

## **Supplement A: Enabling Resolutions and Authorizing Actions**

Supplement A includes enabling resolutions and authorizing actions, taken by participating communities, regarding FUDA planning.

### **CARPC Resolutions**

The Capital Area Regional Planning Commission (CARPC) was created on May 2, 2007, by Executive Order #197 of Wisconsin Governor James Doyle pursuant to §66.0309 Wis. Stats. The creation was requested in the form of adopted resolutions by local units of government in Dane County representing over 87 percent of the population and equalized property valuation in the county. The resolutions included language regarding Future Urban Development Area (FUDA) planning in Section 7 of the model resolution (used as the basis for resolutions adopted by local municipalities) that reads:

7. The CARPC shall work with communities to update the Dane County Water Quality Plan. In addition to the elements required by NR 121 of the Wisconsin Administrative Code, the Water Quality Plan shall also define areas that should be protected from development based on provisions to protect water quality as contained in NR 121 of the Wisconsin Administrative Code. The Plan shall also define areas that can be developed with measures to protect, restore or minimize degradation of water quality.

The Plan shall also define a 25-year Future Urban Development Area with 5-year updates. The Plan shall be developed in cooperation with area communities, including towns, and shall consider adopted comprehensive plans and intergovernmental agreements. The Plan shall be developed as follows:

- a. CARPC staff shall provide communities with environmental condition reports consisting of maps, text, and information identifying environmental issues that should be addressed.
- b. The CARPC shall give priority to areas of the highest environmental sensitivity and growth pressure. These areas are: all communities within the Central Urban Service Area; all communities within the Northern Urban Service Area; all urban service areas with a year 2000 Census population of 3,000 or more; and the Black Earth Urban Service Area. The CARPC should, in general, provide assistance with planning for the Future Urban Development Area of other urban service areas after assisting the priority communities. The CARPC's Executive Director shall provide to the CARPC a 3-year work plan with points of reference and an annual progress report with recommendations.
- c. The Plan, which will identify the 25 Future Urban Development Area, shall be based on the requirements of NR 121 and shall also consider other factors including the impacts on natural and built systems, the efficient use of land including urban densities, and the ability to efficiently provide services to support the development and farmland preservation planning.
- d. There shall be separate rules and policies for limited service areas.

- e. The CARPC shall adopt policies and procedures for the considerations of amendments to the Water Quality Plan between five-year updates of the Water Quality Plan.
- f. The CARPC shall provide the information described in Item a. to areas with the highest environmental sensitivity and growth pressure within three years of the date the CARPC commences operations.
- g. Communities shall submit their proposed Future Urban Development Area within 24 months of the date they receive the data from the CARPC. If a community does not meet this timeline, the CARPC shall not act on any individual USA expansion requests until the proposed plan is submitted. CARPC may grant one six-month extension to this timeline.
- h. The CARPC shall act on the proposed Future Urban Development Area plan within a year of the plan's submission. If CARPC fails to do so, the plan shall be acted upon by the Budget and Personnel Panel.
- i. The CARPC may not shift its staff work and analysis responsibilities to the local communities.

Resolutions with the above language, adopted by participating FUDA communities, were:

Village of DeForest – Resolution number: 2006-30. Adopted: 6.5.2006

#### **FUDA Steering Committee Appointments**

Communities approved appointments to the FUDA steering committee. The following are excerpts from Village and Town Board meeting minutes, approving appointments.

##### **Village of DeForest**

Village Board Meeting, October 18, 2010

##### **14) President's Report**

##### **14.1) Appointment of Trustee and Member-at-Large to FUDA**

Motion by President Jeff Miller, no second required to appoint Trustee Paul Blount to FUDA. Motion carried 6-0 with Trustee Paul Blount abstaining.

Village Board Meeting, November 3, 2010

##### **14) President's Report**

##### **14.1) Appointment of Scott Mink as At-Large Representative to FUDA**

Motion by President Miller, no second required, to appoint Scott Mike as the At-Large member to FUDA. Motion carried 7-0.

##### **14.2) Appointment of Jim Simpson as Planning and Zoning Representative to FUDA**

Motion by President Miller, no second required, to appoint Jim Simpson as the Planning & Zoning member to FUDA. Motion carried 7-0.

Town of Windsor

Excerpt from October 7, 2010 Town Board meeting minutes:

*17. Capital Area Region Plan Commission (CARPC) Future Urban Development Area (FUDA) Committee Appointments.*

*Town Engineer Richardson stated that there needs to be one Town Board members, one Commission member, and one citizen member representing Windsor. There will be meetings with Vienna and DeForest as to what should be future development. The commitment may be six meetings. Town Engineer Richardson said he would discuss this with Chairperson Harvey as to who would be interested.*

*Town Attorney Bechler added that it is really important that Windsor have representatives at the meetings.*

*Supervisor Stravinski indicated he would be interested in representing Windsor.*

*A motion was made by Supervisor Stravinski, seconded by Supervisor Madelung, to authorize staff to work, in consultation with the chair, to make appointments to the committee. Motion carried with a 4-0 vote.*

#### **Town of Vienna**

**Excerpt from May 16, 2011 Town Board meeting minutes:**

*The Future Urban Development Area needs more representation from the Town of Vienna. The desire is to have a Board member, Plan Commission member and citizen representative. Greg Smithback represents the Plan Commission. We will work on trying to recruit for the other positions.*

**Excerpt from the June 20, 2011 Town Board meeting minutes:**

*Future Urban Development Area Steering Committee: Chairman Breggeman appointed Supervisor Freppon to represent the Town Board on the FUDA Committee. Robert Pulvermacher and Rick Mueller expressed interest in serving as the citizen representative on this committee. Mr. Mueller was present at the meeting and spoke about his interest in serving. Motion by Marquardt, 2nd by Breggeman to appoint Rick Mueller to the Future Urban Development Area Steering Committee. All yes.*

## **RESOLUTION 2006-30**

### **A RESOLUTION PETITIONING THE GOVERNOR OF WISCONSIN TO CREATE A CAPITAL AREA WISCONSIN REGIONAL PLANNING COMMISSION**

**WHEREAS**, the need to preserve the natural resources and beauty of the region surrounding Wisconsin's capital require that local units of government work together to address environmental concerns which transcend municipal boundaries;

**WHEREAS**, cooperative efforts can pool scarce resources to create a public agency which can act as a resource for the community development efforts of local units of government in the capital area of Wisconsin;

**WHEREAS**, the most appropriate legal means available for engaging in such cooperative efforts appears to be creation of a regional planning commission under sec. 66.0309, Wis. Stats.;

**WHEREAS**, that statute provides that the Governor may create a regional planning commission upon petition of a local unit of government and if the creation is consented to by local units representing fifty percent of the population and fifty percent of the equalized value of the proposed region; and

**WHEREAS**, the statute further provides in sec. 66.0309 (3)(b) that the membership composition of a regional planning commission shall be in accordance with resolutions adopted by a majority of the local units in the region having at least one-half the population of the proposed region; and

**WHEREAS**, section 66.0301 of the Wisconsin Statutes allows counties, towns, villages and cities jointly to exercise any power they possess, and the parties hereto intend that the agreements contained herein be binding on each of them and on the CARPC, once created, under authority of that statute;

**NOW, THEREFORE**, be it resolved, pursuant to secs. 66.0301 and 66.0309, Wis. Stats., that:

1. The recitals set forth above are incorporated herein by reference and made part of this Resolution.
2. The territory of the proposed Capital Area Regional Planning Commission shall be all of Dane County.
3. The Village of DeForest hereby petitions the Governor of Wisconsin to create the Capital Area Regional Planning Commission with membership as defined in this resolution.
4. The Village of DeForest hereby consents to creation by the Governor of Wisconsin of the Capital Area Regional Planning Commission with membership as defined in this resolution.
5. The Village of DeForest hereby states its support for having the Governor of Wisconsin designate, under NR 121.06(2), the Capital Area Regional

Planning Commission as the agency capable of developing effective areawide water quality plans for Dane County.

6. The membership plan of the Capital Area Regional Planning Commission shall be as follows:

- a. Thirteen members to consist of:
  - i. Four members appointed by the Mayor of the City of Madison from the area of and representing the City of Madison;
  - ii. Three members appointed by the Dane County Cities and Villages Association from the area of, and representing cities and villages;
  - iii. Three members appointed by the Dane County Towns Association from the area of and representing towns.
  - iv. Three members appointed by the Dane County Executive, one from each of the three areas enumerated in subparagraphs 6 a. i through iii above.
- b. No more than three of the thirteen members of the Commission may be members of the Dane County Board of Supervisors.
- c. Any modifications in the sewer service areas shall require at least eight (8) votes.
- d. Each member of the Commission shall serve a term of three (3) years. The initial members from each appointing authority shall be appointed by the appointing authority for initial terms of one, two or three years such that the terms of the members are staggered and one-third of the Commission is appointed each year. The appointing authority shall determine which members shall serve the various terms.
- e. A member of the Commission may be removed by the appointing authority for cause, as defined in the Commission's by-laws.
- f. There shall be a Budget and Personnel Panel of the Capital Area Regional Planning Commission which shall consist of:
  - i. The Mayor of the City of Madison;
  - ii. The Dane County Executive
  - iii. The President of the Dane County Towns Association; and
  - iv. The President of the Dane County Cities and Villages Association.
  - v. The chairperson of the Regional Planning Commission, as a non-voting member.

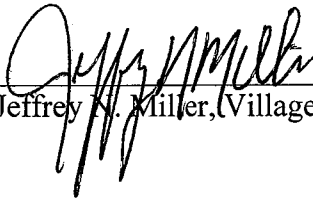
- g. The Budget and Personnel Panel shall have the power, on behalf of and with advice of the CARPC:
    - i. to establish the levy and user fees and adopt the annual operating budget for the CARPC. The Budget and Personnel Panel may adopt a levy less than the statutory maximum;
    - ii. to hire the Executive Director from a list of three candidates selected by the CARPC.
    - iii. To remove the Executive Director, at pleasure.
    - iv. The Budget & Personnel Panel may act on the business referred to in paragraphs i through iii only at a meeting at which all four members of the Panel are present.
    - v. At any time after the CARPC has been in existence for one year following its creation by the Governor of Wisconsin, the Budget and Personnel Panel may, by a vote of three of its four members, change or transfer to the CARPC its responsibilities referred to in paragraphs ii and iii.
  - h. The undertaking municipalities agree and hereby contract that the annual levy charged by the CARPC shall not exceed .0017 percent of equalized value under the CARPC's jurisdiction and within the region. The annual increase in the levy for the CARPC may not exceed the increase allowed under any levy limitations which apply to Dane County. The parties agree that there shall be user fees charged, not to exceed actual costs incurred, to review sewer extension requests from local units of government, town sanitary districts, town utility districts, and metropolitan sewerage districts. The user fees shall be in addition to the net levy for the subsequent budget year as established by the Panel. The parties also agree that the Budget and Personnel Panel shall submit its proposed levy to Dane County no later than August 1 of each year. If the Budget and Personnel Panel or CARPC fail to timely submit a levy or budget, then the levy and budget in effect for the current year shall continue for the next year.
7. The CARPC shall work with communities to update the Dane County Water Quality Plan. In addition to the elements required by NR 121 of the Wisconsin Administrative Code, the Water Quality Plan shall also define areas that should be protected from development based on provisions to protect water quality as contained in NR 121 of the Wisconsin Administrative Code. The Plan shall also define areas that can be developed with measures to protect, restore or minimize degradation of water quality.

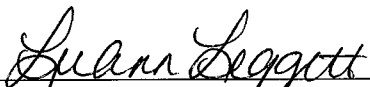
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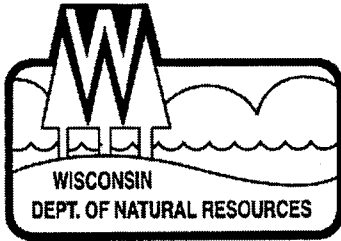
**ADOPTED** at a regular meeting of the DeForest Village Board this 5<sup>h</sup> day of June, 2006.

  
\_\_\_\_\_  
Jeffrey N. Miller, Village President

Attest:   
\_\_\_\_\_  
LuAnn Leggett, Village Clerk

Vote: 6-0 Date Adopted: 6.5.06





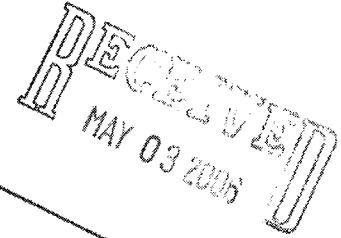
## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

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May 2, 2006

Jeff Miller  
Dane County Cities and Villages Association  
125 Renata Ct.  
DeForest, WI 53532



Subject: Areawide Water Quality Planning

Dear Mr. Miller:

We are encouraged by the progress of negotiations that has occurred between your association, Dane County, Dane County Towns Association, and the City of Madison to create a regional planning commission. The preliminary proposals that we have reviewed provide a sound framework for orderly development in Dane County that protects and preserves the environment. In particular, we are encouraged by that part of the proposal that establishes a process for amending the Dane County Areawide Water Quality Plan including the development of revised sewer service areas.

A number of parties have requested additional information about water quality planning and sewer service area planning in Dane County and statewide. In the paragraphs below, we provide answers to two questions that have been raised.

1. What is the legal basis for the development of areawide water quality planning and sewer service areas?

Answer: Under authority contained in ss 281.11 to 281.15, 281.17 to 281.20 and 283.83, Stats, chapter NR 121, Wis. Adm. Code establishes regulations specifying policies, procedures and requirements for Wisconsin's areawide water quality planning process. This process will result in the preparation throughout the state of areawide plans for managing the quality of waters of the state. Under the above state statutory authority, DNR has the responsibility for the general supervision of this continuing water pollution control planning process. In areas of the state designated by the governor, the preparation of areawide water quality management plans is the responsibility of designated areawide water quality planning agencies. Each water quality management plan must include a projected sewer service area under ss. NR 121.05 (g), Wis. Adm. Code. This is required regardless whether DNR or the designated planning agency prepares the plan. Sewer plans submitted to DNR must be in accordance with sewer service areas contained in the areawide plan. This regulatory structure has been in place for over 25 years in Dane County, and other populated areas in Southeast and Northeast Wisconsin. The approval of literally thousands of sanitary sewer plans over that period has been governed by this regulatory process.

2. What are the consequences of continued state responsibility over areawide water quality planning and sewer service area amendment and conformance reviews in Dane County?

Answer: We understand that some communities, organizations or individuals would prefer the current arrangement. DNR does not share this assessment. In fact, the following comments from my October 24,

2005 letter to Michael King regarding reconsideration of our approval of a sewer service area amendment for Verona remain appropriate:

"I am certain that there will be sewer service area amendments in the future that generate significant environmental consequences that are more complex than those identified in this particular sewer service amendment. With continued state review only, county and municipal government will lose local control over development in Dane County. With recently enacted federal funding cuts by Congress and the Bush Administration that previously supported state review of water quality plan amendments and absent county policy review, all parties should expect significant delays in processing amendments. In the end, the current state review process, if it is maintained as it is now, will increase uncertainty over development proposals."

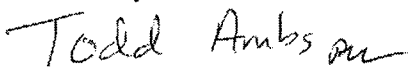
In the 6 months since October, EPA has proposed additional funding cuts which will force DNR to further reduce staff resources to do areawide water quality planning in Dane County and to decrease our financial support of the Dane County Community Analysis and Planning Division. We have already experienced an increase in the time it takes to process sewer service area amendments above our target of 45 days. With full input by local government in the amendment process, we expect additional process complexity if DNR continues to do the review.

Complex and lengthy reviews with uncertain outcomes will not be acceptable to the stakeholders. If a final agreement to create an independent local planning agency is not implemented soon, DNR will have no choice but to consider other approaches including the designation of an existing local government entity to conduct areawide water quality planning and sewer service area amendment reviews. The entity would need to have the staff, resources, and technical capability to complete such reviews as required under Chapter NR 121, Wis. Adm. Code.

Please note that our highest review priority will continue to be sewer extension reviews for development projects within the existing sewer service area. We expect no increased delays in processing these non-complex projects.

Again, thank you for your active participation in the negotiation process. Similar letters are being sent to the other participants in the negotiations. Please feel free to share this letter with other interested parties that did not participate in the negotiations. If you or anyone else have questions about this letter, please contact Roger Larson or me.

Sincerely,



Todd Ambs, Administrator  
Division of Water

cc: Michael King - CAPD  
Lloyd Eagan - South Central Region  
Forbes McIntosh

# MEMORANDUM

TO: Dane County City, Village, Town and County Officials

FROM: Gerald H Derr, Dane County Towns Association President  
Jeff Miller, Dane County Cities and Villages Association President

DATE: April 25, 2006

RE: A Status Report on Discussions Related to Forming a New Regional Planning Commission

As you are aware, discussions have been going on for some time among representatives of the local governments on the problem of water quality planning for Dane County. These efforts have most recently focused on crafting a workable framework for a new Regional Planning Commission. This memo is intended to provide you with an update on these efforts. We will start out by providing you with a series of questions and answers in short, summary form. These are followed by the more elaborate information for your review.

1. Why do we need an RPC? Can't we just let all the individual communities submit proposals directly to the DNR?

If that were possible under Wisconsin law, we both would rather have such a system. But, Dane County is subject to a special requirement because of its designation as a county with special water quality problems. Under applicable state law, there must be a designated local agency.

2. Why create an RPC? Didn't that cause all kinds of problems before?

Neither of us would agree, under any circumstances, to recreate the RPC as it existed before 1999. But, with the reapportioned membership and additional safeguards we've built into the new RPC, we believe the chances of the run-away RPC that we experienced before have been minimized. The new structure gives the elected officials of the County much more control over the RPC's finances, and greater control over the Executive Director and staff. Coupled with the membership formula, we believe that that will make for better results.

3. Will the representatives of the City of Madison and the County Executive be able to block urban service area expansions for all the other cities and villages?

The new Commission would be set up so that it would have 13 members, all of whom would have one vote. Adding new urban service areas would require 8 votes. Between the two of them, the County Executive and the Mayor will appoint 7 of those 13. And, yes, in theory, they could act as a block and deny urban service area expansions for other communities. However, the 6 representatives of the towns and the other cities and villages would also have the power to veto proposals in the City of Madison. We think sheer self-interest will prevent either side from vetoing all of the proposals of the other. Further, experience under both former commissions does not show that appointees of any of the organizations uniformly follow directions from their appointing authorities.

4. Isn't there any alternative to a new RPC?

We tried very diligently to work out an alternative, which was going to be called the Council of Governments. The problem was, however, that creating anything other than a Regional Planning Commission would have required the adoption of legislation. We were getting very negative reactions to creating any new bodies with taxing authority from the Legislature. Additionally, we were told quite bluntly by some of the interest groups concerned with this issue that unless the legislation we worked out complied with their demands, they would block it in the Legislature using their political clout. We do not believe that the interests of Dane County citizens should be decided by any special interest group, so we felt it was appropriate to find a vehicle by which the elected officials of the County could shape the County's destiny without having to kowtow to any special interests.

5. How do we know that a new RPC won't get out of control just like the last one?

We have no way of knowing what any appointed body will do. We would also note, however, that we have less control over what the DNR will do than we do over a body composed of members that we appoint. In fact, during the past year, the DNR has unilaterally imposed a moratorium on sewer service expansions and threatened to stop approving them entirely, without authority to do so under Wisconsin law. We don't control the DNR, the Governor does. Our control over the RPC may be indirect, but it's much more feasible than trying to control or influence the DNR.

6. We hear the resolution calls for a 25-year urban service area plan. What is that about?

It's an elaboration on the requirement that already exists in state law for a 20-year sewer service plan. In order to integrate comprehensive plans with sewer service area planning, and also to take into consideration environmental concerns which are broadly shared, the resolution creating the new RPC calls for there to be a plan that would take into consideration comprehensive plans, intergovernmental agreements, and water quality impacts.

7. Will this plan prevent changes in sewer service areas except at 5-year intervals?

No. The plan will have to be updated every five years, which is also required under existing Wisconsin law. The 5-year update is nothing new. The language allows for revisions of the plan at any time if requested by a community in Dane County.

8. Will this new plan be an urban growth boundary?

No, because Wisconsin law does not allow creation of urban growth boundaries. The DNR, reacting to the draft resolution, has indicated that, although they do not object to additional criteria being included in sewer service plans, they will not enforce any criteria beyond those found in state law. State law does not allow for the delineation of an urban growth boundary.

9. How was the representation on the Commission determined?

By negotiation. There would be 13 members of the Commission. It would be apportioned as the last Commission was. There would be 3 Town appointees, 3 from the Cities and Villages, 4 from the City of Madison, and 3 appointed by the County Executive -- one from each of the three previous groups. This would mean that the City of Madison, with 48% of the County's population, would have 5/13ths of the seats on the Commission, one of which would be appointed by the County Executive, not the Mayor. The Cities and Villages would have 4 and the Towns would have 4. Considering that the Towns have 15% of the population of the County, allocating nearly 25% of the seats to the Towns is an attempt to address the fact that the vast majority of the land in Dane County is in the hands of the Towns. The Cities and Villages' 4 representatives is also slightly less than the 32% of the population of the County who reside in small cities and villages. Each of the interest groups with an interest in this issue would, probably, like to have control of the Commission. None of the interest groups has the legal or political authority to take such control.

10. *What's the urgency of moving ahead on this?*

Late in 2005, the DNR informed County and local officials that they must take steps to create a local agency to undertake sewer service reviews. The DNR indicated that if no such agency was created, the DNR would stop approving all urban service area expansions until an agency was created. Because of the progress we have made toward creating a new RPC, the DNR has withheld imposing a moratorium. But, the DNR has made it clear that if we do not create some agency, the DNR will act under the provisions of state law that require it to designate a local agency. Currently, the only agency in Dane County with staff and expertise qualified to perform sewer service reviews would be Dane County. We are convinced that the failure to reach agreement on this RPC issue will lead to a process by which the DNR asks for volunteers to act as the reviewing authority, and only the County is in a position to offer up its services. Whatever we can say about RPCs having problems, we are convinced that having the County perform this would be a disaster.