

AGENDA
of the
CARPC Ad Hoc Water Quality Committee

December 4th, 2024

Zoom Webinar

11:00 AM

Participant Information

Meeting Accommodation: This meeting will take place via Zoom. You may participate in the meeting from your computer, tablet, smartphone, at this URL:

<https://us02web.zoom.us/j/81216509681?pwd=sbQwpM1ZFMLZ3h0nuYeigEGwX6V9LF.1>

or by telephone at: 312-626-6799. (Webinar ID: 812 1650 9681, Passcode: 498470). If you need other accommodation to attend the meeting, please call Tanya Sime at 608 474 6017.

Speaking at RPC Meetings: Oral comments from members of the public may be heard for individual agenda items when called upon by the Chair. The time limit for comments by each attendee will be three (3) minutes unless additional time is granted at the discretion of the Chair. The RPC may alter the order of the agenda items at the meeting.

Written Communications: Written communications intended to be provided to the Commission as part of the packet should be received in the RPC office no later than noon, seven (7) days prior to the meeting. Written communications, including emails sent to info@capitalarearpc.org, received after this deadline will be provided to Commissioners at the meeting.

MISSION: Strengthen the region by engaging communities through planning, collaboration, and assistance.

VISION: A region where communities create exceptional quality of life for all by working together to solve regional challenges.

1. Establish Quorum
2. Public Comment on Matters not on the Agenda
3. **Minutes of the September 5, 2024, Ad Hoc Water Quality Committee Meeting (*actionable item*)**
4. Q&A document prepared by staff in response to committee questions – staff presentation and discussion
5. 2025 DCWQP Update
6. Future Agenda Items (next meeting is TBD with the committee)
 - a. Specific proposal for new procedures?
 - b. Cost reimbursement proposal?
7. 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.

AGENDA
of the
CARPC Ad Hoc Water Quality Committee

September 5th, 2024

Zoom Webinar

10:00 AM

Participant Information

Commissioners Present: David Pfeiffer, Cynthia Richson, Jim Schuler, Caryl Terrell, Allison Volk

Commissioners Absent: None

Staff Present: Nick Bower, Prachi Mehendale, Tanya Sime, Jason Valerius

Others Present: None

1. Establish Quorum

Quorum was established at 10:02 AM.

2. Public Comment on Matters not on the Agenda

No Public Comment.

3. Review the Purpose and Goals of the Committee

Mr. Pfeiffer and Jason Valerius describe the basis for the Ad Hoc Water Quality Committee. The current urban service area amendment process is a source of friction and is not conducive to the larger mission of developing collaborative relationships with stakeholders. The Committee will assess how best to modify CARPC's USA amendment process and make recommendation(s) to be brought forward to the full Commission for action.

4. Overview of the Dane County Water Quality Plan and Our role in administering it

Jason Valerius and Nick Bower review CARPC's history and statutory responsibilities, and the framework for areawide water quality planning in Dane County via the Dane County Water Quality Plan (DCWQP).

The DCWQP is a collection of reports, policies, and programs - a mechanism for pollution control and resource protection. WDNR contracts with CARPC to administer and update the Plan but retains the final legal authority for Plan adoption and amendments.

One component of areawide water quality planning is sewer service area planning. A sewer service area plan identifies existing sewered areas, adjacent land most suitable for new development, and environmentally sensitive areas unsuitable for development. Expansion of the Urban Service Area requires an amendment to the DCWQP, through a 90-day process involving public participation, staff analysis, and commission action. The 90-day timeline is unique to Dane County per NR 283.83 (1m).

5. Questions from the committee for the staff to answer before the next meeting

The Committee requested additional information about the administration and funding of water quality planning and sewer service area planning processes at other Wisconsin RPCs, municipalities' concerns with CARPC's current USA planning process, the extent of CARPC's legal authority to modify the USA planning

process, and examples of success due to proactive collaboration between cities/villages and towns, among other topics.

6. Future Agenda Items (next meeting is TBD with the committee)

7. Adjournment.

Ms. Richson moved the motion for adjournment. Mr. Schuler seconded. The motion passed on voice vote. The meeting was adjourned at 11:18 AM.

Minutes prepared by Tanya Sime and reviewed by CARPC staff.

Respectfully submitted:

Kris Hampton, Secretary

Re: Q&A document prepared by staff in response to committee questions – staff presentation and discussion

Requested Action:

None

Background:

At the September 5th meeting of the Ad-Hoc Water Quality Committee, several topics were discussed which raised questions needing further review by staff. The attached Q&A document includes specific questions synthesized from those discussions and answers provided by staff based on further research and discussions, both internally and externally. This document also contains a section with additional questions that arose during our research.

Additionally, results of the query of other RPCs on various elements of sewer service area planning are being collected and will be summarized for discussion at the meeting.

Staff Comments:

Some answers may be refined as additional information is gathered.

Attachments:

1. Water Quality Plan & SSA Administration – Q&A (document)
2. RPC Responses Summary (forthcoming)

Staff Contact:

Nick Bower, PE, Senior Environmental Engineer
NickB@CapitalAreaRPC.org
608 474 6019

Next Steps:

Further discussion as needed.

*Dane County Water Quality Plan
Administration & SSA Amendment Practices*

Q&A for the CARPC Ad Hoc Water Quality Planning Committee

December 4, 2024 Meeting

The following are questions raised at the September 5th Ad-Hoc Water Quality Committee, with answers prepared by Staff.

QUESTION 1 - Can a CARPC committee make recommendations regarding USA amendments (USAA), or does it require Commission action?

A: Potentially, a committee could make recommendations regarding proposed SSA amendments. However, it would require an update to our USA amendment policies and our bylaws.

Further Explanation: NR 121, which establishes regulations for the AWQMP process requires that the DNR approve or disapprove AWQMP's and revisions thereof [NR 121.07(1)(a) and (3)] (e.g., SSA amendments). For designated areas (which Dane Co is), it is silent on whether a local body can or must act in an advisory role to DNR. For non-designated areas, specific to preparation and approval of Sewer Service Area (SSA) Plans, it prefers that a local planning agency under contract with DNR prepare the SSA Plan and requires a "local policy advisory committee" to "act in an advisory role" in matters "concerning the implementation of the plan" [NR 121.05(1)(g)4].

According to a conversation with DNR staff on Oct 31, 2024, the role of a local body (and composition thereof) is dictated by what is allowed/required in the local WQP. Currently, the adopted policies for USA amendments states that "CARPC makes a recommendation to DNR on amendment" [[Service Area Amendment Application Packet](#) (updated for 2021)], which in the given context is assumed to refer to the full Commission. Other RPCs have a variety of bodies making the recommendation (TAC, Committee, Board of Directors, or Full Commission).

CARPC bylaws (Section 10.a.1) require a supermajority vote of at least eight commissioners to amend the Dane County Water Quality Management Plan.

QUESTION 2 - How are our duties to administer the WQP described in the contract? How does that compare to what we actually do, as described in our Work Program?

A: The WQP contract with DNR describes the purpose of our contract as being, "for the purpose of providing water quality management planning assistance to the Department". This is much less specific than what we do as described in our Work Plan. However, the contract refers to the annual Work Plan, and so that sets what our duties entail.

Further Explanation: One of the overarching concepts of areawide water quality planning is to allow for local conditions (water conditions, land use, development patterns, etc.) to be accounted for in water quality planning. Per NR 121, “Areawide water quality management plan” or areawide waste treatment management plan means a plan for managing, protecting and enhancing groundwater and surface water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydrologic, political, or other)” (emphasis added).

QUESTION 3 - What are the funding sources and amounts associated with our WQP activities?

A: The primary funding sources for our WQP activities are the annual agreement with DNR, fees collected for review of Urban Service Area Amendments and Sewer Extension reviews, and tax levy. The following table provides historical reference to illustrate the typical breakdown of funding:

Table 1. Funding Sources for Water Quality Planning Work Program

	2024		2023		2022		2021		2020		2019		2018	
WQP Program Total Costs	\$375,800		\$332,600		\$401,300		\$481,700		\$542,166		\$351,560		\$389,522	
DNR Annual Agreement	\$ 95,000	25%	\$ 90,000	27%	\$ 90,000	22%	\$ 90,000	19%	\$ 94,400	17%	\$ 90,400	26%	\$ 80,400	21%
USA Amendment Fees ⁽¹⁾	\$ 36,273	10%	\$ 63,074	19%	\$ 75,688	19%	\$ 35,665	7%	\$ 70,462	13%	\$ 38,178	11%	\$ 31,715	8%
Sewer Extension Fees ⁽²⁾⁽³⁾	\$ 44,800	12%	\$ 44,200	13%	\$ 43,000	11%	\$ 59,000	12%	\$ 47,000	9%	\$ 39,000	11%	\$ 11,700	3%
Local Match (Tax Levy)	\$ 199,727	53%	\$ 135,326	41%	\$ 192,612	48%	\$ 297,035	62%	\$ 330,304	61%	\$ 183,982	52%	\$ 265,707	68%

Notes:

⁽¹⁾ For 2024, through September; for 2021, through November

⁽²⁾ Through November 22, 2024

⁽³⁾ Prior to 2019, fees for Sewer Extension Reviews were lower than current levels

QUESTION 4 – Must DNR contract with CARPC for water quality management planning services?

A: Technically, no—effectively, yes.

Further Explanation: In areas of the state designated by the governor (including Dane County), the preparation of areawide water quality management plans is the responsibility of designated areawide water quality planning agencies [NR 121.01]; that agency shall be “either a regional planning commission established under s. 66.0309, Stats., or be a representative organization whose membership shall include elected officials of local governments or their designees, having jurisdiction in a designated areawide water quality management planning area” [NR 121.06(2)(a)]. Wis. Stats. 283.83 requires that DNR “may not contract with Dane County or any of its subunits, including the Dane County lakes and watershed commission, to provide advisory services relating to the review of proposed revisions to the areawide water quality management plan for the area consisting of Dane County”; however, DNR “may contract with a regional planning commission or other entity to provide advisory services relating to the review of proposed revisions to the areawide water quality management plan for the area consisting of Dane County” [(1m)(e) and (f)].

Furthermore, there is a long history of the RPC conducting this work. CARPC was created through Executive Order #197 in 2007 upon petition of local units of government for the purpose of developing

a Water Quality Plan and conducting sewer service area planning. Prior to this, the predecessor organizations to CARPC, Dane County Community Analysis and Planning Division (2005-2007) and the Dane County Regional Planning Commission (1968-2004), also conducted water quality planning and sewer service area planning in the Dane County region.

QUESTION 5 - Does the funding we receive cover the cost of our activities specifically related to administering the WQP?

A: Based on what we include in the scope of our Water Quality Management Planning activities, no, the funding does not cover it all. In 2023 and 2024, the years since our work program was realigned between Water Quality Planning and Climate Resiliency Planning, the DNR agreement covered 25% and 27%, respectively, of the total cost of the program. Previously, from 2018-2022, the DNR agreement covered 17-26% of the program cost.

Further Explanation: A significant portion of the WQP program is for USA Amendments and Sewer Extension reviews. From 2018-2024, these have represented between \$43,415-118,688, or 11-30%, of the respective annual budget. Thus, the amount not covered by the DNR agreement or review fees and which is covered by the tax levy is approximately 70-90%.

QUESTION 6 - What is the funding history related to this contract, and is there an opportunity to negotiate an increase in funding from DNR?

A: The level of funding provided by DNR has been relatively consistent for the last 6 years (2024-2019) at around \$90-95k. There is potential to negotiate an increase in funding; however, recent negotiations have not been very fruitful.

Further Explanation: Each year, we present our total Water Quality Planning work program, totaling well above the contract amount, and request for an increased level of funding. We understand that DNR views their funding as “seed money” and has no intention of fully covering the cost of the WQP program. See Table 1 under Question 3 for details.

Note that CARPC did receive an additional \$31,570 of funding in 2024 from DNR (through the Bipartisan Infrastructure Law) for a Stream Crossing Inventory project; however, that project falls under our Climate Resiliency Planning work program and is not reflected in the above figures.

It is important to note that our efforts directly related to specific amendment requests are reimbursed by the applicants – these costs are not covered by nor dependent upon the DNR funding.

QUESTION 7 - In what ways is our process similar to or different than how WQP administration is handled by other RPCs? What does the process look like when an RPC is not involved? In other regions, who initiates the USAA (community or developer), how large are the areas added to the USA, and how often do they happen? Also, who pays for the efforts of the WQP administrator?

A: In some ways our USA amendment process is similar to other agencies’ processes - the typical procedure involves formal initiation by a municipality or community, a public hearing, staff analysis, and recommendation by a local advisory committee for final decision by DNR. However, CARPC’s role in SSA planning is constrained by a unique set of conditions established in Wis. Stat. § 283.83(1m) that apply specifically to Dane County. These conditions limit the scope of staff analyses and the commission’s authority regarding any amendment to the Dane County Water Quality Plan.

Further, CARPC's process is exclusively reactive and almost always driven by imminent development, sometimes adding just individual parcels, whereas other areas seem to be doing more proactive work for more acreage initiated by the municipality (which may be handled during a comprehensive SSA Plan update). Because of this difference and because of the high pace of growth here, CARPC is handling many more of these amendments than other regions.

Staff has released a query to other RPCs to understand how sewer service area planning varies across the state and to identify opportunities to modify our current USA amendment process. The results of the query are still coming in and will be summarized at the Committee meeting on December 4th.

Further Explanation: Sewer service area planning is conducted by regional planning commissions, counties, and municipalities, and the amendment process remains generally consistent across the state. The most relevant variations in SSA planning are the frequency of plan amendments and the conditions of Wis. Stat. § 283.83(1m). Any modification to our USA amendment process must remain in conformance with this statute—the main conditions are summarized below:

1. “[DNR] shall approve or reject a proposed revision ... no later than the 90th day after the day” on which the final application is received. Wis. Stat. §283.83 (1m)(c)1

CARPC uses the following timeline to satisfy the 90-day requirement: Day 0 - Final Application received. Day 30 - Public Hearing. Day 60 - Staff Analysis Published and Commission Action, Day 90 - DNR Action.

Without an explicit time constraint, other RPCs that also have 'reactive' processes retain the ability to extend their review periods, facilitating further engagement and collaboration with communities prior to formal amendment review. For example, SEWRPC's amendment process involves 2 - 3 rounds of staff review and, in some cases, requires significant collaboration between the municipality and the RPC. SEWRPC's amendment process typically takes about 6 months and a full update takes 6-24 months

2. “If [DNR] determines the application is incomplete, [DNR] shall notify the applicant in writing within 10 days after [DNR] receives the application and may make only one request for additional information during the 90-day period under this subdivision.” Wis. Stat. § 283.83(1m)(c)2

CARPC, as an extension of DNR through its contractual obligation, must operate within this timeline when determining a final application incomplete and seeking additional information. Prior to a final application, CARPC staff encourages communication/collaboration with municipalities and the development team to work through issues during the “preapplication” phase.

3. “[DNR] shall base a decision ... on whether the proposed revision complies with the water quality standards under s.281.15.” Wis. Stat. § 283.83(1m)(a)

Revisions to the Dane County Water Quality Plan must be based solely on compliance with water quality standards, while other RPC's may take into consideration non-water quality related factors when deciding on a proposed SSA amendment. For example, Bay Lake RPC requires that the amendment area is in conformance with local comprehensive plans and zoning regulations and requires that the delivery of various public services (i.e. parks, schools, fire protection, etc.) be provided for the amended area.

CARPC seeks to engage with community planning outside of the official USA amendment process.

4. “[DNR] may not delegate its authority to approve or reject proposed revisions,” and “may not require information ... other than information that is reasonably necessary to determine whether the proposed revision complies with water quality standards under s. 281.15).” Wis. Stat. § 283.83(1m)(f) and 283.83(1m)(b).

Some RPCs have established processes such that only amendments approved by the local advisory committee or commission are forwarded to the DNR for final administrative decision. For example, East Central Wisconsin RPC has established a Community Facilities Committee that evaluates proposed amendments against East Central's adopted policies and criteria. If an amendment is denied by the Committee, the decision must be formally appealed before it can be forwarded to the DNR for final action. CARPC can establish local criteria and form a recommendation based on available water quality related information but may not require information unrelated to conformance with water quality standards and must make a recommendation to the DNR for approval or denial.

QUESTION 8 - If we propose a more proactive process that brings more town lands into the USA, how will that be viewed by the affected towns and how do we manage those relationships, both between the town(s) and the city/village, and between the town(s) and CARPC?

A: This is an important consideration with clear risk to the relationship between CARPC and towns at the urban fringe, but also an opportunity to negotiate outcomes and improve relationships. We should encourage cooperative planning and boundary agreements with affected towns and look for ways to combine the advantages of large-scale, long-term planning with incremental changes to the USA boundary.

Further Explanation: Right now, towns feel that they do not have a meaningful voice in the USA amendment process. They are required to be notified by the sponsoring municipality (per our SSA policies), but are generally not consulted. Because the process is generally initiated by developers, with the cooperation of the municipality, any town frustration is directed toward the municipality and the annexation process that typically happens around the same time.

If CARPC were to plan proactively with the municipality for 20 years of development potential, this alone may aggravate town leaders opposed to such development. If we work with the municipality on a USA amendment for a larger area, towns opposed to that growth may say that CARPC is encouraging or even inducing the outward growth of the region.

The following are suggested approaches which may address these concerns:

- Encourage the active participation of the affected town(s) in any growth area planning effort – require it if CARPC is to be involved in the planning process.
- Encourage working toward a boundary agreement during the growth area planning process. CARPC can foster conversation about the interests of each party and critical issues to be addressed in an agreement. If adoption of a boundary agreement is not imminent, seek opportunities to address town concerns in the growth area plan and include in the plan an action item to negotiate and adopt a boundary agreement.
- Find ways to phase-in large acreage additions to the USA rather than bringing it in all at one time (but retaining the long-term planning approach).

This might mean crafting a process by which the DNR can approve an amendment to the USA boundary for a large area but without allowing for unabated development right away for the whole area, instead allowing CARPC staff to make administrative approvals at the time that specific developments are proposed, with limited turnaround time and cost for development compatible with the approved amendment plan for the area.

This could be a process analogous to Planned Unit Developments (PUD) at the municipal level. PUD processes typically include a General Development Plan (GDP) that sets customized zoning and development type/intensity expectations for the entire development, and then a Specific Implementation Plan (SIP) stage in which the detailed plans and

infrastructure designs are submitted. The GDP is a legislative approval with public hearings while the SIP is a simpler, technical approval process to confirm consistency with the GDP. In an SSA planning context, it might be possible to set up a large amendment area with a similar, two-stage process, where the CARPC Commission and the DNR approve a large area for addition to the USA, but then there is a second stage with an administrative review process as development is proposed to affirm that it is consistent with the general approval. Only with that staff review and approval does the boundary amendment become “complete”. Alternatively, we might also craft a two-stage process where the large area review is a staff-level administrative “preapproval”, readying lands within that area for the typical 90-day process we know now (but with less staff time needed for analysis).

A process like this would need to be vetted by the DNR and by our municipal partners, and it should be clearly labeled as a voluntary, optional process. Communities that don’t like this approach and the attention to land use issues could still choose the traditional, developer-driven process instead. More discussion within staff and then with DNR and selected municipal stakeholders is needed to evaluate each option.

QUESTION 9 - How can we address topics not directly related to water quality in our USAA process without confusing or angering various parties?

A: We need to continue doing what we currently do, drawing clear distinctions in our staff analyses and management letters. Our best opportunity for influence is during planning or at least during pre-submittal collaborations. A risk to our influence is commissioner critiques of land use issues offered brusquely without attention to our relationship with the applicant.

Further Explanation: *First*, perhaps the most important aspect to avoid confusion or angering various parties, in any version of the USA amendment process, is to make explicit the distinction between WQP requirements and RDF preferences related to land use, ecosystem services, or other issues. If we are clear about the distinction, we can avoid confusion about what is required vs what is suggested, recommended or encouraged. And we have been doing this. Since around 2020, the Staff Analysis and Water Quality Management Letter we issue for USA amendments (sample:

[2304 Stoughton WQM Letter.pdf](#)) includes the following sections:

- State and Local Requirements (generally related to environmental corridors and key stormwater management provisions for the development where there is ordinance or legal protections),
- Additional Agreements (things which go beyond ordinance, but which have been agreed to by the local municipality and, typically, the development team), and
- Recommendations (things which provide further water quality benefit but may not be fully attainable and/or environmental resource protections not directly tied to water resources).

Earlier management letters included “conditions” and “recommendations” and often intermixed items related to water quality, land use and development, ecosystem services, and transportation. In recent years, particularly since the passage of Stats 283.83(1m), we are careful to only include provisions of our recommendation to DNR in the “required” or “agreement” category where there is a direct link to water quality and administration of the *Dane County Water Quality Plan*.

Second, our best opportunity to influence land use and urban design topics toward consistency with the RDF is to do so during municipal planning processes, before a specific development or USA amendment is proposed, for example by participating in comprehensive planning or neighborhood planning processes. However, we DO have some opportunity to suggest changes in the USA amendment process, if it occurs earlier within that process. Agency staff often have the opportunity for

review prior to submittal, while plans are still less firm or formal. Feedback at that stage usually results in changes if related to water resource management and sometimes leads to urban design changes.

Third, if, despite the above efforts, a proposed development is seen by commissioners to be incompatible with the RDF, commissioners may want to discuss any perceived incompatibility during the hearing or prior to the recommendation vote. At this point in the process, when the opportunity for changes is limited, it is important to remember that our relationship with the applicant municipality is important to our influence, and critiques delivered harshly or otherwise without attention to that relationship can strain relations and reduce influence. We want commissioners to strike a tone that is collaborative rather than confrontational.

It is generally our objective as an agency to bring forward amendments that the commission can approve, and so we work with applicants to guide and improve their proposals, to “get to yes”. We recognize that commissioners may sometimes question their own purpose or influence in the process if they approve every amendment that comes before them. Regarding that concern, we would remind commissioners about their efforts and decisions that guide how the agency administers the WQP, including strategic plans, the RDF, the annual work program, the annual budget and other ad hoc processes. The commission plays a critical role in crafting the policy and action guidance that the agency uses to influence outcomes.

QUESTION 10 - What do communities identify as friction points?

A: Jason’s conversations with communities this year reinforced conversations during the Proactive Planning Process (PPP) in 2022. Communities like to be acknowledged for plans and projects that match the RDF, but they object to criticism on topics other than water quality.

Further Explanation: Feedback from the PPP was best summarized in a January 2023 staff report to the Proactive Planning Committee:

Officials felt that they were treated poorly by commissioners and that the commission overstepped its authority by addressing land use issues during what should be a water quality consistency review process. Consequently, they lost trust in CARPC and are loathe or reluctant to engage with CARPC on planning issues out of concern that such engagement will be used against them during the USA amendment process. Feedback from stakeholders that work with municipalities clearly communicated that CARPC’s desire to work collaboratively with communities would not succeed if the USA amendment process continued as it is currently designed. Not all communities expressed negative experiences with the USA amendment process or reluctance to working with CARPC. But the feelings of mistrust are sufficiently widespread as to constitute a major barrier to Framework implementation.

An anecdotal complaint heard during our strategic planning process in March 2024 was the observation that a commissioner critiqued a planned development during their USA amendment process, yet the agency had recently used that same development as a best practice exemplar in the RDF.

Communities appreciate the rigid 90-day turnaround time on amendments and would like it to be even shorter if possible. They would not likely support something that required more time (particularly at that stage in the overall development process).

[Staff Report to Proactive Planning Committee 2023-01-11 \(1\).pdf](#)

QUESTION 11 - Do we have success stories to tell, good intergovernmental outcomes that resulted from the USAA process?

A: There have been a few cases where we were able to provide for the adjacent municipalities (typically a township) to have a chance to review stormwater plans. A few USAsAs have required coordination with a Drainage District. In another recent example, the Village agreed to honor the Town's screening requirements for incompatible land uses. Other examples of good intergovernmental outcomes resulting from the current USAA process are few.

Through the USA amendment process, we have had more success in promoting stormwater management provisions which exceed local and state requirements (e.g., greater infiltration/stay-on than required by ordinance) and enhanced protection of sensitive environmental resources (e.g., wetlands restoration or increased buffers). In recent years, these have been the product of coordination with the local municipality and development team to arrive at reasonable and attainable goals which they can agree upon, not through heavy-handed imposition of restrictions or standards.

QUESTION 12 - What costs do we anticipate from a revised USAA process, and what options can we propose to cover those costs?

A: The anticipated cost cannot be determined until a new process is formulated, but early discussions suggest that the biggest challenge may be the accounting record keeping for delayed reimbursements.

Further Explanation: Our current working assumption is an alternative process in which the community initiates the amendment effort before development proposals are imminent, likely for larger areas and longer absorption periods. Such processes are likely to require more effort and cost to review up front, though typically with cost savings on a per-acre basis (economies of scale).

The challenge with larger-scale, proactive amendment processes will be determining who pays, and when. In the current developer-driven process, the agency charges its time, whatever that cost is, and the applicant community passes that cost to the developer. If we encourage communities to bring land into the USA that would include more parcel owners and before development is imminent, there is not a convenient payer at hand. This may be further complicated if a two-stage review process is introduced. In any process, we have a few general options:

- A) No change - ask the municipality to pay at the time of amendment and let them worry about when and how they cover the cost.
- B) Return to the delayed payment model whereby partial payment is made incrementally at the time of development permitting. CARPC has used multiple variations of this in the past, including portioning out the fee in proportion to the acreage developed, or charging the fee in equal amounts each time development is permitted until all fees are paid. We still have a few of these delayed payment balances on our books. These approaches are an accounting headache for CARPC and the local municipality and have not previously captured interest accrual on the balances we maintain.
- C) Don't charge fees. This is the SEWRPC model, and it simplifies things by removing accounting headaches and reducing complaints about the regulatory process. CARPC staff does not recommend this approach given the detail and frequency at which we currently conduct SSA planning and amendments (and therefore the funding gap we would be creating).

QUESTION 13 - How might changes to the USAA process affect MMSD's projections and planning?

A: We intend to discuss this with MMSD staff at a scheduled meeting in December. At this time, we assume they would prefer a more proactive, longer-scale planning effort related to USAAs as it would provide them more clarity in their planning efforts.

The following are questions which came out of discussion with other entities related to the work the Ad-Hoc WQ Committee is doing, with answers prepared by Staff:

QUESTION 14 - What technical content is actually needed in the USAA process? Current applications vary in the amount of detail provided about existing and proposed conditions. Do outcomes suffer when we get less detail in the SSA amendment?

A: The procedure for plan amendments/revisions is not explicitly defined in state statute, save for requiring public participation processes. WDNR's SSA Planning website lists several requirements for amendments, but ultimately the formal amendment requirements and review criterion are determined by the local water quality planning agency. Again, CARPC is limited by Wis Stat § 283.83(1m)(b) in that we may not require information other than that which is reasonably necessary to determine compliance with water quality standards under s. 281.15. Finally, DNR will review the proposed revisions for conformance with NR 121 and form a decision based on whether the amendment presents any significant adverse water quality impacts.

It is our general prognosis that there are tradeoffs when dealing with amendment applications that include more detailed development plans.

- (-) A more detailed application may take more time to review.
- (+) There are generally better outcomes related to stormwater management, which is a central issue of greenfield developments affecting water quality (e.g., a development team who has done the preliminary stormwater modeling and knows that their system is capable of meeting higher levels of performance standards is more willing to make that an Agreement within the USAA approval, thereby setting a more protective standard for the area).
- (-) An amendment area that is already far along in design may be unwilling to offer larger than the minimum required setbacks for sensitive resources.
- (+) With more detailed development plans, projections and calculations associated with wastewater planning are more accurate, thereby reducing the need to verify assumptions later during the sewer extension review (208 letter) process.

Further explanation: Per NR 121.07, a plan revision may be subject to a public participation process; disapproval of previously approved plan elements, approval of designated area AWQMPs, and revisions to non-designated AWQMP all require public participation processes that must include, at a minimum, a public hearing. No further requirements regarding plan revisions are described in NR 121 nor in related statutes. The amendment requirements listed on DNR's SSA Planning website are largely consistent with CARPC's 2021 USA Amendment Application Packet. See below for specific amendment requirements.

DNR SSA Planning/What are the SSA amendment procedures? – Submittal Requirements:

Geographical location of the area. Map showing proposed SSAA boundary, land uses, environmentally sensitive areas, etc. Description of existing and proposed land uses, population, wastewater generation, means of collection, water/sewer system capacity. Documentation of public hearing. Optional: SWMP, documentation from property owners for deleted areas.

[CARPC Approved SSA Policies 2017 - Submittal Requirements:](#)

Plan and description of proposed development describing type and densities of land use, identification of EC and other environmentally sensitive areas, plan for sanitary sewer services to the area, analysis of infill and redevelopment potential in the existing urban service area and description of the need for the USA expansion.

[CARPC USA Amendment Application Packet 2021- Submittal Requirements:](#)

Documentation regarding consistency with community's comprehensive plans, describing need for USA expansion, notification to adjacent local governments. Maps showing proposed USAA boundary, ROW, land uses, environmentally sensitive areas, utilities, etc. Description of existing and proposed land uses, population, wastewater generation, means of collection, water/sewer system capacity.

QUESTION 15 (Raised by Dane County Staff) – If we were to bring more land into the Sewer Service Area to accommodate a longer growth window and/or have flexibility for the uncertainties of landowner interest, what impact would that have on the Dane County Farmland Preservation Plan, and on farmland preservation?

A: More discussion with Dane County Planning Department (DCPD) staff will be needed as a new USAA process takes shape to determine how these two planning endeavors will affect one another.

Further explanation: We understand that the Farmland Preservation Plan looks at a 15-year planning horizon. Sewer service area planning is intended to consider a 20-year planning period [NR 121.05(1)]; however, our current USAA process does not look at this period as the current process is reactionary to imminent development. It is reasonable to think a revised USAA process should seek to follow NR 121. Furthermore, community-wide Comprehensive Planning is conducted using a 20-year planning period.

Related, another planning endeavor of DCPD is the Regional Housing Strategy, which includes a strategic action plan for the next five (5) years. Further discussion with staff will be needed.