

**APPROVED**

**JOINT SEWER IMA REVIEW COMMITTEE**

**February 18, 2014**

**9:30AM**

**FIRST 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 9:30 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) and Suffolk Construction v. DCAM to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same, on the grounds that the Chair has determined that the litigation position of Abington may be compromised if the discussion occurs in open session.

Mr. Stone moved that the Committee go into Executive Session pursuant to Chapter 30A, sections 21a(3) and (7) and Suffolk Construction v. DCAM to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same, on the grounds that the Chair has determined that the litigation position of Abington may be compromised if the discussion occurs in open session. Andy Burbine seconded. Roll call vote: Mark Jamieson aye, John Stone aye, Andy Burbine aye. Unanimous 3-0.

Chris Petrini explains what has happened since the December meeting. He explains that good progress has been made towards getting to a new IMA. In response to our inquiry at the January meeting, Ms. Leach and Mr. Condon advised him that Mayor Carpenter had no interest in letting us run our own pipe. Brockton has proposed two options:

**Option one** - Brockton will give Abington a 20% discount off the existing sewer transport rate and a new IMA Agreement that allows Abington to flow up to 1.5 MGD. The 20% discount is compensation for certain billing inequities outlined by Abington in recent months, and an effort to reach a compromise settlement.

**Option 2-A** proportionate flow-based transport and treatment rate with additional carve outs that reflect Abington's status as a wholesale customer.

Chris gives members a copy of Brockton's 25 page sewer enterprise fund financial documents from FY 2012 that were provided by Brockton in late January 2014. These documents show how Brockton arrived at the transport rate for FY 2012 and also show the total budget for FY 2012 for treatment and

transport that would be used to calculate Abington's proportionate flow-based rate if Abington selects that option. Abington paid 1.2 million under the current contract in transport and treatment charges for FY 2012. The documents include actual interest and debt charges incurred by Brockton for Phases III-V of the Brockton WWTP upgrade project. If we calculated the budget under the existing formula the total charges would have been 1.4 million. If we were charged by a flow-based formula we would have paid 1.2 million for including Phases III-V debt service and this does not include any carve outs that might be negotiated with Brockton.

The members then discuss a February 13, 2014 email sent by Jay Condon and Caitlin Leach regarding carve-outs. The email proposes that Brockton will exclude two billing clerks (since Abington pays one omnibus bill). Chris has asked Brockton to exclude the senior clerk also and we are awaiting Brockton's response. Postage will be carved out and Chris asked them to agree to carve out printing. Brockton agreed to carve out meter replacement debt service.

The Brockton Sewer Enterprise Fund is charged 5.7% of the Central Service Fees incurred by Brockton, for City Hall services (such as CFO, Treasurer/Collector, Law Dept., etc.) used by various Town departments and enterprise funds. Mr. Petrini has proposed that some of these Central Services charges paid by the Brockton Sewer Enterprise Fund should not be charged to Abington because Abington is essentially a wholesale customer and therefore does not use some of these services. Therefore, Chris has asked Brockton to exclude the Treasurer/Collector budget from the Central services allocation, which would reduce the total charges of the Central Services fee by \$873,000. Chris is awaiting Brockton's response to this request.

Chris says CDM completed its report for Brockton and that Brockton has provided him with a copy of the report, which he in turn provided to the members of the Committee and Mark Thompson of Kleinfelder. The CDM report essentially states that Brockton can handle the 1.5 MGD and that the Beaver Brook Pump Station in Brockton may need to be upgraded.

The members realize that the FY 13 bill will be calculated under the existing formula but the FY 14 bill will be under the new proportionate flow-based model. The members note Brockton's agreement to waive prior unbilled interest charges through FY 2012 in exchange for Abington's relinquishment of its claims for credit for certain sewer revenues received by the General Fund that were not transferred to the Sewer Enterprise Fund, and a credit for certain indirect Brockton WWTP expenses charged to the existing Abington transport rate. By this agreement Abington will save over \$500,000 in debt service charges that would otherwise be charged to Abington. The committee decided it will not ask for the bill but ask them to send the bill both ways so we can understand the new agreement.

The members decided by consensus to tell Brockton we will go with Option 2, the proportionate flow-based billing model for both treatment and transport, with appropriate carve outs that Chris can negotiate. The members agree that the flow-based model is simpler, easier to understand and audit, and saves Abington money off the current transport rate negotiated in 1998 as Amendment 3 to the 1973 IMA. The more carve outs that can be negotiated, the more Abington will save.

Mr. Jamieson asks how Brockton arrives at the total flow number. Mr. Stone thinks it is when they discharge they get the total flow number and we are 6.37% of that number. Mr. Petrini states that he will ask Brockton how they get the total flow number at the open session.

Chris asks the members for a motion to approve option 2. Mark Jamieson makes a motion to approve option 2. John Stone Seconds. Andy aye, John aye, Mark aye. It is a unanimous decision.

John Stone makes a motion to go out of Executive Session and commence the open meeting. Andy Burbine seconds. Roll call vote unanimous, John Stone aye, Mark Jamieson aye, Andy Burbine aye. Unanimous 3-0. The Executive Session concluded at 10:15 a.m.

#### **JOINT SEWER IMA REVIEW COMMITTEE**

**February 18, 2014**

**11:00 AM**

#### **SECOND EXECUTIVE SESSION**

Mr. Stone moved that the Committee go into Executive Session pursuant to Chapter 30A, sections 21a(3) and (7) and Suffolk Construction v. DCAM to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same, on the grounds that the Chair has determined that the litigation position of Abington may be compromised if the discussion occurs in open session. Andy Burbine seconded. Roll call vote: Mark Jamieson aye, John Stone aye, Andy Burbine aye. Unanimous 3-0.

The members talk about the discussion during the open session. Mr. Stone recommends that Mr. Petrini include a statement in the new IMA that flow is based on a 365 day rolling average and that the IMA Review Committee members should meet once a year to review the bill and discuss and attempt to resolve any issues.

They decide to propose a date for the April meeting on the 16<sup>th</sup> or 17<sup>th</sup> in Abington.

John Stone makes a motion to go out of Executive Session to return to the Open Meeting. Andy Burbine seconds. Roll call vote: John Stone aye, Mark Jamieson aye, Andy Burbine aye. Unanimous 3-0.

#### **JOINT SEWER IMA REVIEW COMMITTEE**

**February 18, 2014**

**11:35 AM**

#### **THIRD EXECUTIVE SESSION**

Mr. Stone moved that the Committee go into Executive Session pursuant to Chapter 30A, sections 21a(3) and (7) and Suffolk Construction v. DCAM to meet with counsel to discuss pending litigation with the City of Brockton and potential settlement proposals to resolve the same, on the grounds that the Chair has determined that the litigation position of Abington may be compromised if the discussion

occurs in open session. Andy Burbine seconded. Roll call vote: Mark Jamieson aye, John Stone aye, Andy Burbine aye. Unanimous 3-0.

Chris Petrini states that we made good progress today and that we should have an internal meeting before the next joint meeting.

Andy Burbine asks how many years will our new agreement be for. Chris explains the limit for an agreement is 25 years and that it is up to the municipalities to decide the term. One option would be to go for 20 years. This would make the new IMA run from July 1, 2014 – June 30, 2034. Chris suggests that after we have a draft IMA Agreement we should arrange a meeting with the Board of Selectmen to bring them up to date. Mr. Stone suggests the Chris send a copy of the latest IMA to Rick LaFond for comments and Chris says that he will do so.

Mark Jamieson makes a motion to go out of Executive Session. Andy Burbine seconds. Roll call vote: John Stone aye, Mark Jamison aye, Andy Burbine aye. Unanimous 3-0.

Andy Burbine moves to adjourn the open meeting. John Stone seconds. Vote unanimous 3-0.