

DRAFT MINUTES
of the
Capital Area Regional Planning Commission

July 11, 2024

Verona Town Hall, 7669 County Rd PD and Via Zoom Webinar

6:00 pm

Commissioners Present: Maureen Crombie, Kris Hampton, Barbara Harrington-McKinney, Heidi Murphy, Peter McKeever, David Pfeiffer, Cynthia Richson, Jim Schuler, Caryl Terrell, Bill Tishler, Allison Volk, Nick Zavos.

Commissioners Absent: Steve Greb

Staff Present: Nick Bower, Matt Krempely, Prachi Mehendale, Tanya Sime, Caitlin Shanahan, Jason Valerius

Others Present: Tim Asplund (WDNR), Art, AB, Pat Bergen (Friends BML), Ben, Maddie Bergstrom, Brian Christian, Matt Claucherty, Luke Diaz (Mayor of Verona), Patrick Downing, Kathleen Falk (Former County Executive), Kirk Feller, Todd G, Martye Griffin (MMSD), Kate Hanson, Mara Helmke, Tom Hovel (MMSD) Jeff Johnson, Kathy, Wendy Kennan, Linda Kuhlman, Forbes McIntosh (DCCVA), John Sayles, Jon Sloan, Topf Wells (SWTU), Nate Willis, Tom Wilson, Bob Wipperfurth, Vanessa Wishart, Christ the Solid Rock

1. Establish Quorum

Quorum was established at 6:00 p.m.

2. Public Comment on Matters not on the agenda

No Public Comment.

3. PUBLIC HEARINGS

- a. Public Hearing on a Proposed Amendment of the *Dane County Water Quality Plan* by Revising the Point Discharge Locations of Treated Effluent from the Nine Springs Wastewater Treatment Plant (6:11 PM)
 - (1) Applicant Presentation – Amendment Overview – Martye Griffin presenting.
 - (2) Open Public Hearing to Take Testimony from Attendees, Close Public Hearing (7:21 PM)
 - (3) Commissioner Questions and Discussion (until 8:05 PM)

Martye Griffin, Ecosystem Services Director for the Madison Metropolitan Sewerage District, presented a summary of the proposed amendment. The district is responding to stricter regulation of phosphorous, specifically the Project PLUS regulation of Badger Mill Creek. The district studied the options for compliance and their commission decided in May 2023 to discontinue effluent discharge to Badger Mill Creek and consolidate to a single outfall in Badfish Creek. They have pledged \$1 million to stakeholder-supported projects selected by a local stakeholder group that would support the resiliency of the creek. Since the effluent return began in the 1990s rainfall and groundwater levels have increased. Their data suggest continued flow and adequate quality without the effluent. Mr. Griffin described the applicable standards of Wis Stats. 281.15 and described how those standards would be satisfied with the cessation of effluent water, including temperature, dissolved oxygen and phosphorous. He presented conclusions that their phosphorous discharge exceeds standards for permit compliance, eliminating effluent return would meet the standards of NR102, and water quality would improve.

Chair Pfeiffer opened the public hearing and heard comments from:

- Tom Hovel, in person (in favor)
- Pat Bergen, in person (opposed)
- Luke Diaz, via Zoom (opposed)
- Jeff Johnson, in person (opposed)
- Mara Helmke, via Zoom (opposed)
- Brian Christian, in person (opposed)
- Patrick Downing, via Zoom (opposed)
- Kathleen Falk, in person (opposed)
- Topf Wells, in person (opposed)
- John Assails, in person (opposed)

(The Commission also received 37 written comments prior to the meeting, including four in favor, three neutral or unclear, and 30 opposed to the amendment. All comments are posted on the CARPC website:

[https://www.carpwaterqualityplan.org/2024/06/27/dcwqp-amendment-discontinuance-of-effluent-discharge-to-badger-mill-creek/.](https://www.carpwaterqualityplan.org/2024/06/27/dcwqp-amendment-discontinuance-of-effluent-discharge-to-badger-mill-creek/))

The hearing was closed and commissioners asked questions of the applicant and others who had spoken in the hearing. Questions from Commissioner Richson addressed the purpose of the change (phosphorous compliance) and the timing of required compliance (2028). Questions from Commissioner Hampton addressed the anticipated costs for the alternative option of tertiary treatment (\$24 million, resulting in an additional 3.7% increase in ratepayer costs). A question from Commissioner McKeever about the proposed uses of the pledged \$1 million clarified that the uses of those funds have not yet been selected by the Stakeholder Group – a report back to the MMSD Commission is anticipated in September. Those projects would support the health and resiliency of the creek but are not expected to replace the amount of water currently provided by effluent.

Commissioners Schuler and Richson asked Topf Wells to comment further on his understanding of the DNR role in this process; Mr. Wells described his perception of disagreements within DNR and lack of an agency position on issues affecting this, especially classification of the creek. Commissioner Hampton asked Mr. Griffin about the amount of water to be transferred to the Yahara watershed and any risk of flooding impacts related to the increased water; Mr. Griffin described their expectation of continued compliance with their discharge permit for Badfish Creek and no known flooding issues associated with that permit. Commissioner Zavos asked for clarity about the viability of adaptive management. Mr. Griffin described the method of calculating the viability and the importance of the location of the point of compliance – if they can't move it downstream they believe they can't meet phosphorous compliance in the watershed. Mr. Wells also commented that he has heard from staff at DNR that adaptive management can work. Pat Bergen responded to the same issue, describing conversations with DNR staff affirming the feasibility of adaptive management.

Commissioner Schuler asked Mr. Griffin to clarify details of the phosphorous regulations and then asked Chair Pfeiffer and Executive Director Valerius if CARPC could have a role in mediating discussions among DNR and MMSD to reach conclusions about the adaptive management path. Mr. Valerius indicated that we can work on that within the limits of the schedule requirements to make a recommendation to DNR. Commissioner Pfeiffer asked more about the phosphorous regulations and the option of applying a blend of solutions to meet the standards; Mr. Griffin indicated that they did consider combination solutions. Mr. McKeever commented that the discussions reveal a focus on permit compliance and fiscal savings without evidence that the phosphorous is harming the creek. Mr. Griffin confirmed that phosphorous standards in state statute are driving this and MMSD prides itself on meeting its permit requirements. Mr. Schuler asked about any flexibility in the phosphorous regulation; Mr. Griffin described a potential path to negotiate an alternative standard, but that investigations into that identified an alternate standard without much difference to the regular standard. Commissioner Murphy asked about the 2028 compliance schedule and the associated capital expenses; Mr. Griffin

explained the sequence of events, including their general permit re-issuance process and descriptions and timeline in that permit for how they will be meeting phosphorous compliance, and confirmed that there is no cost associated with their preferred solution for Badger Mill Creek.

Commissioner Terrell asked about the phosphorous impacts on Badfish Creek related to this proposed change and the timing of a tertiary treatment option; Mr. Griffin described the plan to successfully meet phosphorous reduction requirements in Badfish Creek with adaptive management and described the window of opportunity for using additional treatment methods as having passed. Commissioner Schuler asked about the consequence of not meeting compliance standards; Mr. Griffin answered that they have always complied with their permits. Executive Director Valerius asked about the role of Total Maximum Daily Load designation because Badger Mill Creek is not designated as a TMDL waterway; Mr. Griffin answered that the TMDL designation requires point sources to achieve compliance, which costs money.

Chair Pfeiffer invited commissioners to identify questions they want staff to look into on this application:

- What is the impact of the amount of phosphorous added to Badger Mill Creek? (McKeever)
- What portion of phosphorous going to the Sugar River watershed is from MMSD? (Schuler)
- What is DNR's position on the transfer of water between watershed? (Hampton)

4. Consent Agenda (*all items below are actionable items*)

a. Minutes of the June 13, 2024 CARPC Meeting

b. Executive Committee Recommendations

(1) Approve May 2024 Financial Statements and June 2024 Operating Account Reconciliation

Mr. Hampton moved for the approval of the June 13th, 2024 CARPC Meeting Minutes and Approval of May 2024 Financial Statements and June 2024 Operating Account Reconciliation. Ms. Richson seconded. The motion passed unanimously.

5. Amending the *Dane County Water Quality Plan* by Revising the Sewer Service Area Boundary and Environmental Corridors in the Brooklyn Urban Service Area (#2203 Village of Brooklyn – “Brooklyn Business Complex Phase 3 Expansion”)

Mr. McKeever made a motion to move #5 of the agenda to #3 on the agenda. Mr. Schuler seconded the motion. The motion passed unanimously.

Opportunity for Public Comment

Overview of Consistency with State and Local Standards – Nick Bower presented a summary of staff analysis confirming that the proposed development meets or exceeds state and local water quality requirements. Water Quality Management Letter #2203 included recommendations for Village participation in regional water quality initiatives, restoration of farmed wetlands with native plantings, and an addition after packets were completed to require an archeological survey was suggested by the Wisconsin Historical Society, or the possibility of our facts and bear loans and take appropriate protection actions if resources are found.

- ##### **a. Approval of CARPC Management Letter #2203 – Brooklyn USA, recommending to the Wisconsin DNR an Amendment of the *Dane County Water Quality Plan* in the Brooklyn Urban Service Area (*actionable item*)**
- Mr. Schuler moved for the approval of the CARPC Management Letter #2203 – Brooklyn USA, Recommending to the Wisconsin DNR an Amendment of Dane County Water Quality Plan in Brooklyn Urban Service Area. Ms. Richson seconded. The motion passed unanimously.

6. Resolution 2024-04 Approving the CARPC Preliminary 2025 Budget and Property Tax Levy (actionable item)

The Executive Director and Chair described the meeting with the County Executive regarding the budget and levy. The County Executive is asking County departments to start the budgeting process with a “cost to continue” budget and indicated she would support a 0% change levy proposal from CARPC. The discussion covered the County expectation that wage and fringe benefit increases will come later in their budgeting process, however CARPC has no such opportunity after levy certification in July. The Commission decided to move forward with the budget and levy as proposed in May, including a 6.5% levy increase. The resolution was revised to direct the Chair to submit the levy amount of \$1,209,332 or other amount if approved by a majority of the Budget and Personnel Panel by July 31. Mr. Hampton moved for approval of Resolution 2024-04 approving the CARPC Preliminary 2025 Budget and Property Tax Levy. Mr. Schuler seconded the motion. The motion passed unanimously.

7. Reports

- a. Executive Chairperson and Executive Committee
- b. Executive Director – Would like to introduce the newest member of the Commission, Alison Volk.
 - (1) Programs and Services Updates – Notice went out this week for an event that CARPC is cosponsoring with the Madison Area Builders Association and Smart Growth Greater Madison on July 31st at the Summit Credit Union Headquarters, Cottage Grove, 4 to 7 PM.
 - (2) Partnership Updates
 - (3) Commissioner Requests for Future Commission Presentations and/or Discussions

8. Future Agenda Items (next meeting is August 8, 2024, via Zoom Webinar, 6:00 pm)

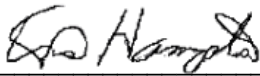
It was suggested by Ms. Richson to have Ethics & Open Meetings training.

9. Adjournment

Mr. Hampton moved the motion for adjournment. Mr. Schuller seconded. The motion passed on voice vote. The meeting was adjourned at 8:41 PM.

Minutes taken by Tanya Sime and reviewed by CARPC staff.

Respectfully submitted:



Kris Hampton, Secretary