

Mayor Barrett's Remarks on File #120230 to the Public Works Committee June 20, 2012

Good morning Mr. Chairman and members of the Committee. Thank you for the opportunity to appear this morning and to offer my comments regarding the potential negotiations between Milwaukee and Waukesha relative to the provision of Lake Michigan water.

Over the years, Milwaukee has entered into water service agreements with our neighboring communities. We have done so without compromising our appreciation of the significance of Lake Michigan and the investment our residents have made to protect and sustain this wonderful resource.

The City of Milwaukee is on record in support of the principles outlined in the Great Lakes Compact. It is because of the Great Lakes Compact, and the provision allowing consideration of a sale of Great Lakes water to a community in a straddling county outside the Great Lakes basin, which brings us here today.

This morning, we are not alone in weighing the precedent that may be established in a sale of Great Lakes water to a community in a straddling county outside the Great Lakes basin. Elected officials and community leaders throughout the basin in the U.S. and Canada are watching.

It is because of the precedent and unique nature of providing water to a community that lies entirely outside the basin that we must approach the issue of negotiations with due diligence and respect for the resource and our citizens.

I support entering into negotiations with the City of Waukesha for the provision of water within its current service area. I do not support, at this time, entering into negotiations with the City of Waukesha for a service area that includes municipalities that are not at the table, that have not demonstrated their support of being included in the water service area plan, that have not requested Great Lakes water and have no demonstrable need for Great Lakes water.

I also have concerns with negotiating potential future water service for communities that have not communicated any interest in the provision of Lake Michigan water to the City of Milwaukee. The Compact makes clear that the first threshold to qualify for a diversion is that a community has no reasonable potable water supplies. Outside of an area within the Town of Genesee that currently is served by Waukesha water, there is no – to my knowledge – record that shows the remaining communities have an immediate issue with a safe, potable water supply.

There are communities included in the water supply service area plan which do not need water now or, perhaps, anytime in the future. The town of Genesee has agreed to be included in the expanded water service area plan but has stated that there is no immediate need for Lake Michigan water. The Town of Waukesha has yet to go on the record in support of the water service area plan or the need for Lake Michigan water.

Under Wisconsin State Statutes, a Water Supply Service Area Plan is to be submitted to the DNR prior to applying for a diversion under the Great Lakes Compact. [Wis. Stat. 281.348(3)(b)1]

In addition, approval of the governing bodies of each municipality whose water supply is addressed by the plan is required prior to submitting the plan to the DNR. [Wis. Stat. 281.348(3)(b)2]

To date, the Town of Waukesha has not approved the plan; consequently, the statutory requirements have not been met.

Additionally, I will reiterate my and Alderman Murphy's comments regarding the Preliminary Water Supply Plan for Southeastern Wisconsin: [March, 2009]

"The City of Milwaukee continues to urge SEWRPC to consider a water supply plan that is based upon our understanding of existing groundwater and surface water resources including the constraints on those resources. The availability and quality of water resources should help local governments determine where future growth should occur and should drive land use planning rather than the reverse. The Water Supply Plan should not be based on a premise that water resource limitations be ignored because a particular area is identified as a growth area in the Regional Land Use Plan."

I am open to any potential future conversations and negotiations with the City of Waukesha or other neighboring municipalities relating to the provision of water.

It would be necessary, however, to clarify a number of issues related to the Water Service Area Plan.

To date, the DNR has not even established the administrative rule as directed in Wis. Stat. 281.348(3) to govern the procedures and requirements for Water Supply Service Area Plans. Proposed NR 854 has been stalled since December 2010. I would think before the State declares Waukesha's diversion application complete that the DNR would comply with the statutes.

As you may recall, Alderman Murphy and I addressed DNR Secretary Frank on this issue in June and August 2009 and recommended that the DNR accept no application for diversion until the DNR issued administrative rules and guidelines for implementation of the Compact and those rules were fully implemented.

Since there is no Administrative Rule in place, there is not a clear process for revising the boundaries of the service area. However, contrary to what the Waukesha Water Utility Manager states in his letter yesterday to Alderman Bauman, various statements made in newspaper articles and correspondence indicates he believes there is some ability to amend the water service area. [6/12 JS Article "Waukesha still waiting on town's water decision."]

In yesterday's letter to Ald. Bauman, the Waukesha Water Utility Manager stated:

"A change in the service area can only be made by SEWRPC or the DNR – not the Utility – and would cause unacceptable delays in our approval process. Therefore, a motion by the Milwaukee Common Council to negotiate a water sale for a service area that is inconsistent with the SEWRPC determination will amount to a refusal to negotiate."

However, this seems to contradict the Waukesha Water Utility Manager's comments to the Town of Genesee and the Town of Waukesha in the City of Waukesha's January 10, 2011 correspondence:

"Non-approval by the Town of the City's Great Lakes water supply for the area of the Town designated by SEWRPC will result in this area being deleted from Great Lakes Water Supply Service by the City of Waukesha and revision of the Water Supply Service Area Plan." [emphasis added]

I do not believe that agreeing to negotiate with the City of Waukesha for water to its current service area is a refusal to negotiate, as was suggested, and that is my strong belief.

A newspaper article yesterday indicated that the City of Waukesha could ask SEWRPC to amend the service area to include only the City of Waukesha, but that Waukesha doesn't have time to do that. [6/19 JS Article "Alderman's proposal could thwart Milwaukee, Waukesha water talks."]

Additionally, the statute reads that if the proposal is to provide a public water supply within more than one city, village, or town, any portion of the proposal that provides a public water supply within a community must demonstrate it is without adequate supplies of potable water. [Wis. Stats. 281.346 (4)(bg)(b)]

That is in conflict to what the City of Waukesha said in its January, 2011 letter to the Town of Waukesha: *"The Town of Waukesha water supply is currently provided by private wells. The future decision of whether to develop a Town municipal water supply system is up to the Town of Waukesha. **Municipal Great Lakes water supply would only be provided if needed and requested by the Town of Waukesha.**"*

We need these issues clarified before we can consider a negotiation that involves the expanded water service area. While the portion of the plan and the related documentation that has been provided to us pertaining to the Waukesha Water Utility's existing service area is fairly complete, our ability to negotiate in a fully informed manner is compromised by the lack of clarity regarding the proposed expanded service area.

If the City of Milwaukee is to enter into negotiations over something this important, and I believe we should, than all potential parties of the sale should be at the table. I support Milwaukee and Waukesha moving forward with infrastructure investments that may provide for future expansion of the water service area. Once the return flow issues are resolved by the DNR and the communities that may be impacted by the return of water to the Great Lakes basin, those investments should proceed. However, when the decision is made by those communities that they have a demonstrated need and desire for Lake Michigan water, negotiations and good faith discussions must occur with those communities. These communities are not at the table, and most, at this time, have no intention to request Lake Michigan water.

Any negotiated agreement of this nature carries with it major responsibilities for a very long time. The City of Milwaukee has demonstrated its firm commitment to working with our regional partners, and we welcome any community to discuss how we may provide them future service for this wonderful resource.

Thank you for your time.

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