty level in the county at the time, making-up about 9 percent of the county population and about 4 percent of the total number of families. Within the metropolitan planning area, around 18% of households are classified as "low-income" (i.e., with incomes less than 150% of

⁶ CARPC adopted the Regional Transportation Plan 2030 in September 2008 as a component plan to the Regional Master Plan. The Regional Transportation Plan 2030 contains a more expanded version of this analysis for the metropolitan planning area only (which does not currently cover the entire county, but is expected to do so after the 2010 Census).

the federal poverty level). Dispersal patterns for low-income populations generally follow the patterns outlined above for minority populations. A concentration of low-income families/individuals and households exists in the Park Street and downtown/UW-Madison campus areas. In addition to the south side and downtown areas, Madison's north side has the next highest concentration of minority and low-income populations.

Limited English Proficient⁷

The 2000 Census indicated that 37,495 persons had limited English proficiency at the time. This was about 9 percent of the county population (i.e., state that they speak English less than "very well" in the US Census). Of those, almost one-half speak Spanish. The Language Assistance Plan in Part Two of this report outlines the policies and procedures that will be used to address the needs of people who do not speak or read English well. This includes provision of interpretive services upon request.

Elderly and Persons with Disabilities

In 2000, 9.3 percent of the county residents were 65 years of age or older (nearly 40,000 persons). This sector of the county population may require different methods for engagement, since this population may be limited by limited or fixed-incomes, inability to drive or other constraints on access and mobility, or having certain physical disabilities. Within the elderly population, about 13,144 persons are known to have some disability.

In total, there are 50,972 persons (age five and older) with some disability in the county, 7,643 of whom are between the ages of 21 and 64. CARPC maintains a contact list of organizations representing the elderly and persons with disabilities.

Persons with Limited Accessibility: According to the 2000 Census, 13,950 households (8% of all households in the county) lack access to a private vehicle (auto-less). The auto-less are typically among minority, low-income, elderly, and/or university student populations. About 61,691 households (35% of total households) have access to only one private vehicle, which may also limit a person's ability to drive to and attend meetings if there is more than one vehicle user in the household.

Covering Enough Ground: Typically meetings are held in the central part of the region in the City of Madison. In some cases however, it may be necessary to have public participation events in areas outside of Madison to ensure adequate public participation. For example, when working with Verona on their FUDA plan, it is best to hold the meetings in Verona. Or when updating the regional master plan, it would be advisable to hold various meetings throughout the region to ensure adequate

"The complex problems you face each day require the widest range of input possible. The collective IQ of a group of people is far greater than the IQ of one person! Creativity is enhanced by many ideas coming from people with diverse background, skills, and abilities. In short, problem solving is enhanced when people work together as a team, not solo." – Mary Walsh 1997

⁷ Limited English Proficient: Title VI of the 1964 Civil Rights Act and the President's Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency", issued in 2000, requires any agency that receives federal funds to establish a means of including Limited English Proficiency (LEP) persons in the agency's decision making processes and ensuring meaningful access to the information and services the agency provides. The Department of Justice has issued guidelines to assist agencies in complying with this requirement. The steps required to ensure "meaningful access" depend upon a number of factors, including the number of LEP persons that may be impacted, the importance of the service provided, and the resources available to the agency.-*Regional Transportation Plan 2030*.

exposure and abundant opportunity for input and participation.

Political Factors: The public may have had previous experiences where they felt that their concerns were not addressed. This would likely affect how they will participate in any further events. This can be overcome by giving an orientation at the beginning of the process to clearly communicate the purpose and procedures of the process.

Timing: Public participation can be time-consuming at the beginning of the planning activity. This however, typically reduces the time needed to resolve conflicts and enforce implementation after a decision has been made. Taking the time upfront to involve the public will increase the likelihood of successful implementation and collaboration after the decision has been made, instead of spending time redoing, rewriting, or defending decisions. It also reduces the need for dealing with potential backlash, and the time required to regain and re-establish institutional legitimacy and credibility. Taking the time up front to involve the public will help to solve conflicts before they arise.

Budget: Holding many meetings in many locations, installing communication technologies, and providing for creative problem-solving activities can be costly and may not be seen as a priority in the budget. But similar to the timing issue just discussed, up-front investment can save money and time in implementation, and ensure success in the end. Furthermore, most of the practices and materials can be reused once they are created; as the program is utilized it will become engrained in standard practice and cost much less with respect to planning and preparation time and materials.

Legal Constraints: Some projects may fall under primary supervision of another agency. In this case, that agency's public participation program would be used to guide the process. It is also possible that inadequate enabling legislation or jurisdiction would limit the Commission's ability in taking certain actions or implementing decisions that come out of a public participation activity.

Best Available Science: Many regulatory decisions are required to be based on the best available scientific and technical information, and this could conflict with the desires of citizen participants. In such cases, citizens and decision-makers need to look for solutions that can concurrently meet the concerns of the people *and* are consistent with the science. It is also possible that parties involved are not well informed about the best available science, and informational/educational strategies are needed.

External Political Realities: Many other factors may also reduce the effectiveness of public participation, such as the simultaneous occurrence of other controversial planning activities (or distractions such as the hunting season or a Packers game), or lack of trust between government officials and public participants.

If challenges are overcome to offer opportunities for creative solutions to emerge, a more meaningful and functional decision-making process could result, which would lead to a more cohesive and integrated approach to regional issues and concerns.

Elements of effective public participation program

Once the levels of participation have been defined and identified, the participants are known, and challenges have been acknowledged and planned for, the guiding principles of the public participation program can be established.

All public participation processes, events, and activities should have the following characteristics:

- *Thorough*, to ensure that diverse and representative voices have been heard and that the purpose and objectives of public participation have been achieved.

- *Inclusive* of all potential stakeholders and interested parties. CARPC recognizes the need to provide a variety of opportunities, methods and tools to include and involve the public. This variety will account for special conditions that may prevent or hinder people from contributing at regular commission meetings.
- *Timely and convenient*, so that stakeholders and other interested parties are able to participate and that decisions are made on an appropriate time frame.
- *Demonstrate a clear purpose and outcome*, so that both the Commission and the public clearly understand the reasons for the need for public contribution to the decision-making process.

Public Participation Programs for Specific Planning Activities

Each CARPC planning activity will require a different level of participation. Thus, each requires its own program that specifically addresses the participation needs of that general planning activity. Each program must contain the following elements to provide a clear and transparent decision-making and participation process.

2. A clear statement of the decision(s), issue(s), and/or challenge(s) for which the public is participating.
3. A clear purpose statement and desired outcome(s) for public participation.
 - a. The purpose of a public participation program may include the following:
 - Inform the Public.
 - Fulfill regulatory requirements.
 - Maintain and improve a positive relationship with the public.
 - Learn valuable information that the public possess.
 - Find broadly accepted solutions to highly controversial issues.
 - Gain the commitment of the public and governmental agencies and units, since these are involved in implementing most of the decisions made by the CARPC.
 - Develop partnerships with other agencies and governmental units to plan and manage regional growth and preservation in a coordinated manner.
 - Act as a collaborating participant in planning activities of other agencies and governmental units.
 - b. Desired Outcomes- the desired outcomes will vary greatly depending on the planning activity and on the purpose of public participation. Planning activity programs in the Part Two of this report provide greater details on tangible outcomes or end results.
4. CARPC role: Determine the role of CARPC in achieving the desired outcomes. The role of the Commission will determine the level of its involvement and responsibilities of the staff.
 1. Lead planning agency: CARPC has been directly charged with the responsibility of completing a plan.
 2. Lead management agency: CARPC has been directly charged with implementing and administering a plan.
 3. Partner: CARPC is a co-decision maker and shares in the workload of creating and implementing plans.
 4. Participant: CARPC is not a decision-maker, but a stakeholder or participant. CARPC may act as a collaborator, technical reviewer, consultant, commentator, or active/passive participant depending on the activity and its regional significance.
5. Participants:
 - a. Determination of who participates.
 - People and organizational units that will be called on to carry out the public participation effort.

8. Explanation of and details for activities, methods, and the supporting tools and the necessary provisions selected for implementing the outlined public participation process. Indicate the parties or person(s) responsible for implementing the activities and methods.
9. Description of the methodology that will be used to analyze public input and report back processes to the public and decision-makers. This can take many shapes depending on the topic and question, the type of activity, or information desired.
10. Decision-making requirements: As stated in the CARPC by-laws and other rule sources (NR 121, The Clean Water Act, The Comprehensive Planning Law, etc.), what are the decision-making rules?
11. Methods to evaluate public participation plans and activities and procedures after the fact, to improve and adapt them for future use.
12. Budget: What is the anticipated budget for the public participation process?

Each public participation activity plan will address the topics in Part II of this document. The following section defines CARPC planning activities that require public participation.

PUBLIC PARTICIPATION IN CARPC ACTIVITIES

The function of the Commission is to serve as the regional planning and area-wide water quality management planning entity for the Dane County region, consistent with §66.0309, Wis. Stats. and state Administrative Code NR 121. The Commission is charged with the duty of preparing and adopting a master plan for the physical development of the region, and maintaining a continuing area-wide water quality management planning process in order to manage, protect, and enhance the water resources of the region, including consideration of the relationship of water quality to land and water resources and uses.

CARPC planning activities fall under five categories each with their own decision-making and public participation process:

1. *Creating, Updating, and Adopting Regional Plans*: Requires substantial and usually multiple inputs for generating long-range regional policies and directions. Examples include major updates to the *Dane County Land Use and Transportation Plan* and *Dane County Water Quality Plan*. Generally, these plans are the product of extensive public information and input meetings augmented by visioning exercises and consensus-building activities. The results of these activities are then integrated into a coherent draft plan document for further discussion and refinement, typically written by RPC staff and presented to the public on the website and at public meetings. A final draft is the final product from this process, and it establishes major policies and criteria for the work of the Commission. This draft is broadly disseminated in advance of a public hearing process. The result is an adopted regional plan.
2. *Amending Regional Plans*: Citizens are also given the opportunity to submit written and in person comments at public hearings for amendments to adopted regional plans. These amendments are typically not major departures in policy or vision, and generally only apply adopted criteria and guidance to specific amendments. Amendments to the urban service area boundaries are an example of this type of activity.
3. *Administrative Decisions*: Public participation in administrative decisions includes providing input and feedback on CARPC budget and work program development and approval. Currently, these topics are presented to the public and constituent units of government for review and comment. Received comments are considered and the budget and work program adopted at the CARPC annual meeting.
4. *Collaborative Decisions*: When CARPC is not a lead decision-maker in the planning and management activities of other units of government and agencies, yet is involved in some aspect of the final decision, CARPC is acting as collaborator. The CARPC role as a collaborator may take numerous forms such as a consultant or simply

accepting and adopting the resulting decision as part of the regional Master Plan. The Commission's involvement in the Regional Transportation Plan and the Park and Open Space Plan are examples of this. Future Urban Development Area (FUDA) planning also fall under this section, where CARPC acts as a collaborator with the local government, and where both the local unit of government and the CARPC have approval authority over the resulting plan.

It should be noted that there is a collaborative aspect to the Commission's work on regional plans where it is the lead planning agency, such as in water quality planning. Because the Commission is not the lead management agency in most aspects of water quality management (wastewater treatment, stormwater management, agricultural conservation work, solid waste management, groundwater management, etc.), it depends on local units of government for the implementation of most of its plans. This highlights a collaborative facet to the Commissions work, even where it has a lead planning role.

5. Other Planning Activities: This may involve developing programs and implementation actions or forming exploratory groups to improve policy or find solutions to specific issues. Consulting the public for best practices, policy, and program development and implementation can be extremely helpful in creating viable and useful solutions.

Part II of the Public Participation Program will present these planning activities in greater detail and create an activity specific public participation program for each type of planning activity.