

MINUTES
of the
Capital Area Regional Planning Commission

September 14, 2017

Room 351, 210 Martin Luther King Jr. Blvd, Madison WI

6:15 PM

Commissioners Present: Maureen Crombie, Larry Palm, Bruce Stravinski, David Pfeiffer, Brad Cantrell, Ken Golden (departed at 9:02pm), Kris Hampton, Tony Hartmann (arrived at 6:45pm), Lauren Cnare (arrived at 6:36pm), Ed Minihan

Commissioners Absent: Peter McKeever, Caryl Terrell, Mark Geller

Staff Present: Linda Firestone, Mike Rupiper, Steve Steinhoff

Others Present: 12 members of the public

1. Roll Call

Chair Palm called the meeting to order at 6:15 PM. Quorum was established. He welcomed Bruce Stravinski as the newest Commissioner.

2. Approval of Minutes

a. **Minutes of the August 10, 2017 CARPC Meeting (*actionable item*)**

Mr. Cantrell moved to accept the minutes of the August 10, 2017 CARPC meeting; Ms. Crombie seconded. The motion passed on a voice vote.

3. Public Comment on Matters not for Public Hearing

Jon Becker, a member of the public representing C.R.A.N.E.S., wished to speak. After making some comments, Mr. Becker requested a meeting with Chair Palm and CARPC staff. The Commissioners had no questions or comments for Mr. Becker.

4. Presentations and Discussions

a. Discussion with Tim Asplund, Wisconsin Department of Natural Resources, Regarding Commission Role in Water Quality Management Planning Process

Tim Asplund, Chief of the Monitoring Section with the Bureau of Water Quality for the DNR, introduced Andrew Simek, DNR staff attorney, and discussed DNR's ongoing partnership with CARPC, the urban sewer service area amendment process, and the Dane County water quality management planning process. Mr. Asplund reviewed all of the functions that CARPC performs for the DNR and what the roles and responsibilities were for both CARPC and the DNR. He stated that DNR relies on CARPC staff. He proposed changes to CARPC's sewer service area review process. First, hold the public hearing earlier in the process, such as within 30 days after receipt of a complete application. That timeframe would allow the subsequent staff analysis and recommendations to address comments made at the public hearing. Second, the Commission action would take the form of recommendations to DNR on conditions or recommendations for further actions, instead of a vote on whether or not to approve an amendment. Such action could be in the form of a letter that may not need a super-majority vote. Mr. Asplund also discussed options of the Commission not voting on service area amendments, or voting once a year like the Southeast Wisconsin RPC. DNR was working on a letter to convey these ideas and recommendations to further streamline the process as part of the next DNR-CARPC contract. The contract would be contingent on making some of these changes and putting them in effect by the next contract period. Questions and discussion followed.

Ms. Cnare asked what feedback DNR would provide in response to a letter of recommendations from the Commission to ensure productive communication. Mr. Asplund responded that DNR currently sends a letter back to the Director communicating their decision. DNR could address Commission recommendations in that letter.

Mr. Cantrell voiced support for Mr. Asplund's suggestions and asked if other RPCs that review water quality plans require super majority votes. Mr. Asplund replied he would need to look into that and reply later.

Mr. Stravinski voiced concern that a public hearing at 30 days, followed by a second meeting, would result in members of the public repeating their opposition at the second meeting. Mr. Asplund replied that NR 121 public participation requirements were vague, so public hearings were more of a Commission requirement that were driven by the 30-day public notice timeframe. How the comment was received was also a Commission decision, although that was part of the contract between DNR and CARPC. DNR reserves the right to tell the Commission how DNR would like the comments to be received.

Mr. Pfeiffer asked if other RPCs integrated land use, transportation and water quality plan amendments and whether they take separate votes on water quality. Mr. Asplund replied that, while he did not have all the details, he believed that SEWRPC made amendments and updates to its land use and transportation plan separately from sewer service area amendment decisions; perhaps annually. SEWRPC was the only RPC that still had designated status under NR 121. He offered to find out more specifics and get back to CARPC about how the other RPCs handle that issue.

Mr. Golden asked about the extent to which public comment and Commission discussion and recommendations influence DNR decisions on service area applications. Mr. Asplund replied that DNR reviews comments and uses them in its decision. He cited the Fitchburg Northeast Neighborhood as an example where the approved area was smaller than requested in the application, reflecting concerns about the Waubesa Wetlands. DNR accepts recommendations that do not conflict with statutory authority. DNR works with CARPC staff up front to make sure applications are consistent with statutes and regulations. Mr. Minihan commented that much of what occurred in the Northeast Neighborhood development was a result of a lawsuit that the Town of Dunn brought and forced the developer to negotiate. The DNR was out of it; so was this Commission. The Town of Dunn had to take it on its own. What Mr. Minihan was hearing was that everything was fine as long as CARPC never said "no" and just let developers do whatever they liked.

Mr. Cantrell asked how frequently did DNR deny sewer service amendments, and if a recommendation came from CARPC staff, did DNR ever disagree. Mr. Asplund replied that he had not seen a denial since being in his position. It was more likely things were returned and revised before a decision was made. Everything was done to avoid that kind of outcome.

Mr. Pfeiffer commented that the Commission relies on staff to communicate with the applicant what they need to do in order to meet water quality standards. The problem was, with the 90-day turnaround, what if the applicant did not do it? Then the Commission had to deny. While this had not happened, he assumed that DNR would determine that the applicant was not meeting water quality standards if they were not willing to work within the timeframe to revise their application to meet standards. Mr. Rupiper stated that there was a clause in the statute that, if it was not deemed to be a complete application and it did not meet water quality standards, then essentially the clock did not start. Applicants had to have all of the information needed to determine that the application met water quality standards before the 90-day clock started. Statutes also allowed DNR to request a court action to get a deferment on the timeframe if there were unanswered questions. Mr. Asplund stated that they had not often seen a case where there was clearly something that was a no or a denial. But if there was no cooperation and an application came forward that clearly was not going to meet water quality standards and the staff recommended denial, and the Commission agreed, and that was conveyed to DNR, chances were DNR would deny it as well. DNR strived to work on the front end to get to something that is a "yes".

Chair Palm commented that the requirement for super majority vote was in the resolutions adopted by communities recommending creation of the Commission. CARPC had said that the resolutions provide a framework and that its bylaws provided the overriding criteria that the agency uses.

Discussion continued on issues including separation of water quality and land use issues, the sub-committee whose assignment was to propose a discussion process that the Commission would follow regarding water quality and land use issues; and staffing at the DNR. Commissioners Cantrell, Crombie, and Hampton volunteered in August to be on the sub-committee. Commissioner Pfeiffer volunteered to be on this sub-committee as well.

When asked for his opinion of the process that the Commission has, Mr. Asplund stated that having that interaction and discussion with applicants and the recommendations were the things the DNR liked to see. The DNR does not need to be involved in the discussion; it prefers to take what it is given and approve the recommendations without additional comment or interpretation.

Chair Palm asked if the DNR would like to be involved with the sub-committee which will propose a process to discuss water quality and land use. Mr. Asplund said he would strive to be more involved with CARPC staff, and he would welcome the chance to work with the sub-committee.

5. Report of Executive Chair / Discussion

a. CARPC Strategic Planning Progress Report

Chair Palm discussed the 2017 strategic planning progress report that was in the packet. He also reviewed which Commissioners were on the joint MPO committee (Commissioners Stravinski, Golden, Minihan, and Palm).

6. Report of Directors

a. Report of Deputy Director / Report and Discussion on Division of Community and Regional Planning Activities

Mr. Steinhoff had nothing to add to the content that is in the packet. He would report on AGMV later in the meeting.

b. Report and Discussion on Division of Environmental Resources Planning Activities

Mr. Rupiper gave a presentation, which may be viewed at https://danedocs.countyofdane.com/webdocs/PDF/capd/BoardSync/2017-09/Report_ERPD_Update_091417.pdf. Mr. Rupiper reported that the first meeting of the joint workgroup with the Lakes & Watersheds Commission was rescheduled to September 28th. Commissioners Terrell, McKeever, and Pfeiffer have volunteered to be on that workgroup. Mr. Rupiper stated that Mike Kakuska would be retiring on Friday, September 22nd.

7. PUBLIC HEARINGS

a. **Consideration of Recommending to the Wisconsin Department of Natural Resources Amendment of the Dane County Water Quality Plan by Revising the Cross Plains Sewer Service Area Boundary and Environmental Corridors in the Town of Berry and the Village of Cross Plains (*actionable item, supermajority of 8 votes required for approval*)**

Mr. Rupiper gave an overview of the staff analysis, which may be viewed at http://www.capitalarearpc.org/wp-content/uploads/2017/08/1608_Cross_Plains_Staff_Analysis.pdf.

Mr. Golden asked about the irregular shape of the environmental corridor in the northwest corner and any accommodations made or needed to be made for Ice Age Trail purposes. Mr. Rupiper replied that corridor reflected the lot line of the proposed park, and there was about an 80 foot buffer between what would be the rear lot line in the trail that remained wooded. The Village also had woodlands overlay zoning so that would really restrict the amount of tree removal that could potentially be done along the rear lots in addition to that. There would be an adequate tree buffer between the trail.

Mr. Golden asked if the capacity of the sewage treatment plant was adequate for what is in the Village's plan. Mr. Rupiper replied that there should be adequate capacity at the treatment plant through the growth period for their current plant design.

Mr. Hartmann asked about Village plans to meet TMDL requirements. Mr. Rupiper replied, using phosphorous as an example: Most of the treatment plants currently had permits with a limit of 1.5 mg per liter of effluent. New water quality standards ultimately require all treatment plants to get down to half that, or .075, with compliance schedules. Many treatment plants used strategies like the adaptive management that MMSD was doing, to help them achieve the future reductions, such as practices on agricultural fields to control phosphorus in a more cost effective way. It was up to each individual community and treatment plant to submit a proposal to DNR as far as how they were going to meet those future standards and develop a compliance timeframe.

Mr. Hartmann asked about the Salt Wise Partnership, and what the best tools were to reduce chlorides in water bodies. Mr. Rupiper replied that the Wisconsin Salt Wise Partnership, was continually evolving. Some of their first initiatives had been education to making people aware of the issues and educate not only municipal salt

applicators but private salt applicators about how much salt was actually needed, what the proper application rates were, and best way to apply it. Some of their educational efforts were geared toward homeowners and water softener users because that was a big component of particularly the waste water treatment plant chloride contributions. The City of Madison and some others had looked at voluntary certification for private applicators, such as someone who would plow and salt a commercial parking lot or homeowners salting their own sidewalks, and some of those efforts were advancing forward.

Chair Palm opened the public hearing.

Registrants included the following:

1. Brian Berquist, Town and County Engineering, was in support of the amendment and was available for questions.
2. Dan Eckberg, Vandewalle & Associates, was in support of the amendment and was available for questions.
3. Scott Faust, private citizen, was in support of the amendment and was available for questions.
4. Jerry Gray, Village of Cross Plains Department of Public Works, was in support of the amendment and was available for questions.
5. Kyo Ladopoulos, Sundance Development, was in support of the amendment, was available for questions, and wished to speak.
6. Caitlin Stene, Village of Cross Plains Village Administrator, was in support of the amendment and was available for questions.
7. Michael Slavney, Vandewalle & Associates, was in support of the amendment and was available for questions.
8. Joe Thompson, Town and Country Engineering, was in support of the amendment and was available for questions.

Commissioners asked questions and received responses from registrants. Points addressed were:

The Village's comprehensive plan was recently amended to allow exceptions to the requirement for full public services. Two areas were mapped where topographical constraints combined with economics of providing public water service warranted the possibility of private water service. The amendment area was one of those areas. Public water service would not be cost effective for that area.

The next logical development in the Village would be on the east or west side of the Village.

Expansion to the north of the amendment area was not likely due to lack of interest by landowners, lack of connection to Brewery Road, and concern about added traffic to Brewery Road if it was extended.

Plans for parks and recreation services in the amendment area included a large neighborhood park on the north side of the property which will have future trail connections to the Ice Age Trail.

The Village had about four or five people at the public hearing on the amendment to the comprehensive plan that created the exception for private water service. However, discussion about the amendment area had been going on close to 15 years.

Chair Palm closed the public hearing.

Tony Hartmann moved to recommend to the Wisconsin Department of Nature Resources amendment of the *Dane County Water Quality Plan* by revising the Cross Plains sewer service area boundary and environmental corridors in the Town of Berry and the Village of Cross Plains; Brad Cantrell seconded.

Discussion ensued, during which time Ms. Cnare suggested that the registrants be allowed to comment on staff recommendations.

Mr. Slavney addressed the recommendations. Recommendation #1: Black Earth Creek is the treasure of the Village. We took the pond out, we re-meandered the creek partnering with the DNR and the National Heritage Foundation. The Village takes water quality seriously, particularly for these developments up on the plateau. The more we can infiltrate, the less we have to manage coming down those slopes. We had a favorable reaction from the staff on those kinds of strategies. With USGS we are partnering to monitor how effective our storm water facilities are and our conveyance facilities. Mr. Gray has pioneered the use of a very effective swale system in an urban environment on several private lots and big parking lots in the Village. That recommendation is right within what has become a tradition of looking out for water quality. Recommendation #2 is along those same lines. Recommendation #3, we need to look at particularly the east plateau, which is a larger plateau area. Most of it is owned by Plastics Ingenuity, which is a local company. That ownership provides an opportunity to consider the maximum size of a system up there. Rather than getting piecemeal there is an opportunity to really

see if something could work in the long run on that project. We are open minded on exploring the possibilities for the public water there. The ground water model helps inform what Black Earth Creek does over the long run. I think that is in concert with the other three concerns. We have talked about joint planning with the Town of Berry and the Town of Cross Plains. About five or six years ago we discussed the potential for official mapping with the Towns but dropped it after they raised objections. We have discussed a regional trail network. Opposition by the Town of Berry was not raised when we presented it to them.

Commissioners who voted "aye": Brad Cantrell, Lauren Cnare, Maureen Crombie, Ken Golden, Kris Hampton, H. Tony Hartmann, Ed Minihan, Larry Palm, David Pfeiffer, and Bruce Stravinski. Commissioners who voted "no": none. Commissioners who were absent: Mark Geller, Peter McKeever, and Caryl Terrell. The motion passed on a roll call vote.

b. Adoption of Capital Area Regional Planning Commission 2018 Work Program and Long-Term Work Planning (*actionable item*)

Mr. Steinhoff gave a presentation which covered both the 2018 work program and the 2018 budget, which may be viewed at https://danedocs.countyofdane.com/webdocs/PDF/capd/BoardSync/2017-09/2018WorkProgram_Budget_091417.pdf.

Chair Palm opened the public hearing.

There were no registrants.

Chair Palm closed the public hearing.

Mr. Pfeiffer moved to approve the 2018 Work Program and Long-Term Work Planning; Mr. Golden seconded. The motion passed on a voice vote.

Mr. Golden moved to reconsider the 2018 Work Program and Long-Term Work Planning due to changes made to the funding allocation for the Wisconsin Department of Transportation contract; Ms. Crombie seconded. The motion passed on a voice vote.

Mr. Golden moved to approve the amended 2018 Work Program and Long-Term Work Planning; Mr. Hartmann seconded. The motion passed on a voice vote.

c. Adoption of the 2018 Capital Area Regional Planning Commission Budget (*actionable item*)

Chair Palm opened the public hearing.

There were no registrants.

Chair Palm closed the public hearing.

Mr. Golden moved to adopt the original version of the 2018 budget; Mr. Hampton seconded.

Mr. Golden then moved to adopt the revised version of the 2018 budget, which included the changes to the budget amounts for the Wisconsin Department of Transportation contract; Mr. Hampton seconded.

The motion to adopt the revised version of the 2018 budget passed on a voice vote.

8. Regional Land Use Plan/A Greater Madison Vision

a. Presentation (Steve Steinhoff)

Mr. Steinhoff gave a presentation, which may be viewed at https://danedocs.countyofdane.com/webdocs/PDF/capd/BoardSync/2017-09/RegionalLandUsePlanning_091417.pdf. He also showed a video that may be viewed at https://drive.google.com/drive/folders/0B_7jccIiXV6ekd6SIBxYIR6TVk?usp=sharing. This video has been shared with groups attending AGMV events.

Discussion ensued regarding the usability of the current Vision 2020 plan and whether it should be updated or revised before the final AGMV plan is adopted. There was no firm consensus as to what needs to be reviewed or how the review would be accomplished. If revisions are made, a public hearing would need to be held. The discussion about goals and objectives was tabled until such time as the ad hoc committee studying the SSA process is finished.

9. Report of the Executive Committee

- a. Procedures for Executive Committee Recommendations to the Commission
- b. Proposed Listening Session with Local Officials Regarding CARPC Input to Local Planning
- c. Revisions to the Personnel Manual
- d. Approval of September 2017 Disbursements and Treasurer's Report for August 2017
- e. Authorizing CARPC Treasurer to Approve Deputy Director Timesheets and Credit Card Purchases
- f. Discussion of Proposed Changes to Environmental Rules for Foxconn Plant

Mr. Pfeiffer moved to accept the report of the Executive Committee; Mr. Hampton seconded.

Chair Palm briefly reviewed the actions and discussions during the Executive Committee meeting.

The motion passed on a voice vote.

10. Future Agenda Items (Next meeting is 10/12/17 at Room 351, City-County Building)

Mr. Cantrell stated that he would not be attending the October CARPC meeting.

11. Adjournment

Kris Hampton moved to adjourn the meeting; Tony Hartmann seconded. The motion passed on a voice vote. The meeting was adjourned at 9:10pm.

Minutes taken by Linda Firestone

Respectfully Submitted:


Kris Hampton, Secretary