

1. Call to Order

Chairperson Beers called the meeting to order at 6:01 p.m.

2. Introductory

Chairperson Beers read the introductory.

3. Pledge of Allegiance

Chairperson Beers led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault, Councilors Frank Dennett, Jeffrey Thomson, Judith Spiller, and Kenneth Lemont.

Absent from the roll call was Jeffrey Pelletier.

5. NEW BUSINESS

a. (010217-1) The Kittery Town Council moves to hold Assessment Hearings for the following applicants:

- Jacquelyn Nooney, Flower Company Properties, Inc. – MAP/LOT 29-31
- Mark Phillips, Dow Highway Properties, LLC – MAP/LOT 21-02 & 21-07
- John Tuttle, Southern Maine Fish & Game, Inc. – MAP/LOT 11-30

A MOTION WAS MADE BY COUNCILOR THOMSON, PURSUANT TO COUNCIL RULES SECTION 10, TO SUSPEND THE RULES, GOVERNING THE CONDUCT OF MEETINGS IN ORDER TO MODIFY THE ORDER OF CONDUCT OF THE HEARINGS IN DUE FORM OF QUASI-JUDICIAL PROCEEDINGS, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.

Name of the requester: **JACQUELYN NOONEY (FLOWER COMPANY PROPERTIES, INC)**

Map-Lot: **29-31** Street: **6 MEADOW LANE**

Basic description of the issue on request: **Pursuant to Town Code Title 13, §1.4.3.6A, land is exempt from assessment when classified as agriculture.**

Chairperson Beers explained the request was continued from a previous meeting until receipt of letter from the Assessor regarding the property classification. That was received and the September 19, 2016 meeting minutes are included in the record for the hearing.

Councilor Dennett questioned whether or not wetlands are included in the Assessment. Chairperson Beers confirmed that wetlands are included in the Assessment and clarified that all 29 acres of land was placed into the Maine Farmland Protection Program. The letter from the Assessor indicated how much of the total acreage was identified unsuitable for farming.

A MOTION WAS MADE BY COUNCILOR BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 31 AT 6 MEADOW LANE, OWNED BY FLOWER COMPANY PROPERTIES, INC, TO GRANT EXEMPTION FROM THE ASSESSMENT FEE, SECONDED BY COUNCILOR SPILLER.

In response to Councilor Dennett, Chairperson Beers confirmed that the Town will be notified if the unbuildable land area is removed from the Farm Protection Program.

Councilor Lemont asked if the land area in tree growth is included in the 29 acres. Chairperson Beers clarified that no portion of the land was previously classified as tree growth and all 29 acres will be classified as farmland.

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.

Chairperson Beers advised if the applicant is not satisfied with this decision, pursuant to Town Code Title 13, §1.4.3, appeal may be made within ten (10) days after this hearing, to an independent arbitration panel. Forms are available on the town website and at the Town Clerk's office.

Name of the requester: **MARK PHILLIPS, DOW HIGHWAY PROPERTIES, LLC**

Map-Lot: **21-03** Street: **5 DANA AVE**, Map-Lot: **21-07** Street: **2-4 DANA AVE**

Basic description of the issue on request:

Requests reduction in the Adopted Plan assessment in the amount of \$17,009.55 (which is 5 units @ \$3,401.91) because of redevelopment to occur after July 01, 2017. Further requests a 25% reduction in Total assessment in the amount of \$30,985.76 for landowner's cost to re-pipe W&S to Town STDs (calculated after unit count reduction).

Chairperson Beers stated the request was heard on November 28, 2016 and the minutes whereof the findings at that point are a matter of the record.

Councilor Dennett asked for further information regarding the stub locations and the Superintendent's opinion on whether or not an additional stub could be installed for the property. Town Manager Amaral explained that adding a stub location is possible once the 5-year moratorium period has passed.

Councilor Dennett asked whether or not the sewer lines could be located between the open passages between the mobile homes. Mr. Phillips understood that three stubs for each driveway entrance could have been provided, however, Kleinfelder did not design it as such. Thus, he is forced to run 300 feet of sewer line parallel to the new line on Dana Ave. **Town Manager Amaral added that the stub locations were selected based on the sewer system that existed at a time when the design was not available. 18:59** Dennett – the apparant lack of three stubs or three driveways will result in a big expense. Why should the applicant bear that expense? Or, why the Council grant him a reduction? Beers – reduction is based on other considerations. Dennett – no, it is based on reduction. Beers – that.

Thomson – clarify the total dollar amount of reduction of \$17,955? Beers – the applicant is

requesting to remove 5 units and consequently reduce the Assessment by that amount, which may be a worthy consideration as long as there is assurance of the redevelopment plan.

Lemont – the \$17k is only in anticipation of five trailers being removed and has nothing to do with the few mobile homes meeting the square footage. Beers – there are conicnedentally 5 of the tota units that do not meet the critera which also equals that amount.

Denault – there’s two situations that have come to the same amount. Beers – yes.

Denault – how much will it cost to cross the 300 ft. Philliops – with no ledge it would be about \$18k. In this case where they have to take down trees, he figured \$30k.

Thomson – on the first point, reduction in \$17k because of redevelopment. It should say anticipated redevelopment. Also, what protection can they put in the Council decision, whether it be inspection by CEO, upertinednet, that that reduction of 5 units have indeed took place. Beers – the bottom motion is where that consideration can be given.

Thomson – if the project would not have been done, would the cleanup have been done. Phillips – he removed 5 homes in the past few years because the State allows for people to have one year notice to vacate. He gave them notice to homes to vacate. If . Thomson – has the subsufrance wastewater treatment system been replaced? Phillips – its been in failure. Hes on State mandates to fix it. It is reviewed weely by certified officer and monthly reports to the State of Maine. It is monitored by people who know what theyre doing. Thomson – the hearing at May, at least one resident that raw sewage was going through her backyard. Phillips – there have been pbreakouts with heavy rain. Morgage has been out twice a year to pump them out.

A MOTION WAS MADE BY COUNCILOR BEERS TO revise the assessment plan on map 21 lot 3 owned by MARK PHILLIPS TO REDUCE NUMBER OF UNITS TO 20 AND RECALCUATE THE ASSESSMENT FEE, SECONDED BY COUNCILOR SPILLER.

Thomson – he thinks it is flawed that regardless of the square footage of the dwelling unit. It is still a unit, it is producing waste.

Dennett – he would agree, howeve, in a prior case, we did reduce the units.

Denault – we need to correct the Ordinance. The issue is that the 3 stubs were not put in there. It should have been taken care of its unfortunate that he has to come be

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 5/1/0 WITH COUNCILOR THOMSON OPPOSED.

A MOTION WAS MADE BY COUNCILOR BEERS TO RESOLVE PURSUANT TO SECTION 1.4.3.5 TO REVISE ASESSMENT MADE REDUCE OCCUPANCY TO FIVE AND REMOVAL OF STRUCTURES AND CONFIRMATION BY TOWN ADMINISTRATION AND RECALCUATLION OF , SECONDED BY COUNCILOR SPILLER.

Lemont – is there any way. Beers – he is liable until the units are removed and confirmed by addministration. Lemont – when is it payable? There’s no way of exempting hi from the 4 units. He needs to complete the congtingenceies. Beers – he notes that if the Assessment is revmoed

for parcel for redevelopment then impact fees.

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.

A MOTION WAS MADE BY COUNCILOR [Click here to enter text.](#) **TO RESOLVE TO REDUCE THE FINAL TOTAL ASSESSMENT BY ARBITRARILY 25%, SECONDED BY COUNCILOR SPILLER.**

Dennett – without information passed on the Town Manager, he was going to vote to deny. Now he's ticked off that the engineers did not do their job. Now we're supposedly impacted because of a 5-year. Now he is in favor.

Denault – votes in favor because of the way it was conducted

Thomson – during the construction phase, did you have any conversations with onsite engineer?
Phillips – he wanted to put the pump station on his property and he was looking for an easement. He replied that easements cost and suggested a negotiation but never heard from him further.
Manson Ave.

Thomson – did you specifically say to the engineer or Kathios say that you need to come out. They are talking about 2 stubs and I need 3. Phillips – he put calls into Boston office but could not retrieve a response. Thomson – did you go the trailer? Phillips – no. Denault - the applicants shouldn't be responsible for doing the leg work.

Amaral – understood from her own research, there was an effort to every parcel to identify stub locations. Two examples were based . There was discussion was where to place them and that was tied to where to put the pump station. Because the engineers was not interested in negotiating the betterment fee. In discussions, based on current system that's there, the stub locations would meet that. It meets the engineering at that time. The stub location an error of engineering, it was based on the information they had at the time.

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 2/4/0 WITH .

**A MOTION WAS MADE BY COUNCILOR BEERS TO APPROVE THE CONCLUSIONS OF LAW AND MAP 21, SECONDED BY COUNCILOR SPILLER.
THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.**

Phillips – justice could be served at no cost to the Town?

-
- Central Maine Power Company (Two Parcels)

Name of the requester: **CENTRAL MAINE POWER CO.**

Map-Lot: **20-04** Street: **91 MARTIN RD** & Map-Lot: **20-24** Street: **92 MARTIN RD**

Basic description of the issue on request:

Claims lots are deemed unbuildable because they are “a high-voltage transmission line corridor not buildable for a structure that would benefit from the sewer main.” Notes adversely and directly affected by “an assessment for services that does not benefit the property.”

Requests relief from assessment. States that “CMP conveyed rights to install portions of the sewer main over its property by easement dated May 3, 2016. And gave the Kittery Water District rights to

store water main pipe for the water main replacement project on its property at the Kittery Substation.”

John Tuttle

Their only source of income is membership fees and raffles at the time. They try to do 3 sometimes 4 raffles within a year and those are relatively rifles or fishing equipment, camping equipment, donations to the club. They don't make a lot of money on their raffles. They rely on membership fees. Provided was a package before Amaral started her position to review their financial status from 2009-2015. Beers – titel 13 has a consideration for property owners to be exempted from paying the fee if they are below 50% of the median income. An application to the TM can be acomplished without Council action. You may pursue that depending on how it goes. There are other consideration that Council is looking that.

Dennett – cannot approve an abatement because of the lack of income for the organization. If he did that, there are many individuals that are proportionally are in dire straights and that was not a consideration that the Council can give. There are other considerations and 18-yr payback plan. However, he is bothered by non taxation situation to this. Granted under Maine law, both real and personal is exempt from taxataion. It has been noted that the better Assesment is under another name. If a property is serviced by a sewer, and orderly sewer bill is not paid it can be added to taxes. Someone

Beers – the income consideration are exempted entirely for anyone who is lower than 50% area median income. It is Title 13 and the first comment made to applicant. Beers – the quarterly sewer bee is not a tax and is a fee for service, but not akin to a property tax assessment.

Lemont – supported Beers opinion. The sewere betterment assessment fee is a tax. He supports the motion to exempt.

Denault – they are paying sewer fees? Beers – correct because it is a service fee.

Beers – any connections will require to pay impact and sewer connection

A MOTION WAS MADE BY COUNCILOR BEERS TO REVISE ASSESSMENT MADE IN 2015 SEP TO GRANT EXEMPTION FROM ASSESSMENT FEE, SECONDED BY COUNCILOR LEMONT.

Thomson – there

A MOTION WAS MADE BY COUNCILOR THOMSON TO amend the motion to reduce the total to \$2,500, SECONDED BY COUNCILOR DENNETT.

THOMSON – he understands the finances, but it is an 18-year payback period. The possibility over that time for various ways to find that funding to exist. That is about \$125 per year and that is a fair way to handle this in fairness to all property owners and all sewer payers.

Beers – appreciates the point and pointed out that the original assessment is \$10,377.62. The sewer reduction by \$2,500 plus \$6,000 impact and new sewer connection fee would be a total amount of \$8500 and cannot support the motion. Dennett – they are not subject to the fees.

Denault – if they only pay \$2,500, then they aren't hit with impact fee. So, if the reduction is made then they don't pay connection fee and there is no impact fee attached to it.

Lemont – clarify which benefits the club the most. Thomson amendment is \$2,500 repayable over 18 years. Original would cost \$6000 upon installation ad

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.

THE MAIN MOTION PASSED BY A UNANIMOUS REDUCTION TO \$2,500 VOTE 6/0/0.

A MOTION WAS MADE BY COUNCILOR BEERS TO FOF, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.

6. ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT 7:04 P.M., SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

Submitted by Marissa Day, Minutes Recorder, on [Click here to enter text..](#)

Disclaimer: The following minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.

3:15-3:30

2:15-3:30