

Nancy Aten, public comment, 5 June 2017, to Sturgeon Bay Common Council

On Agenda Item 13, the resolution requesting legislation --

I ask that you table considering this until after the processes that are now in place conclude - because that creates a better opportunity for all parties to achieve a good outcome.

Such a legislative request has the appearance, and the reality, of seeking to undermine either the June 12th settlement discussions or the DNR's normal declaratory ruling process (whose public hearing is scheduled for Aug 3).

We need to be building a little trust between our delegations, not tearing it apart. It would demonstrate good faith on your part in the settlement process to delay any request for legislation -- to remove that threat.

Plaintiffs are very glad for a facilitator and for meeting together in the same room - we need to talk to each other, and I see this as a great opportunity. I am impressed by the qualifications and experience of the City-recommended facilitator Mr. Kautza and have great hope for his ability to make it a productive meeting.

In an email Alderman Ward sent me, you described the key issue as what part of Parcel 92 can be used for private purposes and what part can be used for public or maritime uses. Yes, I agree. And Judge Huber said, after two days of evidence in court, that he was sure that "most of Parcel 92, and it may be all of Parcel 92" is protected in the public trust, below the OHWM. To request legislators to draw a line completely contradicting the court, giving all of Parcel 92 to private development, is not supportable.

I believe Public Trust is a beneficial part of the constitution - beneficial to maritime commerce, beneficial to public access and recreation, and beneficial to economic development, because shared public resources leverage broad economic advantages.

I believe that the proper way for a City to behave is to say, hey, this is probably filled lakebed, so let's ask the regulatory and leasing agencies what is allowable here. If Sturgeon Bay had done that, great. Instead, Sturgeon Bay said, we want all of this filled lakebed for private commercial development, so how can we manipulate this to make that happen? I've read endless open records and communications and see that is exactly what happened. The Board of Commissioners of Public Lands was pretty clear in both of their lengthy emails, following their visit with you to the waterfront, in 2014. American Title was also pretty clear in their 2013 letter explaining that these filled lakebed lands were uninsurable because it was a constitutional issue.

It is hard for me to see Agenda Item 13 as supporting a sincere effort at settlement discussion or by DNR declaratory ruling process. I repeat my request to support the processes in place. Let's give June 12th the best possible chance. I can tell you, plaintiffs have worked hard over two years to provide viable locations for a hotel and other economic development options, and are working very hard now and pretty much non-stop to try to make June 12th productive. Please give it a real chance.