

Until the courts resolves the question, “Does the Town of St. Albans have a right to access water and wastewater services from the City of St. Albans, and if so under what terms?,” the two communities cannot move forward on this or any other issue. The importance of getting a timely answer to this question is one thing elected officials in both communities can probably agree on.

In recognition of this fact, the City Council recently enacted an emergency ordinance that places a moratorium on new water and wastewater allocations that are outside the City or outside the Town’s Route 7 North Sewer District. This action is not retaliation for the Towns’ suspension of the mediation. Rather, the City recognizes (and hopes the Town will agree) that until a court defines the playing field by answering the above question, mediation is not a good use of time and a long-term supply agreement will continue to elude us.

In short, neither community has the information they need to make a long-term decision; until we have that information, the City must protect its ratepayers by hitting the pause button on future allocations.

One of the greatest problem areas is the impact of the recent decision by the U.S. Environmental Protection Agency to disapprove Vermont's water quality plan for phosphorus in Lake Champlain as embodied in the lake's Phosphorus Total Maximum Daily Load (TMDL). The Vermont Agency of Natural Resources uses the TMDL to issue permits such as the discharge permit for the wastewater treatment plant. That permit is currently on appeal by the Conservation Law Foundation who have argued that the permitted phosphorous levels are too high.

The treatment plant is permitted to receive 4 million gallons per day of influent and discharge .5 milligrams per liter of phosphorous. The plant currently receives 2.3 million gpd and there is another 1.2 million gpd in outstanding allocations leaving a balance of 1.5 million gpd. The remaining capacity is more than enough for the projected growth of the City. And it is probably more than enough for the City even if the phosphorous discharge is reduced by the Agency of Natural Resources. But if the phosphorous portion of the permit is reduced, the remaining capacity may not be enough for the City and the Town unless we invest significant sums of money to improve the efficiency of the plant.

But we can’t negotiate a deal for who should pay to make those upgrades until a court decides whether the Town has any rights to the City’s plant and if so on what terms.

Ironically, the claim that the Town has equal rights to the water and wastewater infrastructure originates with the last big effort to reduce phosphorous from the plant. In the late 1970’s and early 1980’s, the EPA and Vermont ANR provided funds to study and ultimately construct improvements to the plant. The purpose of this project was to cut phosphorous discharge in half and reduce the discharge to .5 milligrams per liter. This was a \$14 million project, with \$1.2 million coming from City and Town rate payers.

It is true that both communities contributed to the debt service through their water and sewer rates. But to claim that by requiring some Town residents to participate in the debt service for an anti pollution project in the wastewater plant entitles the whole community to unlimited wastewater capacity indefinitely is a stretch. Particularly when one considers that the EPA grant did nothing to increase capacity, it just improved the quality the discharge.

There are two key differences between the 1985 upgrade for phosphorous and today’s potential upgrade for phosphorous. One, the EPA is no longer providing the lion’s share of the funding. If ordered to reduce our discharge, the bulk of the costs will fall to local ratepayers. Two, with most of the

growth coming from the Town, City ratepayers should not have to pay to reduce phosphorous when they don't experience the growth in the tax base.

The City Council has been very clear that they do not want to stop the Town's growth. There is certainly a benefit to the City by having more residents and more jobs in Franklin County. Reliable water and sewer is pivotal to continued economic growth and the City wishes to be that provider for St. Albans Town and beyond.

But the current arrangement is a triple whammy for City residents. We allow the Town to access our water and sewer services. By allowing that access we increase the likelihood that City ratepayers will have to participate in the upgrade the wastewater treatment plant to achieve new phosphorous discharge requirements. And we lose our chief advantage when competing for new development that could expand our tax base and make it easier to afford critical services like police, fire, and schools.

There are solutions to this problem. Elsewhere in the Vermont, when one community has excess capacity and their neighbor needs it, they sell it to them and structure a long term agreement to address rate setting, the cost of future upgrades, administrative costs, etc. In other states, rather than sell the capacity, communities agree to share in the future growth of the tax base rather than require up-front investment. Either alternative, or an outright merger, would address all of the above needs.

But none of this is possible until the courts tell us if the Town has any rights to City infrastructure.

St. Albans has a bright future. We have a very successful regional development corporation. We're beginning to get a handle on crime. We have a diverse local economy consisting of very successful manufacturing firms and growth industries such as health care. But we have to put this issue behind us once and for all.