



WEAL e-Newsletter June 2013

P.O. Box 1532 Brookfield WI 53008

President's Message

By Steve Schmuki

I always thought that the role of our state legislature was to conceive, review, debate and pass good public policy based upon each policy's merits. Wasn't that what we were taught in 4th Grade when we studied Wisconsin and again in High School Civics class when we studied how government works?

Unfortunately, this no longer seems to be the case. And our state legislature seems to be leading the charge – backwards.

The Governor's budget has worked its way through the legislature's Joint Finance Committee and now moves to the floor of the State Assembly and Senate. Ask yourself: **why** are we creating or deconstructing public policy by omissions or commissions within the budget bill? The following are only a few examples of the many environmental policies being altered in a process that circumvents debate and public input, and in some cases prevents the public from knowing which legislators voted for or against a particular policy.

➔ Limiting citizens' rights to challenge permits for high capacity water wells while relieving DNR of its responsibility to review each one for cumulative effects on neighboring water resources.

➔ Removing oversight of commercial construction erosion control from DNR and placing it with the newly created Department of Safety and Professional Service

which has had no experience in such matters.

➔ Reducing the overall bonding authority of the Knowles-Nelson Stewardship Program by approximately \$10 million dollars per year over the next 6 years and directing the DNR to sell at least 10,000 acres of previously acquired public land in the next 4 years.

Public policy decisions should be made in public with State Senators and Assembly Representatives studying and debating these matters and then casting their votes based on the merits of the policy. That's how the legislature is intended to work.

Making or changing policy via budgetary tricks such as amendments to law and funding or defunding programs within the Omnibus Budget bill provides little transparency and even less ability for us, the citizens, to know how our respective representatives voted—in order to hold them accountable at election time. Each of us should demand that our legislature create or deconstruct public policy in the open, debate policies on their merits, and encourage public input from the people whose lives will be affected most immediately by law and policy.

Bypass Fight Continues

By Allen Stasiewski

WEAL and the Coalition Opposed to the West



fight.

Waukesha Bypass continues its

Opposition to the West Bypass continues to grow as more and more Waukesha residents find out details about the project.

The Coalition sponsored a Rally recently along the route and launched an awareness campaign by distributing "No Bypass Yard Signs". The Coalition is also selling "No Bypass" T-Shirts as a fundraiser at WEAL.org.



Coalition members have been busy writing letters to encourage greater scrutiny by politicians and other decision makers.

The Coalition has also created a special Fund that will be used to pay legal expenses should it come to that.

The County recently announced that the final Environmental Impact Statement (FEIS) will be released in late May or early June.

Coalition leaders will be reading the document over carefully to see if the numerous objections to the project submitted during the Public Hearing process last December are addressed in the FEIS!



Accident statistics were again reviewed by Coalition leaders and have once again found the Planners' Statistics to be inflated.

The Planners average annual accident rate for the Bypass route is 76 per year. The Coalition has verified an average of 57 per

year. In either case, this averages out to about 4 or 5 accidents per month, nearly all minor fender benders caused by inattention at stop signs.

This is hardly a reason to spend \$65 million on a new superhighway, when the DOT can't afford to maintain

highways already built. Please support the Coalition by visiting WEAL.org and learning more.



“An average of 4-5 accidents per month is hardly a reason to spend \$65 million on a new superhighway...”

Allen Stasiewski

Contentious Water Supply Area Only One Source of Unease for Waukesha's Diversion Application

The front line of Waukesha's now decade-long attempt to replace its deep aquifer water supply with a Great Lakes diversion over the subcontinental divide has been centered for the last six months over the Town of Waukesha and the question of its inclusion or not in the City's water service area.

Due to legislative changes created by Wis Act 227, sewer service areas must now match water service areas. The last time SEWRPC had updated the sewer service area was 1998, long before the water service area would become a contentious issue.

In December 2009, the City of Waukesha, at its request, received a water service area delineation from SEWRPC, developed with no public discussion or input.

Despite the fact that Act 227 (remember, passed and signed in **2008**) clearly states that a public participation process be conducted for a proposed water service area, and that the governing bodies of townships, cities and villages approve their inclusion in a water service area, it was 2 years after the SEWRPC map was issued, and 3 years after the Compact and Act 227 were signed into law, that the City

and Water Utility got around to asking the Towns of Brookfield, Delafield, Genesee and Waukesha, and the Village of Pewaukee if they wanted to be included in Waukesha's water service area, and therefore in its diversion application.

They then gave the communities a month to sign on or be out.

Brookfield, Delafield and Pewaukee signed immediately, with only very small parcels of each affected. The Town of Genesee's parcel is larger, an estimated one-fifth of the full township. Genesee agreed to include this parcel, but stating that “we do not anticipate needing this water now or in the foreseeable future.”

However, the entirety of the Town of Waukesha had been included by SEWRPC and the Water Utility in the City's water service area, again without the input of Town officials or residents.

In spring 2011, the Town invited the Water Utility make its pitch and held a series of 3 public meetings at which residents could ask questions and voice support or opposition. Overwhelmingly, residents spoke movingly of the

reasons they wanted the Town to maintain its semi-rural character and their privacy. They didn't want city-style development, roads or housing. They knew that being part of the water service area would bring that kind of development with pressure to annex more Town lands into the City. They understood that **No** meant fixing its borders against constant encroachment of the City via annexations.

In the meantime, the City of Waukesha was pressuring the Town to make a decision, while stalling DNR on providing information that DNR had been requesting from the beginning of the application process—the same information that environmental and conservation organizations had called on the City to provide as early as 2004: a detailed justification of the amount of water being requested and how the Utility arrived at the figures of 10.9 million gallon per day (mgd), with a maximum of 18.5 mgd. The DNR also waited for a thorough analysis of the various alternatives to diversion, as well as analysis of a combination of several alternatives. City-issued deadlines came and went, each one threatening to be the “final deadline.” Finally, the

DNR stepped in and set a deadline of January 31, 2013.

On January 24, 2013, the Town Board made its decision: included were most lands inside Hwy 59 and County Road TT and excluded were most lands outside that border. The decision made sense. Town properties already being served by City sewer or water could obtain those services without required annexation. An area where residential wells were contaminated by a nearby fly ash dump were included, as were other residential areas located close to existing City infrastructure.



Once the Town’s decision was made, pushback began in earnest. The Water Utility Manager called it a “stupid decision.” The School District threatened to annex its 100-acre property to the City, then later did. John Marek, running for Town Chairman, who had campaigned mostly on “restoring harmony” to the Town board, vowed to overturn the water decision. Information was released suggesting that private wells in the Town were or would be contaminated with molybdenum, arsenic and manganese, and “What if” scenarios about rail car and tanker truck spills, and wells going dry came from several directions. Marek defeated the incumbent Town Chair by 200 votes on April 4.

The rest of April and most of May were marked by nearly constant meetings of the Town board, with the same agenda item: “Reconsider the water decision.”

During this period, the Town continued to send letters to the City, asking for terms and conditions the City had previously rejected and continued to reject through statements in the Freeman. The City continued to set deadlines . . . and then extend them a few more weeks or days. More annexation requests came in, were granted by the City Plan Commission, then by the full City Council, some even before the Department of Administration had issued its letter of approval or denial. One developer made phone calls and knocked on doors, riling up homeowners with the fear of not being able



obtain City water if their wells failed. The Town’s County Supervisor, who’d been invisible for most of 2008 – 2013, began attending meetings. One resident organized a meeting, then warned that “our homes would be worthless” without water. The sales pitch for inclusion was “a free insurance policy.”

On May 23, with another final deadline looming of May 30, the Town Board voted again, this time 3-2 in favor of the Town’s entire inclusion, rather than the 2-3 it had been. It wasn’t thought the City would accept the same basic terms they’d rejected in April. One term that remained constant was that the City would, if it received Lake Michigan water, abandon its high capacity wells next to Vernon Marsh and agree not to pursue the building of other wells in the Town.



A new item was added, allowing the Town ability to negotiate sewer service with the Town of Big Bend, which is developing its own water supply and wastewater treatment systems. Town residents in the hard-to-reach SE corner of the Town would more easily access Big Bend, rather than City, services.

Also new is tweaked wording from the City regarding compulsory annexation if Town properties would request hook-ups to sewer/water services. The May 23 letter states that annexation is not “necessarily required” and that each request will be reviewed on a “case-by-case basis”. Cynics will say that means “annexation **WILL** be required for each such case.”

By making the agreement contingent on diversion application approval, and by not delineating a water service area, the City and its Water Utility seems to have achieved most of what it wanted, without protection of the Town’s borders.

In an interesting twist, the new agreement makes it less likely, not more, that the City will receive approval of its application from the other Great Lakes states. A major tenet of the Great Lakes Compact is that a community seeking a diversion “must be without adequate supplies of potable water.” Even at the City’s current boundaries, that question remains unanswered. With the expanded service area now



including lands in surrounding Towns and Villages that do not need water now, approval is even more iffy. Some expanded service area lands

contain valuable water resources, and other states may very easily note that those resources prevent Waukesha from “being without adequate supplies of potable water.” That would

be a lose-lose-lose for all parties.

At the City Council meeting wherein the new terms were accepted, Water Utility Manager Dan Duchniak promised the new

application would be ready July 8, with construction planned to begin in March 2015. Construction managers will be hired immediately.

Stay tuned....

Update on Solid Waste and Recycling Issues By Charlene Lemoine

Pay-As-You Throw (PAYT) Presentation

On May 2 & 3, a webinar and PAYT workshops were held at various locations across the state. Lisa Skumatz, a leading authority on PAYT, presented information on how PAYT programs can save communities money, reduce waste and increase recycling. The workshops were sponsored by: the American Public Works Association – Wisconsin Chapter, Johns Disposal Service, Inc., the Wisconsin Counties Solid Waste Management Association, and the Wisconsin DNR.

Oneida Seven Generations Pyrolysis Staged Incinerator Update

A Conditional Use Permit (CUP) for the Oneida Seven Generations Corporation (OSGC) to construct a municipal solid waste pyrolysis staged incinerator in Green Bay was approved by City Council in 2011. Because of misrepresentations regarding facility design and expected emissions, the Green Bay City Council rescinded the CUP in October 2012. The

OSGC challenged this action and in January 2013 the Brown County Circuit Court upheld the City Council’s decision to revoke the CUP. The OSGC is currently appealing the Circuit Court’s ruling.

Without a CUP for the Green Bay location, the OSGC attempted to locate a pyrolysis project on tribal land in Outagamie County. On May 5, 2013, the Oneida Tribal Council held a vote on the proposed project. Tribal members voted against locating any type of gasification project on tribal lands.

Zero Landfill is Not Zero Waste



The term Zero Landfill should not be confused with Zero Waste. While limiting landfills is also a goal of Zero Waste, Zero Landfill plans do not exclude incineration. With proposals for mass burn, refuse-derived fuel, and gasification projects on the rise, recognizing the difference between the two terms is crucial. To add to

the confusion, Zero Landfill plans are frequently misrepresented as Zero Waste initiatives.

To avoid misunderstanding, the widely accepted definition of Zero Waste—adopted by the Zero Waste International Alliance on 11/29/2004—describes Zero Waste as the following:

“Zero Waste is a goal that is ethical, economical, efficient and visionary, to guide people in changing their lifestyles and practices to emulate sustainable natural cycles, where all discarded materials are designed to become resources for others to use.

Zero Waste means designing and managing products and processes to systematically avoid and eliminate the volume and toxicity of waste and materials, conserve and recover all resources, and not burn or bury them.



Implementing Zero Waste will eliminate all discharges to land, water or air that are a threat to planetary, human, animal or plant health.”

Groundwater Provision in Budget Limits Citizens’ Ability to Prevent Water Draw Down

The Joint Finance Committee slipped a hastily crafted provision on groundwater into the budget without a public hearing, testimony from groundwater experts, or even input from other legislators. The provision benefits one farm in particular: the proposed 4,500 cow Milksource Richfield Dairy in Adams County whose neighbors have taken legal action to ensure the dairy’s multiple high-capacity wells do not deplete other local wells and water resources. In Sparta, a dairy farmer’s well went dry when a sand mine started operating a high-capacity well. Ordinarily, the DNR would step in and protect the farm’s water resources. This budget provision would foreclose that possibility.