

APPROVED

JOINT SEWER IMA REVIEW COMMITTEE
January 10, 2014
9:00 AM

EXECUTIVE SESSION

Members Present: Mark Jamieson
 Andy Burbine
 John Stone

Also Present: Chris Petrini, Special Counsel, Abington
 Jeanne White, Administrative Clerk

The members opened the meeting at 9:00 a.m. Special Counsel Chris Petrini recommends that the Committee move to go into Executive Session pursuant to Chapter 30A, Sections 21A(3) and (7) to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same.

Mr. Stone moved that the Committee go into Executive Session pursuant to Chapter 30A, Sections 21A(3) and (7) to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same. Andy Burbine seconded. Roll call vote: Mark Jamieson aye, John Stone aye, Andy Burbine aye. 3-0 unanimous.

Chris Petrini starts the meeting by bringing the members up to date on where we are with Brockton. Mr. Petrini explained that he had a conference call on January 8th with Mr. Condon, Marilyn Chew, Brockton's Assistant CFO/Budget Analyst, and Ms. Leach. Mr. Condon and Ms. Chew explained during the conference call that in reviewing the charges to Abington, Mr. Condon had discovered that the debt services for Phases III-V of the Brockton WWTP plant upgrade had been omitted and not passed along to Abington. In response, Mr. Petrini informed Brockton that Abington would not be willing to accept the additional interest and debt service charges for the Brockton WWTP at face value without appropriate back-up and independent review by Abington and its consultant. Brockton agreed to provide more information to Abington.

Mr. Petrini further explained that Amendment No. 3 (1998) only modified the Transport Rate. The language in the 1973 IMA still governs what we are charged for treatment, including plant upgrades and expansions. Because of the contract language in the 1983 IMA and industry practice, Mr. Petrini is of the opinion that Abington would lose if we argued that we were not responsible for plant upgrades.

Mr. Petrini further explained that during the January 8th conference call, Mr. Condon explained that the CFO's Office was taking over the Abington billing from DPW, that this oversight was Brockton's mistake, and will work with Abington on developing a payment plan that is fair to Abington.

Mark Jamieson states that we never saw the big bills for the upgrades and he was told that the upgrades did not benefit Abington so we were not responsible. He says that former Superintendent Jim Hovell said we were not responsible.

Chris Petrini says that in his opinion we would lose a legal fight not to pay Phases III-V. Abington has been paying for Phases I-II all along and we were never charged for the additional phases. In FY12 we paid less because they forgot to include Phases III-V.

The Abington Committee then discussed Brockton's position as communicated to Mr. Petrini in the January 8th conference call that this has been a slow process and the implication that Abington has wasted their time. We feel that the first three meetings were wasted because they were all conversations about Abington building its own dedicated pipe then Brockton abruptly took off the table. Mr. Petrini suggests we talk to the new Mayor of Brockton about the dedicated pipe option. John Stone says we do not want to go behind anyone's back and risk losing the extra gallons.

Chris Petrini asks the members what their feelings are about having the Town Manager approach the new Brockton mayor about the direct connect option. He informs us that during the January 8th conference call Mr. Condon stated that the Mayor said to let Abington build its own pipe or something similar to this. The Committee decided not to bring this issue up at the joint meeting, thinking that perhaps the Brockton team might discuss this option.

The Committee also agrees that if Brockton brings up that Abington is wasting their time that we need to remind them the first three meetings were about Abington installing a dedicated pipe into Brockton and then they took it off the table.

Mark Jamieson then moves to go out of Executive Session to convene the open meeting with Brockton. Second by John Stone. Roll call vote: Mark aye, Andy aye, John aye. Unanimous 3-0.

Executive Session adjourned at 9:55 a.m.

12:15 Second Executive Session

Mr. Jamieson moved that the Committee go into Executive Session pursuant to Chapter 30A, Sections 21A(3) and (7) to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same. Andy Burbine seconded. Roll call vote: Mark Jamieson aye, John Stone aye, Andy Burbine aye. 3-0 unanimous.

The Committee members realize that meeting with the mayor is off the table completely. Mr. Condon stated in the joint meeting that the Mayor did not say let Abington run their own pipe, he said let Abington build its own treatment plant.

The IMA decided they like the simplicity of option #2, a flow-based billing methodology based on Abington's total percentage use of the Brockton system multiplied by the total cost to operate the Brockton system and Brockton WWTP. However, the Committee wants to consider a billing system using the current transport formula with an appropriate discount if that will place Abington in a better place financially.

John Stone moves to leave executive session for purposes of adjournment. Seconded by Andy Burbine. Roll call vote: Mark Jamieson, Andy Burbine, John Stone aye. Unanimous 3-0.

Motion to adjourn by Mr. Burbine, Second by Mr. Jamieson. Unanimous 3-0.

Meeting concluded at 12:30 p.m.