

APPROVED

JOINT SEWER IMA REVIEW COMMITTEE

October 23, 2013

3:30PM

EXECUTIVE SESSION

Members Present: Mark Jamieson
John Stone
Andy Burbine

Also Present: Chris Petrini, Special Counsel, Abington
Jeanne White, Executive Assistant

Mark Jamieson and John Stone open the meeting at 3:30PM 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.

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. Mark Jamieson seconds. Roll call vote John Stone aye, Mark Jamieson aye. Unanimous 2-0.

Chris Petrini starts by giving the IMA Committee a description of the conference call he had with Brockton earlier on October 23rd. He states that Brockton took the \$7.5 million exit fee offer off the table. They really want Abington's ongoing sewer transport revenue. Condon informed Chris Petrini that he would not recommend the exit fee option to Brockton City Council. Brockton did reaffirm its earlier offer to increase the permitted flow to 1.5 MGD and they would give a significant discount in the rate formula under the existing agreement. Condon will work up proposed numbers and bring them to the meeting.

Mr. Burbine comes to the meeting at approximately 4:00pm. Mr. Petrini fills him in on what was discussed above.

Mr. Petrini explained that, according to Mr. Condon, the rate that Brockton charges is based on a block rate. Brockton has between 20-30% of bills to in-city residents that do not get paid. Unpaid bills are then liened to the property and Brockton receives an additional 14% interest. When the bills are ultimately paid the payment goes to the Brockton General Fund and such revenue ordinarily has not been transferred back to the Sewer Enterprise Fund. Condon estimated that approximately 3% of the annual anticipated revenues from in-city users ultimately is diverted to the City's General Fund for this reason. Condon says because of this and because Abington pays their bills on time they will run the numbers and give us a discount of approximately 20% if we drop the litigation. Chris asked them if they would cap the transport fee or give us further credits for prior year overpayments and Ms. Leach and Mr. Condon said no and referred back to the 1998 agreement, saying we agreed to those numbers then in exchange for additional flow.

Mr. Jamieson stated he does not believe we can go up to the 1.5MPD without our own pipe. John and Mark feel that we are back to square one. Mark asks if the 20% discount would be for transport and

treatment and Chris Petrini says it is only for transport, and that Abington would still be responsible for paying the regular and ordinary treatment charges.

Mark Jamieson states that Brockton keeps asking to take the litigation off the table and there has to be a reason. The board then discusses the possible reasons why Brockton took the \$7.5 million dollar exit fee off the table. Andy Burbine asks how other towns adjust for liens and Chris Petrini explains that it must be from audits and reconciliations. Mark Jamieson says we once paid \$100,000 and now we pay \$680,000 for transport. Chris Petrini states that we only contribute 6.5% of Brockton's overall flow but but pay more than 12% of Brockton's overall sewer budget.

The board discusses how the \$7.5 million exit fee offer was put back on the table at the last meeting. Chris reports that Ms. Leach and Mr. Condon asserted in the conference call earlier in the day that Brockton had not put the \$7.5 million exit fee back on the table at the September 18th meeting. Chris says we can add a claim to the lawsuit that Brockton violated the Consent Judgment and engaged in regressive bargaining by taking the 7.5million exit fee offer off the table. If they decide to put it back on the table they still have to get it through City Council so all they have to do is say that City Council will not agree to a dedicated pipe line.

Chris Petrini asks what they want him to do at the October 28th meeting. The options include:

1. Amend the complaint to allege a count for contempt of court for Brockton's violation of the consent judgment issued in the White Craig litigation; .
2. Offer the \$7.5 million buyout exit fee requested by Brockton
3. Go to mediation

Mark Jamieson says we should offer them 3x's our original offer, to a 4.5 million buyout fee for a dedicated pipe. If Brockton says no then we will have to go to mediation. Mr. Stone, Mr. Burbine and Mr. Jamieson agree by consensus that Mr. Petrini should make this offer as Abington's next proposal at the October 28th meeting of the Joint Sewer IMA Review Committee. .

John Stone makes a motion to adjourn executive session Mark Jamieson seconds. Roll Call vote: Jamieson aye, Stone aye, Burbine aye. Unanimous 3-0.

Mr. Burbine moves to adjourn. Mr. Stone seconds. Unanimous 3-0 vote.