

MINUTES

Capital Area Regional Planning Commission

November 12, 2009 City-County Building Rm 315, 210 MLK Jr Blvd, Madison WI

7:00 p.m.

Present: Curt Brink, Kristine Euclide, Martha Gibson*, Steve Hiniker, Ed Minihan, Jeff Miller, Kurt Sonnentag, Phil Van Kampen

Absent: Zach Brandon, Sally Kefer, Harold Krantz, John Murray, Larry Palm

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

*arrived late

1. Roll Call

Chair Miller called the meeting to order at 7:14 p.m.; roll was recorded.

2. Approval of minutes of the October 8, 2009 meeting

Moved by Mr. Sonnentag, seconded by Mr. Brink, to approve the minutes of the October 8, 2009 meeting. Motion carried 6-0 on voice vote (Mr. Hiniker abstained due to absence from the meeting).

3. Review of agenda

Mr. Miller stated that because only seven commissioners were present, action on the USA amendment requests would be deferred to the next meeting (December 10).

4. Public comment for items not on the agenda

Stefi Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, requested that CARPC impose a moratorium of USA amendments until the Commission has implemented a policy preventing conflict of interest issues arising from voting on USA amendments.

Arnold Harris, 3427 County Rd. P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, requested the Commission to consider ways to allow more public participation, including allowing informational presentations to be made by the public.

Gary Werner, 2302 Lakeland Ave., Madison, representing Capital Region Advocacy Network for Environmental Sustainability (CRANES), requested that the Commission implement a policy which allows more than 30 days to review USA amendment proposals. Once FUDA planning is complete, USA amendments could become more routine.

5. New business

None. Moved by Mr. Hiniker, seconded by Ms. Euclide, to table item 6 until after items 7 and 8 in order to allow registrants to speak. Motion carried unanimously on voice vote. Motion by Mr. Sonnentag, seconded by Mr. Brink, to defer action on items 7 and 8 to the next meeting, so more commissioners may be in attendance. Motion carried unanimously by voice vote.

7. Public Hearing: Consideration of Resolution CARPC No. 2009-13 amending the Dane County Land Use and Transportation Plan and Dane County Water Quality Plan by revising the Central Urban Service Area boundary and Environmental Corridors in the City of Madison and Town of Verona

a. Staff Presentation

Ms. Weber made a PowerPoint presentation on the request, which proposes to add 44.1 acres (32.7 acres developable) to the CUSA for residential land use as part of the Shadywood Neighborhood. She described the proposal's consistency with local adopted plans and the intergovernmental agreement between the cities of Madison and Verona, and consistency with the goals of the Land Use and Transportation Plan. Mr. Rupiper described the water resource issues of the proposal, including potential erosion and stream bank impacts of increased peak flow rates of smaller storms (less than 2-year event). He described the conditions of approval of the staff analysis dated November 6, 2009. Staff responded to questions from commissioners. Ms. Euclide asked if the recommendation in the staff report that CARPC coordinate a watershed-wide intergovernmental agreement (IGA) was a condition of approval; Mr. Mesbah answered no, but the stormwater standards which would be perpetuated by the IGA were conditions of approval (pg. 30, condition d.).

b. Open Public Hearing to take testimony from registrants; close Public Hearing

Mr. Miller opened the public hearing. Michael Waidelich, City of Madison Planning Division, 214 MLK Jr. Blvd., registered to speak in support of the proposal. He stated that the amendment was a small area of the larger neighborhood plan which was not yet adopted. He identified areas south and west of the area which would not be developed for a long time. He stated that the City did not accept in general the stormwater volume and infiltration standard of the proposed conditions of approval, since it was a new standard proposed by CARPC but not adopted by state or local governments, and the technical requirements of the standard were not yet known. However, because the proposed standard was being voluntarily applied by the City to mitigate the impacts on the adjacent farmland, it was willing to abide by the condition of approval unless the CARPC Technical Advisory Committee (TAC) subsequently recommends a less stringent standard. He requested approval of the proposal.

Mike Dailey, City of Madison Engineering, 210 MLK Jr. Blvd., stated that the City-proposed measures to apply the higher volume standard to mitigate stormwater impacts on the adjacent farmland were meant to be temporary. If the final recommendations of the TAC supports the higher standard, the City could continue with the measures; if the TAC ultimately does not recommend the higher standard, the interim measures may be changed. The City preferred not to wait for the final TAC recommendation.

Ron Trachtenberg, 33 E. Main St. #500, Madison, representing Hawks Creek LLC spoke in support of the proposal. He stated his client owned 30 of the 45 acres, and 30 of the 32 developable acres. He described the area as adjacent to developed and developing land; he hoped to develop in the next year. He expressed support for the conditions of approval, and stated preference for approval now rather than waiting for an approved IGA.

Gary Werner, 2302 Lakeland Ave., Madison, representing Capital Region Advocacy Network for Environmental Sustainability (CRANES), spoke in opposition to the

proposal. He distributed to commissioners a memo from CRANES dated November 12, 2009, requesting denial. He stated that if not denied, the proposal should be deferred until a study was complete for the subwatershed. He expressed concern for the shallow groundwater of the area, the loss of prime farmland, and the unresolved issue related to the Ice Age Scenic Trail. He read from the memo, requesting USA amendment action only after the completion of FUDA planning and a watershed intergovernmental study. Transportation planning needs to be more integrated with land use and water quality planning.

Jon Becker, 4233 Kenwood St., Madison, representing CRANES, registered to speak in opposition to the proposal. He stated that similar to the Cherokee Marsh amendment, there is concern for the cumulative impacts of the approval of many small USA amendments. He expressed support for completion of the watershed study prior to action. He stated that the proposed density was a waste of land. He expressed concern for impacts of flooding, the housing market downturn, and global climate change. Madison should be treated similar to other municipalities like Verona, so action should be deferred until the study is completed.

Caryl Terrell, 19 Red Maple Trail, Madison, interim Secretary of CRANES, registered to speak in opposition to the proposal. She emphasized the importance of completion of the watershed study. She referred to the concerns of impacts described in the staff analysis. She requested that action be deferred until a watershed-wide IGA is signed, and the TAC has completed its work.

The following individuals registered in opposition to the proposal: Phyllis Hasbrouck, 3113 View Rd., Madison; Hans Noeldner, 133 W. Lincoln St., Oregon.

Mr. Minihan asked if the City had a boundary agreement with the Town of Verona. Mr. Waidelich answered no, but the Town had been notified of hearings and City staff had discussed the proposal with Town staff. Mr. Minihan stated that this highlighted the importance of the FUDA process. Ms. Euclide confirmed that the Town had not submitted comment. She stated that CARPC had approved the addition of about 350 acres to the CUSA in 2009; she asked for the City of comment on the need for additional acres at this time. Mr. Waidelich stated that the amendment area was part of a plan that had been in development for over five years; the other amendment areas were far from this property and part of a different market. He noted that deferral until TAC completes its work would unnecessarily delay development of the area into 2011. Ms. Gibson confirmed City willingness to abide by the conditions of approval in the short term (prior to TAC recommendation). Mr. Miller closed the public hearing.

c. Consideration of Resolution CARPC No. 2009-13

(Action deferred to the meeting of December 10, 2009.)

8. Public Hearing: Consideration of Resolution CARPC No. 2009-14 amending the Dane County Land Use and Transportation Plan and Dane County Water Quality Plan by revising the Central Urban Service Area boundary, the Fox Bluff Limited Service Area boundary and Environmental Corridors in the City of Middleton and Town of Westport

a. Staff Presentation

Mr. Mesbah stated that it may be more helpful to the flow of information if the applicant provided a presentation first. There were no objections.

John Van Dinter, 5025 Bong Rd., Waunakee, representing Town of Westport, spoke in support of the proposal. He referred to the amendment area on a PowerPoint map. He stated that the proposal was part of the Town of Westport and City of Middleton joint boundary agreement; the Town, the City and the Village of Waunakee had been involved in joint planning for a long time. The Town had met with Waunakee School District representatives. The Town had adopted the county's most stringent stormwater management ordinance in 2008; the proposal will meet or exceed Town or City standards.

Tom Wilson, representing Town of Westport, 5387 Mary Lake Rd., Waunakee, distributed two maps of the proposal, and spoke in support. He described the joint planning efforts of the towns of Westport and Springfield, City of Middleton and Village of Waunakee. The proposal meets a number of the goals of the local adopted comprehensive plans. He referred to the two distributed maps, which indicated consistency of the proposal with growth patterns of the North Mendota parkway study and the Dane County Comprehensive Plan.

Eileen Kelley, 4626 Mineral Point Rd., representing the City of Middleton, spoke in support of the proposal. She described the City's history of successful joint planning with the surrounding towns. She described the positive economic impacts of the proposal and noted that the City was a net job importer, and needed to maintain balance with additional housing stock. She noted the density of the proposal was higher than the City average; the infrastructure to support this may need upgrading.

Sean O'Malley, SWA Group, Laguna Beach CA, described the urban design of the proposed development and how it fit within the natural area.

Andrew Inman, 8215 Greenway Blvd., Middleton, representing T. Wall Properties, described the proposal and its use of naturally integrated infrastructure, including bio-swales, for stormwater management. He described the planned neighborhoods and open spaces of the proposal.

Ms. Weber described the amendment request, which proposes to add 910 acres to the service areas (502 in the City and 408 in the Town) of which 274 are proposed for environmental corridors and 588 are developable. She identified the proposal on PowerPoint maps, described its residential components, and consistency with adopted plans as described in the CARPC staff analysis dated November 6, 2009.

Bill Schaefer, Transportation Planner, Madison Area Transportation Planning Board, described the transportation impacts, planned improvements and transit service and trail connectivity of the amendment area.

Mr. Kakuska discussed the natural resources of the amendment area and the need for protection of its fisheries and wetlands. He stated that, in accordance with CARPC policies, the staff analysis recommended a minimum shoreland buffer width of 300 feet for protection of sensitive resources; DNR concurred with this condition of approval (e-mail provided at places).

Mr. Rupiper described the stormwater impacts of the staff analysis, including potential issues from volumes due to long duration of high water levels in Lake Mendota and the downstream Yahara Lakes, and he described the proposed mitigation standards. Staff recommended using the City of Middleton standard for the entire amendment area; he described the conditions of approval of the staff analysis. Ms. Euclide requested that, if available, the PowerPoint files be posted on the website. Commissioners asked questions of the applicant.

b. Open Public Hearing to take testimony from registrants; close Public Hearing

Hans Noeldner, 133 W. Lincoln St., Oregon, representing Dane County Environmental Smart Growth, registered to speak in opposition to the proposal. He described impacts of inadequate stormwater management and inappropriate size of large development projects in the Village of Oregon and City of Fitchburg. He requested individual communities work together rather than compete for development.

Duane Barmore, 7509 Kenyon Dr., Middleton, representing Middleton-Westport Joint Zoning Committee, registered to speak in support of the proposal. He stated the project was a great example of collaboration between two communities, and offered abundant open space and significant agricultural preservation. He asked for Commission support.

Calvin B. DeWitt, 2508 Lalor Rd., Oregon, registered to speak against the proposal. Mr. DeWitt identified seven points: 1) proposal should include restoration of Dorn Creek wetland system; 2) City of Middleton stormwater plan provided for prevention of deterioration of wetland values, but the details of the plan are not specified; 3) inadequate provision to ensure spring and stream flow rates would be maintained; 4) springs should be mapped and characterized; 5) Dorn Creek was host to spring-fed pools essential to rare fish species (Red bellied Dace and Pearl Dace); 6) the USGS study (Steuer and Hunt) about urbanization impacts on the north branch of Pheasant Branch Creek should be applied; and 7) the proposal was not consistent with NR 121.05(2)(b) and 121.05(2)(i).

Ronald Gene Bowen, 4723 Sumac Road, registered to speak in support of the proposal. He described his history in the area, and requested support for the proposal, which represented 10 years of planning.

Eric Sullivan, 1917 Manchester Crossing, Waunakee, registered to speak in opposition to the proposal. He stated that the Village of Waunakee was cut out of the decision-making process. He described concerns of Village residents over the impacts on the school district, water supply and water quality. He stated that the staff analysis underestimated the potential water usage, and did not adequately address the traffic impacts.

Mark Trotter, 5590 Huntingwood Way, Waunakee, representing Town of Westport Planning Commission, registered to speak in support of the proposal. He praised the Bishops Bay design team, and stated the proposal was consistent with the Town comprehensive plan and its density requirements while maintaining the rural character of the town. He described the cultural and natural benefits of the proposal.

Jon Becker, 4233 Kenwood St., Madison, representing CRANES, registered to speak in opposition to the proposal. He read questions from a letter dated Nov. 12, 2009 from

CRANES (see attached). He stated that the plan and process were inter-municipal, but not regional. He noted the surplus of housing stock in the area, and noted the developer's design team was from Laguna Beach CA.

Jim O'Brien, 2533 Branch St., Middleton, representing Friends of Pheasant Branch, registered to express reservations about the proposal. He stated that the Friends expected to provide comment for the December meeting. He described concerns that should be addressed prior to action: water supply, and the low estimated water usage in the staff analysis, and the impacts of groundwater withdrawal on the creek; and traffic impacts.

Gary Werner, 2302 Lakeland Ave., Madison, representing Capital Region Advocacy Network for Environmental Sustainability (CRANES), asked questions from the letter dated Nov. 12, 2009. He stated that the proposal was not a regional planning effort, but regional impacts should be addressed. He questioned the value of the FUDA process in this area if such a large proposal is approved. He requested a moratorium on USA amendments until FUDA is completed.

Constance Threinen, 2121 Gateway St. N., Middleton, representing CRANES, registered to speak in opposition to the proposal. She described personal experience with flooding problems at her home in the area. She expressed concern for water quantity impacts of increased impervious surface in the area. She read questions from the letter from CRANES dated Nov. 12, 2009. Commissioners asked questions of speakers. Mr. Hiniker requested that Mr. DeWitt provide his comments in writing.

Stefi Harris, 3427 CTH P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, registered to speak against the proposal. Ms. Harris requested Mr. Sonnentag recuse himself from voting on the proposal. She stated that requirements of NR 121.05(2) subs. (b) and (i) were not sufficiently addressed in the staff analysis. The water usage estimates provided by the applicants were not trustworthy.

Brad Robinson, 5617 Rankin Lane, representing Town of Westport, spoke in support of the proposal. He described his work on the joint planning process, and how the proposal provides a variety of housing and amenities.

Arnold Harris, 3427 CTH P, Mt. Horeb, representing Western Dane Coalition for Smart Growth and Environment, registered to speak against the proposal. Mr. Harris stated that the proposal would have negative water quality impacts, and was too large for this area. He stated it violated NR 121.05(2) subs. (b) and (i) and ignores 121.01 public participation requirements, and fails to show how the water quality standards would be met. Information was not provided on currently available residential lots, and population projections did not support the size of the proposal. He read questions from the CRANES letter dated Nov. 12, 2009.

Mark Opitz, 6753 Black Cherry Ln, Middleton, representing County Board District 26, registered to speak in support of the proposal. He stated that the proposal was a model for natural resource conservation, balanced community growth, and plan consistency. He described the successful history of joint planning among the city and three towns. He noted that if the proposed development did not occur on the urban fringe, development would occur farther from the urban center causing more

transportation impacts. He stated that bus service was not currently available; he urged consideration of the unprecedented cooperation on the proposal.

Don Hammes, 3507 Valley Ridge Rd., Middleton, representing Wisconsin Wildlife Federation, registered to speak against the proposal. He read questions from the CRANES letter dated Nov. 12, 2009.

Richard Reinke, 314 Virginia Terrace, Madison, registered to speak against the proposal. He stated the proposal undermines the stated goals of the Yahara Lakes Legacy Partnership. He described the importance of protecting the Pheasant Branch Creek and Dorn Creek, and the negative impacts on infiltration and flooding due to increased impervious surface. He stated that CARPC was required to uphold the public trust doctrine of the state constitution, which placed public interest above riparian property rights.

Robbie Weber, 2613 Stevens St., Madison, registered to speak against the proposal. She stated that the North Mendota Parkway was unlikely to be built, and CTH M was at capacity, and CTH Q would be soon. She read questions from the CRANES letter dated Nov. 12, 2009.

Phyllis Hasbrouck, 3113 View Rd., Madison, registered to speak against the proposal. Ms. Hasbrouck asked if the proposal was consistent with the CARPC goal of conserving prime farmland; she asked what mechanism was in place to evaluate stormwater impacts and what measures were in place to address facility failure. She read questions from the CRANES letter dated Nov. 12, 2009.

Caryl Terrell, 19 Red Maple Trail, Madison, representing CRANES, registered to speak in opposition to the proposal. She read questions from the CRANES letter dated Nov. 12, 2009.

Emmy Lou Immell, 6608 Boulder, Middleton, registered to speak in opposition to the proposal. She stated the timing of the proposal was wrong, due to the recession. She stated that she would prefer open country over development in the amendment area, and expressed concern over urbanization impacts on agriculture.

Harry Read, 2545 Van Hise Ave., Madison, representing CRANES, registered to speak against the proposal. He read questions from the CRANES letter dated Nov. 12, 2009. He stated that the proposal uses half of the residential growth allocated to CUSA over the next 20 years. The proposal did not appear to be transit-oriented, and was wasteful of public facilities since it would require new schools while other area schools faced closure. He requested further consideration of more integrated transportation planning.

Martin David, 2603 Middleton Beach Road, Middleton, registered to speak in opposition to the proposal. Written comments were submitted for the record. He described the flooding and economic downturn of the past two years as reasons to oppose the proposal, since they are indicative of future events. He asked questions posed in his submitted comment.

Howard Teal, 7124 Companion Ln, Middleton, registered in support of the proposal. He stated he served on the City of Middleton council and was a 40-year city resident.

He stated the proposal was part of a long and deliberate process, and would be implemented over time.

The following individuals registered in opposition: Kevin Ducey, 29 E. Wilson St. #308, Madison; Bridget Brown, 29 E. Wilson St. #308, Madison; Marty Pfeiffer, 7505 Voss Pkwy, Middleton.

Derek Hungness, 6634 Whittlesey Road, Middleton, representing Middleton Plan Commission and Middleton-Westport Joint Zoning Committee, registered in support of the proposal. Mr. Miller closed the public hearing.

c. Consideration of Resolution CARPC No. 2009-14

(Action deferred to meeting of December 10, 2009.) Motion by Ms. Euclide, second by Mr. Sonnentag, to send the application to Dane County Lakes and Watershed Commission (LWC) for review and comment. Mr. Miller asked for rationale for the motion. Ms. Euclide stated that the premise of the LWC was to review issues; given the size and proximity of the proposal to Lake Mendota, it would be appropriate and helpful for LWC to review and comment. Mr. Sonnentag asked Howard Teal (LWC board member) for comment; Mr. Teal expressed uncertainty that LWC could provide technical review and comment in a short time period. Mr. Sonnentag withdrew his second; Mr. Minihan seconded the motion. Mr. Miller questioned why CARPC would refer an item to a Dane County commission, and what information or benefit would be gained by doing so. Ms. Euclide stated that the view of LWC was broader than the more strict, engineering-based review provided by CARPC staff. Significant taxpayer dollars had been spent to preserve water quality and quantity in the watershed, which merited broader review. Mr. Hiniker stated that CARPC review lacked the perspectives of biologists or ecologists, and a broader review without unreasonable delays would not be harmful. Mr. Miller asked if LWC had the expertise referenced by Mr. Hiniker; Mr. Mesbah answered that to his knowledge the LWC essentially had one employee, its Coordinator. Mr. Kakuska stated that LWC would likely refer technical matters to Dane County Land and Water Resources staff. Discussion followed. Mr. Van Kampen asked if the motion would indicate a deadline for LWC comment; Mr. Euclide stated that the motion should indicate that the deadline for LWC comment is the next CARPC meeting on December 10, 2009. There were no objections; discussion continued. Motion as amended carried on voice vote 5-3 (Messrs. Brink, Miller and Sonnentag voting no).

6. Public Hearing: Consideration of Resolution CARPC No. 2009-12 amending the Dane County Land Use and Transportation Plan and Dane County Water Quality Plan by revising the Central Urban Service Area boundary in the City of Madison

a. Staff Presentation

None.

b. Open Public Hearing to take testimony from registrants; close Public Hearing

Michael Waidelich, City of Madison Planning Division, 214 MLK Jr. Blvd., registered in support of the proposal and was available for questions.

c. Consideration of Resolution CARPC No. 2009-12 (actionable item)

Moved by Mr. Van Kampen, seconded by Ms. Gibson, to approve Resolution CARPC No. 2009-12. Motion carried unanimously on voice vote.

9. Consideration of Executive Committee recommendation to implement a policy requiring that staff analysis reports of Urban and Limited Service Area amendment requests be completed and distributed to the Commission and public 30 days prior to the public hearing of the amendment request

Mr. St. Peter stated that he was asked if a public hearing was required to consider this item; he stated his opinion that it was not. Moved by Ms. Euclide, seconded by Mr. Hiniker, to implement a policy requiring that staff analysis reports of USA and LSA amendment requested be completed and distributed to the Commission and public 30 days prior to the public hearing of the amendment request. Mr. Mesbah stated that staff supported the policy; the staff analysis reports would be distributed concurrently with the public hearing notice providing a better information package for review and comment by the public and other stakeholders. He noted that the change would also provide more time for CARPC staff to discuss conditions and standards of approval with applicants. Mr. Miller expressed concern that the policy would create backlogs of amendment requests; he stated that the Commission should be prepared to add a second monthly meeting for those amendments on which action has been deferred. Discussion continued. Motion carried unanimously on voice vote.

10. Consideration of authorizing contract to complete a housing analysis study

Ms. Weber provided a brief explanation on the purpose of the study. Moved by Mr. Van Kampen, seconded by Ms. Gibson, to authorize the contract. Motion carried unanimously by voice vote.

11. Consideration of Contract with WDNR for 2010 projects: Yahara CLEAN, Black Earth Creek, and Appendix B update

Mr. Mesbah noted that because draft contracts had not yet been received from DNR by CARPC, the item should be deferred. Action deferred by unanimous consent.

12. Consideration of Personnel Committee appointment (Commissioner Van Kampen)

Motion by Ms. Gibson, second by Mr. Sonnentag, to appoint Mr. Van Kampen to the Personnel Committee. Motion carried unanimously on voice vote (Mr. Van Kampen abstained).

13. Distribution of 2008 financial audit and Consideration of hiring Schenck Business Solutions to conduct 2009 financial audit

Motion by Mr. Sonnentag, second by Ms. Gibson, to hire Schenck Business Solutions to conduct the CARPC 2009 financial audit. Motion carried unanimously on voice vote.

14. Communications

Three items were provided at members' places: 1) packet of 10 comments received through November 12, 2009, 4:30 p.m. regarding the Bishop's Bay amendment request; 2) draft contract to conduct a housing study; and 3) letter dated Oct. 7, 2009, from Robert Phillips, Interim City Engineer, City of Madison, expressing concern about the proposed CARPC staff conditions of approval for the Verona amendment request.

15. Report of Chair / Discussion

a. Report on Executive Committee meeting of November 12

Mr. Miller reported that the Executive Committee approved payment of bills. He noted that he would not be present for the December 10 meeting. He requested Mr. St. Peter attend the meeting; there were no objections.

16. Report of Deputy Director / Discussion

None.

17. Future agenda items

None requested.

18. Adjournment

Moved by Mr. Brink, seconded by Mr. Sonnentag, to adjourn; motion carried at 11:33 p.m.

Recorded by Chris Gjestson

CRANES

Capital Region
Advocacy Network
for Environmental
Sustainability

On behalf of its member organizations and individuals, advocating collaboratively for the environment of the South Central Wisconsin region (eight counties: Columbia, Dane, Dodge, Green, Iowa, Jefferson, Rock and Sauk) toward a high quality of life; an ecologically sustainable and just culture; and, the celebration of the beauty of this place, both natural and built.

VISION The Capital area's environment, including water, land, and air resources, will be conserved or restored to ensure the region's quality of life and the beauty of this special place, for all who live or visit here, now and in the future.

FOUNDERS & INTERIM STEERING GROUP

Jon Becker

Don Hammes

Phyllis Hasbrouck, Vice-President

John Hendrick

Libby Lewis

Peter McKeever, Treasurer

Harry Read

Caryl Terrell, Secretary

Connie Threinen

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Capital Area Regional Planning Commission

Jeff Miller, Chair

c/o Kamran Mesbah, Commission Staff

City-County Building Rm. 362

210 Martin Luther King Jr. Blvd

Madison, WI 53703

12 November 2009

Re: City of Middleton/Town of Westport CUSA named Bishops Bay

Dear Chair Miller and CARPC Commissioners:

The Capital Region Advocacy Network for Environmental Sustainability (CRANES) urges a vote to deny the Central Urban Service Area (CUSA) amendment application by the City of Middleton and the Town of Westport, scheduled for initial consideration by the Capital Area Regional Planning Commission (CARPC) on 12 November 2009.

The opposition of CRANES to this application is grounded primarily in the many unanswered questions about the amendment's impacts on water quality and quantity, and the region's environmental sustainability, as well as many other matters in the public interest. Please see the attached list of questions, which were formulated in just the five days since the application and the CARPC staff report were posted. The studies and data that will allow CARPC and the public to make a fully informed decision about the merits of this proposal are lacking; a "No" vote will send a clear message that this application was not ripe for consideration, much less approval.

There is also the matter of intercommunity equity; this application, if approved, because of its size alone will perforce place many burdens on other neighboring or downstream communities, in Dane County and beyond, while necessarily limiting their own planning options.

Moreover, it is the position of CRANES that such nontrivial USA amendment applications can only be considered properly by CARPC after completion of two important planning programs: (1) the FUDA process; and, (2) a watershed-level intergovernmental study of water quality and quantity issues. We urge a moratorium on the review of this and other USA applications of sizeable acreage and/or natural resource impacts until this crucial planning is completed. The floods of 2008 and climate-change-driven precipitation trends, warn that any other approach likely threatens public safety.

Additionally, CRANES maintains that, prior to further consideration of such nontrivial applications, transportation planning by entities such as the MPO and the RTA must be integrated with that of CARPC. For CARPC to proceed otherwise could mean that huge developments are built that cause new severe traffic problems, only to find the public unwilling or even unable to fund new roads or other transit solutions.

CRANES therefore urges a NO vote on this application, and also requests a moratorium on the review of future such nontrivial USA applications until this crucial FUDA, watershed-level, and transportation planning is completed.

Cordially,



Gary Werner

for the CRANES Interim Steering Group

ADDENDUM: The potential regional impact of such large USA amendment applications requires responsible public input that takes time to prepare. This application, as well as any others over 50 acres (and smaller applications with significant natural resource implications) should require a minimum 90-day period for review by the public. To be fair, the public should then be provided the opportunity to report findings to CARPC in a way that provides equity with the opportunity provided the applicant. CRANES requested these procedural enhancements in October 2008, and thus asks that CARPC enact these immediately, applying them to current applications.

QUESTIONS REGARDING THE CITY OF MIDDLETON AND BISHOPS BAY CUSA REQUEST

Apart from all of the conceptual plans presented by Mr. Wall:

1. Where is the Water Plan both for human consumption as well as for fire protection?
2. Where is the Sewer and Water Utility plan?
3. Where is the Transportation plan?
4. Where is the plan to build and finance two schools that will be needed for the 900+ projected students? In Monona, it cost \$25 million to build one school. Are taxpayers ready to spend \$50 million?
5. Where is the marketing analysis showing the market area and market potential?
6. Why is there only a conceptual Stormwater Plan with very little detail of actual practices to be employed?
7. For example, what will the volume of stormwater runoff be for 1yr., 2yr, 5 yr., 10yr., 25yr., and 100-year storm events after a 5-year build out, after a 10-year build out, a 15-year build out and 25-year build out?
8. Have all cumulative impacts been determined for the 25 year build out period?
9. How much of the projected increase in stormwater runoff from the entire 910-acre area is going to eventually drain into Lake Mendota?
10. How often will the increased stormwater runoff to Lake Mendota cause flooding to the Isthmus in Madison, the homes on the south end of Lake Monona and the low areas of Lake Waubesa? And, how high will the floodwaters be?
11. Considering anticipated increases in large storm events, due to climate change over the 25-year build out period, how much will stormwater runoff increase over the 25-year build out period and what will be done to contain this additional stormwater runoff?
12. What plan exists to maintain the numerous proposed stormwater detention ponds? Who will dredge them when they fill with sediment from stormwater runoff? Who will pay for the dredging? How often will they be dredged? What will happen to the Dorn Creek Fishery area and Lake Mendota if dredging never occurs?
13. How well will detention ponds and other stormwater control measure work when they are frozen? When the ground is frozen? When large snowfalls occur or heavy spring rainfalls on frozen ground?
14. The DNR wetland inventory maps are badly out of date. Why were these relied upon to determine the number and size of wetlands in the 910 acre development area?
15. Shouldn't treatment trains for stormwater from all residential, commercial and institutional development be detailed in the proposed amendment? Isn't an 80% reduction in solids a weak standard considering the sensitivity of the area?
16. Why are best management practices in the developed area only proposed and how can proposed best management practices be evaluated as required in NR 121?
17. How can CARPC and the public participate in the evaluation of specific water quality plans for this area if only concept plans are submitted for evaluation?

QUESTIONS REGARDING THE CITY OF MIDDLETON AND BISHOPS BAY CUSA REQUEST

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18. What will the total impervious surface area for the entire area be after the 25-year build out period?
 19. What is the anticipated loss of groundwater levels due the elimination of infiltration from the total impervious surface area?
 20. What impact will occur from the loss of groundwater on the flora and fauna of these areas? On the wildlife? And on migratory songbird and waterfowl populations?
 21. What other impacts will there be from the loss of groundwater to the nearby Dorn Creek wetlands, Dorn Creek, the Pheasant Branch Creek, the Pheasant Branch Conservancy wetlands, Fredrick Springs and Lost Lake pond?
 22. What does the sub-surface water model for the county tell us about the location of aquifers and the direction of water flow for this area?
 23. Will Westport be able to site a new well that won't dewater Dorn Creek and the Dorn Creek wetlands?
 24. Will Middleton be able to site a new well that won't decrease base flows for Dorn Creek, Pheasant Branch Creek and the Frederick Springs? Has anyone studied these questions?
 25. How much of a decrease in the 50,000 gallon an hour flow rate will occur at the Fredrick Springs? How will this decrease impact Lake Mendota and the entire chain of lakes?
 42. Why does the developer believe that the average water consumption per person will be 72gpd instead of the average value for the City of Middleton of 200 gpd? 6, 426 persons using 200gpd per day is 1.3 million gallons of water a day which is over half of the existing storage capacity of water in Middleton. Will this use plus fire fighting use exceed the available water supply?
 - 26 What will the impact be on the fishery and fish spawning activities?
 27. Why isn't the design and location of the proposed rain gardens specified? How can stormwater retention goals be reached without a mandate for rain gardens instead of making them an optional activity for homeowners and commercial businesses?

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- 26 Why is the CUSA amendment even here tonight when on July 9, 2009, Toby Ginder, the City of Middleton's Director of Public Works stated in a memorandum, "We simply don't know if the (utility) connections and extensions, as shown (in the draft plan), will be adequate or not. And, "I suggested that the developer commission a detailed utility study that would give us definitive information." And,"For this reason, my **recommendation is to defer action on the application until the utility study is complete.**"
 27. The present sewer pipes are near capacity. How many hundreds of feet of sewer pipe will need to be replaced along Valley Ridge Road and Century Avenue with larger diameter pipes to handle the anticipated volume of sewage? Or, how many hundreds of feet of new sewer pipe will need to be installed to handle the anticipated volume of sewage?
 28. Will larger water mains have to be installed to maintain water pressure if this project is built?
 29. Has the city of Middleton budgeted for any of these large water and sewer expenses? Have any estimates been made of what these expenses might be?

QUESTIONS REGARDING THE CITY OF MIDDLETON AND BISHOPS BAY CUSA REQUEST

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31. How many total acres of wetlands and/or hydric soils are present in the 910-acre development? Have the necessary number of soil borings been made in the entire area both to test the soil and to determine the groundwater table?
32. How can a pond or lake be constructed in wetlands located in the northwest sector without breaking NR104 wetland regulations?
33. What will the impact be to wetland areas if large commercial buildings and large paved parking lots are constructed next to these sensitive areas?
34. What contribution do the perennial streams located in the north end of the 910-acre development area make to the Dorn Creek Fishery area? What invertebrates, plants and animals are dependent upon these perennial streams?
35. If the flow from these perennial streams is stopped by the development what impact will this have on the flora and fauna of Dorn Creek and the Dorn Creek wetlands?
36. If the flow from these streams is increased by stormwater from the development what impact will this have on the flora and fauna of Dorn Creek and the Dorn Creek wetlands?
37. For prairies to survive they need to be burned. How will a combination housing/prairie neighborhood be able to conduct prairie burns without exposing the housing to fire hazards and endangering residents with asthma and other lung ailments?
38. How will the inland flow during heavy rain events be prevented from causing erosion at road cuts on slopes?
39. Blandings Turtles are on the Endangered Species list in Wisconsin and present in the Pheasant Branch marsh. Has an investigation been made to determine if Blandings Turtles are living in the proposed amended area?
40. Has an investigation been made to determine if there are other endangered and threatened species living in and adjacent to the proposed amended area?
41. What precautions are being taken to protect the viewshed of the area from Governor Nelson State Park and from the Dorn Creek area? Where are the applicant's sightline analyses and related general building height restrictions for the site?
42. The erosion of soil and the transfer of pollutants are known to occur at an increased rate during construction. Where is the erosion control plan and the stormwater management plan to be implemented during construction?
43. Won't most traffic that exits the development on Onken Rd or even Hwy Q still end up on Hwy M? Given that Co Hwy M is already rated very congested by the Transportation Planning Board (MPO), and the County just upgraded Hwy M, are you prepared to have all this traffic added to a roadway that is already at capacity?
44. Since it is highly unlikely that there will be federal (MPO) or county funding available for Onken Rd, Cty Hwy M, Cty Hwy Q, and the North Mendota Parkway, are the municipalities ready to assume road construction costs of \$1 million per mile or more via property taxes or impact fees?

QUESTIONS REGARDING THE CITY OF MIDDLETON AND BISHOPS BAY CUSA REQUEST

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46. How will an estimated 40,000 trips per day from nearly 7,000 residents and business traffic from 100 acres of commercial/institutional buildings be accommodated with the existing traffic control plan? Seriously, how can a CARPC Urban Service Area decision be made without a traffic impact study for this area?
47. Is there insufficient undeveloped land in the CUSA to maintain a 20 year supply of developable land? If there is enough undeveloped land already in the CUSA to meet this standard, how can this proposal be justified for approval now?
48. Does anybody know what the existing inventory for undeveloped sites is for the Central Urban Service Area or how many housing and commercial developments are already approved, but not being built due to the economy?
49. For example, why hasn't Mr. Wall done anything with his already approved development in Middleton called Tribeca, or his already approved development in Fitchburg? With a poor housing market and many empty retail buildings in Middleton how long will Bishops Bay land sit idle? Does anyone know?
50. Do CARPC members believe that after only a few days of receiving the Bishops Bay staff report and only a few days for the public to examine the staff report that a vote on the project tonight can be appropriate? Wouldn't a minimum 90-day examination period be in order for a project of this size?
51. Wouldn't it be a good idea for CARPC members to tour the proposed amendment area and observe possible impacts, the close proximity of the Dorn Creek Wetlands and other important natural resource features?
52. Regarding the 3-minute public speaking rule, why doesn't the chair, when appropriate, allow extended input by the scientific community and others at public hearings, especially for projects as large as Bishops Bay?
53. CARPC standards for new USAs are to increase the density of development in each community. How can this proposed development possibly meet or exceed those density standards?
54. Dane County has a long-standing policy in its Comprehensive Plan to maintain open-space separation between communities. How will the separation between Middleton, Waunakee, and Westport be maintained if this proposed development sprawls one community into another?
55. How many existing jobs (in the agricultural sector, etc) will be lost because of this development? How many potential "green collar" jobs will be lost that could have been created if this land were not developed? Is the net job impact positive or negative?
56. With the upcoming Verona development, the large developments planned in DeForest, the upcoming holidays and all why doesn't CARPC put a moratorium on all CUSA's until next year and use this time to complete the Future Urban Development Area (FUDA) study?
57. How can proposed USA expansions of nearly 1000 acres, like this one, be approved without making the FUDA planning process a moot, useless exercise?
58. The business employment expansion is estimated between 1,200 and 1,870 employees in the application text, but this number does not match the 268 employees used in App. J. What is the explanation for this discrepancy?

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