

**Joint Sewer IMA Review Committee**  
**April 17, 2014**

**10:00AM**

**Present:** Mark Jamieson, IMA Review Committee  
John Stone, IMA Review Committee  
Andy Burbine, IMA Review Committee

David Norton, City of Brockton, DPW  
Michael Thoreson, City of Brockton, DPW  
Larry Rowley, City of Brockton, DPW

**Also Present:** Caitliri Leach, Assistant City Solicitor, City of Brockton  
Jeanne White, Executive Assistant, Abington  
Chris Petrini, Special Counsel, Abington

The Meeting convened at approximately 10:20 AM.

Ms. Leach states that meeting with the EPA/DEP was very positive regarding a new permit and that the draft will be silent on co-permittees, thus leaving Brockton the ability to dictate the amount of sewer capacity to co-permittees such as Abington. Ms. Leach further states that penalties will have to be in place due to the fact that if a co-permittee is over the limit Brockton will have less capacity to be worked with and will be fined by the regulators if Brockton exceeds its overall limit.

Mr. Petrini states that we can likely come to an agreement on a penalty if Abington is granted an additional 0.5 MGD but will not agree to a penalty if the Abington sewer limit remains at 1 MGD. Mr. Petrini distributes the Abington collection system evaluation study performed by Kleinfelder. In summary, Mr. Petrini states that Kleinfelder is of the opinion that the Abington system has the technical capacity to transport up to 1.5 MGD but that some system upgrades likely will be needed at some point. Ms. Leach agrees that any penalties assessed to Abington would only be based on exceedances of the average daily flow, and that the penalty would be triggered only for exceedances beyond 1.5 MGD, not 1 MGD.

The committee then discussed the NPDES discharge permit, how and when it expired, and the position of the EPA and DEP that a new permit must be issued before any sewer capacity may be granted or allowed.

Mr. Stone hands out a spreadsheet to the Committee members showing flow data vs. water consumption used. Based on this data, Mr. Stone explains that Abington is currently flowing less than they were a year ago due to Abington I&I work such as sump pump removals, manhole repairs and inserts being placed under each manhole cover.

Ms. Leach then goes over the current draft IMA:

- Section 1 – Term – The City is fine with the 20 year term.
- The phase *365 Day Rolling Average* – Agreed

- The penalty language must remain in some form.

Additional Consideration: The City does not agree regarding additional consideration if 1.5 MGD is not granted. The City believes that they have negotiated a new billing structure and they are more than willing to agree to the 1.5 MGD.

### 3.2 AGREED

Penalty issue –Brockton needs some language on penalties. Both parties express the hope that the imposition of penalties will not be necessary in the future because it is unlikely based on present data that Abington Brockton e will never get to that issue we will never have a penalty because we will not go over the 1.5 MPG.

4.1 A&B – Caitlin asks why the word actual was added. Chris Petrini explains that it is the amount that is measured through the meter.

Capital Improvements – Yes they will carve out the roof.

Exhibit B – we are in agreement paying on what is actually spent.

Retained earnings – agree with changes.

Interest – Abington still has a dispute. We do not pay late so this should never be in issue. They want the interest rate in the agreement, we will agree if they extend an extra 30 days if there is a dispute.

Dismissal of litigation with or without prejudice discussed.

Ms. Leach – explains that they do not like the language that was added about the non-Brockton entity in the “Most Favored Nation” clause. They will discuss in Caucus.

The Members break for caucus discussions at 11:40 and return to the open session at 11:50 a.m.

The members schedule a June Meeting for June 26, 2014 in Abington at 10:00.

With respect to the additional consideration section, Mr. Petrini advises that Abington will agree to extend the time so the date will be changed in sEction 2.4 to December 31, 2015 second date will be June 30, 2016 and the parties should agree to refer disputes regarding additional consideration for resolution pursuant to the dispute resolution section of the draft IMA.

Penalties –Abington is willing to agree to a yearly penalty only, based on exceedances of 1.5 MGD based on a 365 day rolling average.

Regarding late payments by Abington: Abington will agree to statutory interest of 14% for late penalties but want a 60 day grace period.

Andy Burbine makes a motion to adjourn Mark Jamieson seconds. Unanimous 6-0. The meeting concluded at approximately 12:00 PM.

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