

1. CALL TO ORDER

Chairperson Beers called the meeting to order at 6:00 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, Russell White, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.

5. NEW BUSINESS

Chairperson Beers explained the adjusted procedures of the meeting by the suspension of Council rules in order to conduct a quasi-judicial proceeding. The procedures are similar to that of the Board of Appeals and Planning Board where an applicant can come forward to discuss and deliberate for Council vote of that motion. A second motion is made to find the conclusions of law and findings of fact as presented.

A MOTION WAS MADE BY COUNCILOR SPILLER PURSUANT TO COUNCIL RULES SECTION 10 TO SUSPEND THE ROBERT'S RULES OF ORDER GOVERNING CONDUCT OF MEETINGS IN ORDER TO MODIFY THE ORDER OF CONDUCT HEARINGS IN DUE FORM OF QUASI-JUDICIAL PROCEEDINGS, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

Chairperson Beers explained the procedures of the hearings as follows:

The assessment hearings would be held for the following applicants in order of time of receipt of request:

- Kimberly Sanborn, Map 30 Lot 12a.
- Sharon A. Clark, Map 30 Lot 39.
- William J. Cullen, Map 13 Lot 04.
- Ronald D. Provencal, Map 29 Lot 37a.
- Jacquelyn Nooney, Map 29 Lot 31.
- Susan C. Holt, Map 29 Lot 20.
- Vincent E. King, Map 29 Lot 04.
- Deborah J. Rose, Map 11 Lot 11.
- Wallace W. Gerry, Map 20 Lot 13.
- Megan D. F. Greenwood, Map 30 Lot 25.
- Mr. David Gerasin, Gerasin Family Realty, LLC, Map 21 Lot 18.

The sewer assessment hearings are being conducted pursuant to town code title 13, §1.4.3.5 upon the subject matter of the assessments in the order of time of receipt of said hearing request. Each requestor will be invited to the table in turn and asked to provide a brief overview of the request, then Council invited to ask any questions they may have. Upon completion of discussion, a review of potential findings as expected by law as a basis for decision by Council and Council may affirm, revise, increase, or diminish the Assessment. Next order of business is to establish a conclusion of law as a basis for the deliberations and prior determinations.

A MOTION WAS MADE BY COUNCILOR DENNETT TO FIND, PURSUANT TO TOWN CODE TITLE 13, §1.4.3, ASSESSMENT AND 30-A M.R.S. §3442, EXPENSE OF CONSTRUCTION, THAT IT DOES HAVE JURISDICTION TO HEAR THESE MATTERS AND THE STANDARD OF REVIEW IS DETERMINED TO BE SUBSTANTIAL EVIDENCE. SUBSTANTIAL EVIDENCE MEANING SUCH RELEVANT EVIDENCE AS A REASONABLE MIND MIGHT ACCEPT AS ADEQUATE TO SUPPORT A CONCLUSION; THAT THE 2015 SEWER MAIN EXPANSION ASSESSMENT PLAN ADOPTED ON AUGUST 15, 2016 WAS ADOPTED PURSUANT TO AND COMPLIANT WITH TOWN CODE TITLE 13, §1.4.2.2; THE SUM ASSESSED DID NOT EXCEED THE BENEFIT MUNICIPAL OFFICERS DEEMED FAIR AND EQUITABLE TO DEFRAYING THE EXPENSE OF SAID SEWER CONSTRUCTION; DID NOT EXCEED ONE HALF THE COST OF THE ENTIRE CONTRACT PROJECT PRICE; UTILIZED THE FORMULA FOR DETERMINING THE FAIR AND EQUITABLE COST OF OWNER OR OWNERS OF LAND SO BENEFITED; AFFIRMS THAT THE EXCLUSION OF SHAPLEIGH SCHOOL PROPERTIES IS VALID; AND , THE AREA OF WETLANDS ARE NOT TO BE EXCLUDED, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR WHITE OPPOSED.

a. (090316-1) The Kittery Town Council moves to hold Assessment Hearings for the following applicants:

- Kimberly Sanborn

Name of the requester: **KIMBERLY SANBORN**

Map-Lot: **30-12A** Street: **44 MANSON ROAD**

Basic description of the issue on request:

Pursuant to Town Code Title 13 §1.1.1C, Page 6, C. "When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required." Requesting exemption from connection mandate.

Ms. Sanborn highlighted two main issues for her hearing request: 1) the footage from the road to the house is over 500 feet, 2) a pump would be required due to gravity flow from the house to the road. The relief requested was exemption.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett asked for clarification regarding the applicant's reference to more than 500 feet.

Chairperson Beers explained the ordinance is more than 100 feet and Ms. Sanborn's record demonstrates that it is more than 500 feet away. Councilor Dennett referenced Section 13.1.1.11 to explain that it does not refer to the location of the structure on the property, but rather the sewer line must be within 100 feet of the property along a public way. He stated his interpretation of that verbiage.

Chairperson Beers stated his interpretation that structures located within 100 feet of the property line must connect. Any structure beyond 100 feet would not be required. Councilor Dennett disagreed and emphasized that the sewer line located within 100 feet of property line as measured *along* the public way, not *from* the public way.

Vice Chairperson Denault understood the intent is directed towards owners of all structures and that is the beginning of the statement.

Councilor White thought that if the verbiage were to be clarified it is either in favor of the property owner or the Town, he would favor in the property's owner benefit.

Councilor Thomson requested clarification from the Superintendent, George Kathios. Mr. Kathios explained that after discussion with engineers from past projects, it is the property abutting the roadway and he could not determine anything contrary of that.

Ms. Sanborn responded to Councilor Thomson's question that her current system is 37 years old and in good condition. She explained what would be required to install the sewer line given the contours of her property. She answered to Councilor Thomson's next question that her system is on an annual pump schedule and there is one person living in the home.

Councilor Thomson recalled a personal experience from several years ago that made him believe anything beyond 100 feet of the property line could be exempt from connection mandate.

Chairperson Beers echoed Councilor White's statement and asked that the section be revised for clarity in the future.

Vice Chairperson Denault noted that it would require a pump system. Councilor Thomson reminded that Vice Chairperson Denault's consideration is not part of the deliberations for the proceeding.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY 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 30 LOT 12A AT 44 MANSON ROAD, OWNED BY KIMBERLY SANBORN, PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM CONNECTION REQUIREMENT IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL LOCATED GREATER THAN 100' FROM SEWER MAIN, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 30 LOT 12A AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [is] complete; made a part of the record; and, the applicant [does] have standing. The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment are not applicable for this request.

Assessment formula for this assessment is not applicable for this request.

There [**are**] mitigating factors related to this request not considered in the plan.

Title 13, §1.1.11 Installation and Connection to Public Sewer Required.

A. **Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line** as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so.

C. **When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required.** However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.1.11C; or §1.1.11A

The relief sought as noted in the request filing asked the Council to find:

Exemption from connect requirement due to lack of gravity flow and greater than 500' distance from structure to sewer main.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow cannot be achieved; or, distance exceeds requirement.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is not**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Structure greater than 100' distant from the sewer main.

Chairperson Beers advised if the applicant is 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.

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- Sharon A. Clark (2 applications)

Name of the requester: **SHARON A. CLARK**

Map-Lot: **30-39** Street: **63-65 MANSON ROAD**

Basic description of the issue on request:

Assessed for two dwelling units (1,040sf home & 396sf Accessory Dwelling Unit). ADU size does not reach the level of dwelling unit definition. Requesting revision to one unit.

Ms. Clark requested a revision to be assessed at one half a unit versus one unit since the requirement is 600 s.f. and the apartment is assessed at 396 s.f.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett asked what existing use of the unit is. Ms. Clark explained that it is located over a garage and occupied by her daughter. Councilor Dennett stated that it is then considered an intra-family unit because an ADU must be minimum size 400 s.f. Chairperson Beers concluded it could not be classified as an ADU because it is less than 650 s.f.

Chairperson Beers responded in the affirmative to Councilor Thomson's question that the size of the unit is grandfathered. Councilor Thomson understood that a grandfathered unit should meet the same standards of assessment as a unit that meets Town Code.

Councilor White explained his understanding that the ADU ordinance was intended to allow for greater density to create affordable housing for a variety of purposes. The function of the unit has the same burden on a system as would an accessory dwelling unit with more square footage. He would include it if it was considered on a legal basis.

Chairperson Beers clarified to Vice Chairperson Denault that the use of the dwelling unit is arbitrary and it is based solely on square footage.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO FIND THE ACCESSORY DWELLING UNIT ON MAP 30 LOT 39 AT 63-65 MANSON ROAD, OWNED BY SHARON A. CLARK, TO BE LESS THAN 650 SQUARE FEET PURSUANT TO TOWN CODE TITLE 16, §2.2 AND §8.25.4.2, AND HEREBY RESOLVES, 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, AND GRANTS A REDUCTION OF NUMBER OF UNITS ASSESSED TO ONE AND RECALCULATION OF THE ASSESSMENT AMOUNT, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 5/2/0, WITH COUNCILOR DENNETT AND COUNCILOR THOMSON OPPOSED.

Councilor Thomson asked if there is a need for revision of the Council's basis in law. Chairperson Beers stated that the issues of the grandfathering will be recorded into the record, but not a finding of Council's basis in law.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 30 LOT 39 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 5/2/0, WITH COUNCILOR DENNETT AND COUNCILOR THOMSON OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are**] mitigating factors related to this request not considered in the plan.

Title 16, §2.2 Definitions

Dwelling unit means a room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least **six hundred fifty (650) square feet** of habitable floor space, except for elderly housing, an accessory dwelling unit, or a temporary, intra-family dwelling unit. The term does not include a trailer.”

Title 16, Chapter 8, Article XXV. Accessory Dwelling Units

§8.25.4.2 Unit Standards.

A. Unit Size. The habitable floor space of an accessory dwelling unit must be a minimum of four hundred (400) square feet and no larger than eight hundred (800) square feet.”

2015 Sewer Main Extension Project Assessment Plan

A. PROJECT DETAILS:

The basis of calculation for the assessment of each parcel is fifty percent (50%) for number of occupancy units (\$711,000.00), **established on a per-dwelling-unit basis for residences** and on a per-unit-of-occupancy basis for structures in nonresidential zones as found in the Town’s property tax records.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 16 §2.2 Definition of Dwelling Unit

The relief sought as noted in the request filing asked the Council to find:

Reduce assessment Unit count because parcel has only one classified dwelling unit

In order to grant the request, the applicant needed to demonstrate that:

Accessory dwelling unit space less than 650 square feet.

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Town Code Title 16 §8.25.4.2, Unit Standards**

The applicant’s evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is not**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Revise Assessment to one Unit based on Town Code Title 16 Definition of Dwelling Unit and §8.25.4.2 Accessory Dwelling Unit Standard.

Councilor Thomson questioned the Council’s rationale for the previous action. The homeowner’s statement that the unit is grandfathered is acceptable, yet because it is smaller than Town Code square footage requirements it shouldn’t be considered as an accessory dwelling unit. He did not see how both considerations could be made. Chairperson Beers cited the definition to emphasize that it comprises less than 650 s.f. of habitable floor space therefore, it is not classifiable as a dwelling unit. The adopted plan indicates that Assessments are made on the number of dwelling units.

Chairperson Beers advised if the applicant is 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: **SHARON A. CLARK**

Map-Lot: **30-39** Street: **63-65 MANSON ROAD**

Basic description of the issue on request:

8.5 acre lot is “undevelopable”. Title 13 appeal for “unbuildable lot” denied by Planner/CEO. Requesting reduction of area assessed to one acre (43,360sf). Aerial view; Kittery Tax Map 30; and, Map 30 excerpt provided.

Ms. Clark requested that the unit be assessed at one acre, which would comprise of the two dwellings. The property is landlocked and isolated. There is no access into the lot and you cannot subdivide or build further on the lot. It would require 150 feet of frontage to build or subdivide and there currently is 125 feet. It is surrounded by the interstate highway on either side. The only potential access is through the private way, Patten Road. After discussion with the Code Enforcement Officer and Town Planner, it was determined that the lot could not be subdivided.

Chairperson Beers asked if it qualifies as a farm. Ms. Clark explained that it is not an income producing farm.

Chairperson Beers explained to the applicant how the Town Code does not consider buildability issues on other than a vacant lot, or one with structures without a sewage disposal system. To demonstrate it is an isolated land may be considered by the Planning Board to Board of Appeals. He stated that since the only contention made is on the basis of buildable lot, the Council cannot make the consideration for that determination.

Councilor Dennett stated he would proceed without prejudice to the applicant once further information from the Planning Board and Board of Appeals is reasonably presented to the Council. Chairperson Beers concurred.

Councilor Thomson asked how many new dwellings could be constructed on 8.5 acres per Town Code in the event that the other property was sold and could provide access. Chairperson Beers estimated about twenty-six. He reminded that the applicant has up to 18 years to effect payment. Should it take time for the Planning Board and Board of Appeals to review the request, the amount of the assessment paid that exceeded when it was finally authorized would be returned.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY CONTINUE THE HEARING ON THIS MATTER OF MAP 30 LOT 39 AT 63-65 MANSON ROAD, OWNED BY SHARON A. CLARK, WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME AS THE BOARD OF APPEALS AND/OR PLANNING BOARD RULES ON THE ISSUE AS TO THE PARCEL’S “BUILDABILITY / DEVELOPABILITY” PURSUANT TO TOWN CODE OR OTHER APPLICABLE STATUTES AND RETURNED TO COUNCIL IN DUE COURSE FOR CONCLUSION, WHICH APPEALS MAY BE FILED WITHOUT COST TO THE APPLICANT, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

Chairperson Beers answered to Ms. Clark’s concern that the Planning Board and Board of Appeals cannot deny Ms. Clark’s application and they are required to make a determination. Ms. Clark noted that when she did attempt to file an appeal, she needed a letter from the Code Enforcement Officer and Town Planner, which they both would not provide. Chairperson Beers asked Ms. Granfield to coordinate the necessary administrative procedures.

Chairperson Beers advised if the applicant is 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.

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- William J. Cullen (2 applications)

Name of the requester: **WILLIAM J. CULLEN**

Map-Lot: **11-29** Street: **32 MARTIN ROAD**

Basic description of the issue on request:

Property has a pond across the width of its boundaries owner by others. No access to building site. Building site is 700' from sewer main. Pump-up required. Objections raised, but no injury stated, nor relief requested [Clarified – seeking exemption from assessment]

Mr. Cullen explained the reason for his request for exemption from the entire assessment is there exists no access to the building site due to a pond that crosses the entire piece of property. The only area for potential consideration is in front of the pond, which is unbuildable due to the setbacks.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett felt the applicant had reasonably proven that access from the primary parcel to Martin Road is unable to be obtained because of the pond that is owned by Southern Maine Fish and Game Association. He stated his favor in relieving the applicant from any assessment charges.

A MOTION WAS MADE BY CHAIRPERSON 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 11 LOT 29 AT 32 MARTIN ROAD OWNED BY WILLIAM & CATHY CULLEN TO EXEMPT THE PROPERTY FROM ASSESSMENT, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 11 LOT 29 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are**] mitigating factors related to this request not considered in the plan.

13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are

required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so.

Pursuant to Town Code Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a commercial or industrial development or a residential subdivision, where public sewer, within an abutting public way, is within one thousand (1,000) feet of the property line as measured along said public way.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.1.11C; or §1.1.11A

The relief sought as noted in the request filing asked the Council to find:

Exemption from connect requirement due to lack of gravity flow and greater than 100' distance from structure to sewer main. Basis for exemption from assessment.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow cannot be achieved; or, distance exceeds requirement.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does not**] warrant relief from the Assessment.

The sum of the information/circumstances presented and reviewed [**may**] warrant a revision of the Assessment calculations.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Structure greater than 100' distant from the sewer main.

Chairperson Beers advised if the applicant is 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: **WILLIAM J. CULLEN**

Map-Lot: **13-04** Street: **DENNETT ROAD**

Basic description of the issue on request:

Frontage length assessed incorrect. Requesting relief to distance of 126lf, which is the Town-installed pipe length. Additional line installation paid by owner.

Mr. Cullen explained that the assessment measured the frontage at 511 feet and a certified survey measured 401 feet. The contractor for the Town sewer line installed 118-120 feet of gravity flow. Where the line left was at a spot that was 18-20 feet below the property in solid ledge.

It was an opportune time to hire Sargent Corporation to extend 4 feet below the ground and that section would be assessed with gravity, as opposed to another pump station. He objects the assessment on the length of the line that they paid to install and within the easement.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett appreciated the amount of detail that was provided by the applicant, but felt that he could not make a decision based on the extreme level of technical complexity in that information.

Vice Chairperson Denault requested more information from Mr. Kathios. Mr. Kathios confirmed that the 126 feet is the correct length of sewer line that is on his property. He stated that the engineering designs were changed during the project. He was not able to perform a thorough investigation of the situation before the time of the hearing.

Councilor Thomson asked what the length of pipe that he paid to have installed was. Mr. Cullen replied that it is 292 feet and he has a receipt for that payment.

Mr. Cullen confirmed to Vice Chairperson Denault's questions that the sewer line travels in his property as well as the business park and allows for sewer to flow off the property. By extending it, there could be another sewer line that connects to Dennett Road, which would not require another pump station. It will open up the front end of the park to gravity.

A MOTION WAS MADE BY CHAIRPERSON 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 13 LOT 04 AT DENNETT ROAD OWNED BY WILLIAM & CATHY CULLEN, ADJUSTING THE FRONTAGE DIMENSION TO BE 126 FEET AND THE ASSESSMENT TO BE RECALCULATED, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 13 LOT 04 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**may not be**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan. There [**are not**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s):

A. PROJECT DETAILS:

“Twenty-five percent (25%) each of the assessed parcel share of the cost (\$355,500.00) is **based on the linear footage of frontage along the extension main abutting each parcel** on a public way; and
.....”

The relief sought as noted in the request filing asked the Council to find:

Find actual frontage linear length to be 126’ as Town installed portion.

In order to grant the request, the applicant needed to demonstrate that:

Distinction between frontage along main – 401.19’ vs Town installed frontage – 126’.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant’s evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**may**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Revise frontage linear foot dimension to 126’ as confirmed by engineer drawings.

Chairperson Beers advised if the applicant is 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.

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- Ronald Provencal

Name of the requester: **RONALD D. & PAULETTE Y. PROVENCAL**

Map-Lot: **29-37A** Street: **8 STEVENSON ROAD**

Basic description of the issue on request:

Claim that Assessment calculation for Area is incorrect, 10,000sf vs 10,019sf.

Mr. Provencal stated the footage area was incorrect on the first assessment. He provided a copy of the deed to the Town previously and it had still not been corrected.

Mr. Provencal also commented that when this process began, the road was raised about 1.5 inch and now every time it rains a river forms in his driveway and it hasn’t been mitigated. Chairperson Beers advised Mr. Provencal to inform Town Manager Granfield of the situation.

Chairperson Beers read the council’s basis in law and findings of fact for the hearing request into the record.

Mr. Provencal stated the specific footage area based on the deed in response to Councilor Dennett’s inquiry. Chairperson Beers asked that a copy of the deed be provided to Town Manager Granfield.

Councilor Thomson asked if the relief requested is to have the lot area square footage reflect 10,000 s.f. Mr. Provencal concurred.

A MOTION WAS MADE BY CHAIRPERSON 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 37A AT 8 STEVENSON ROAD, OWNED BY RONALD D. & PAULETTE Y. PROVENCAL, THAT THE LOT SIZE IS AFFIRMED AT 10,000SF AND THE ASSESSMENT CALCULATION IS TO BE SO REVISED, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 37A AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is not**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment Area dimension of the property [**is**] incorrect.

All other dimensions and arithmetical calculations used for calculating the assessment are not applicable for this request and assessment formula for this assessment is not applicable for this request.

There [**may be**] mitigating factors related to this request not considered in the plan.

A. PROJECT DETAILS:

Twenty-five percent (25%) each of the assessed parcel share of the cost (\$355,500.00) is based on the linear footage of frontage along the extension main abutting each parcel on a public way; and, for the total area of each parcel in square feet.

Key elements of the issue and applicable ordinance(s)/statute(s):

The relief sought as noted in the request filing asked the Council to find:

Apparently reduction in area for assessment calculation to 10,000sf.

In order to grant the request, the applicant needed to demonstrate that:

Lot size is as claimed at 10,000sf

Evidence submitted by the requester beyond what is shown on a plan: **Deed.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Verbal – Comment from Assessor**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Lot size different than assessed calculations used. Mr. Provencal read the property dimensions from the deed.

Chairperson Beers advised if the applicant is 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.

-
- Jacquelyn Nooney

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.

Ms. Nooney stated she recently filed the application to have the land classified as farm land since it meets the qualifications for that classification. That rule is made on April 1st of every year, thus there will be a delay.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Thomson supported what Ms. Nooney requested and emphasized that the Assessment is contingent upon the designation.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO CONTINUE THE HEARING ON THIS MATTER OF MAP 29 LOT 31 AT 6 MEADOW LANE, OWNED BY FLOWER COMPANY PROPERTIES, INC, WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME AS THE TOWN ASSESSOR RULES ON A CLASSIFICATION APPLICATION PURSUANT TO TOWN CODE OR OTHER APPLICABLE STATUTES AND RETURNED TO COUNCIL IN DUE COURSE FOR CONCLUSION, SECONDED BY COUNCILOR THOMSON.

Vice Chairperson Denault asked if the assessor would provide additional information that warrants further deliberation. Chairperson Beers clarified that it is not a deliberation, but rather a presentation of the assessor's classification that indicates the property is exempt. Vice Chairperson Denault questioned the current and future use of the land and whether or not there will be further deliberation on the Assessment. Chairperson Beers replied that the State statute indicates if the property comes out of the classification, then it is liable for all the applicable taxation, including the assessment.

Councilor Dennett questioned what would happen in the event that the Assessor determines eligibility of the classification at less than 100% of the land. Chairperson Beers stated he was not aware of any regulatory requirement that would relieve the property owner from paying the Assessment in due course.

Vice Chairperson Denault asked if there is a time limit for the Assessor to evaluate the classification. Chairperson Beers explained that if it is not classified by the April date, then by default it would not be exempt.

Ms. Nooney explained to Councilor Lemont that she intends to coordinate with the Kittery Land Trust to place a conservation easement on the property in the future.

THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 31 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment are not applicable for this request.

Assessment formula for this assessment is not applicable for this request.

There [**may be**] mitigating factors related to this request not considered in the plan.

13.1.4.3.6 Farm and Open Space Land Exempt from Assessment.

A. Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36 M.R.S. §1102, is exempt from the assessment provided in §13.1.4.3 when no benefits are derived from the common sewer or drain. Owners of such qualified land must notify the municipal officers that their property may qualify for this exception. The municipal officers are to revise the assessments against such land to exempt it from assessment. Any revision of assessment provided by this paragraph is to be in writing and recorded by the clerk.

Title 36: TAXATION; Part 2: PROPERTY TAXES

Subchapter 10: FARM AND OPEN SPACE TAX LAW

§1102. Definitions

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

§1103. Owner's application

An owner of farmland or open space land may apply for taxation under this subchapter by filing with the assessor the schedule provided for in section 1109. The election to apply requires the written consent of all owners of an interest in that farmland or open space land.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.4.3.6A

The relief sought as noted in the request filing asked the Council to find:

Exemption from assessment.

In order to grant the request, the applicant needed to demonstrate that:

The land in question has been formally classified as agriculture by the Town Assessor.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant's evidence presented for the matter: [**was**] substantial;

was not] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**may**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Continued until such time as a receipt of Assessor classification may be affirmed.

Chairperson Beers advised if the applicant is 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.

-
- Susan Holt (applicant not present, see letter in packet)

Name of the requester: **SUSAN HOLT**

Map-Lot: **29-20** Street: **15 STEVENSON LANE**

Basic description of the issue on request:

Reduction in Unit charge from 2 to 1. Location of stub to main line is an issue for exemption to connect consideration. Requested hardship consideration.

Councilor White abstained from voting on the request since he represented Ms. Holt in the past.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett saw three elements for consideration: that financial hardship exists; the property should be assessed at one unit, not two; and, the location of the stub to main line warrants exemption to connect. Chairperson Beers did not understand financial hardship as part of the consideration. Councilor Dennett felt it is difficult to make a decision on the reduction to one unit on the basis of the applicant's intended use. Also, he could not support for relief on the basis of the stub location because it is still within the linear property line.

Vice Chairperson Denault suggested to not remove the second unit from the Assessment based on Councilor Dennett's statement. He asked why the existing location for the stub was chosen. Chairperson Beers believed that it was located there for purposes of gravity flow.

Vice Chairperson Denault asked what the dimensions for the second unit are. The Council could not recall the dimensions in the documentation provided in the request.

Councilor Lemont expressed his concerns with the applicant's testimony. He concluded that he only supported the consideration for financial hardship and supported waiving the betterment fee. He thought there are two units and did not want to make a determination on the level of hardship imposed by the connection requirement.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 20 AT 15 STEVENSON ROAD , OWNED BY SUSAN HOLT, SECONDED BY COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 6/0/1 WITH COUNCILOR WHITE ABSTAINING.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 20 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/0/1 WITH COUNCILOR WHITE ABSTAINING.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are**] mitigating factors related to this request not considered in the plan.

Title 16, Chapter 8, Article XXV. Accessory Dwelling Units

§8.25.4.2 Unit Standards.

A. Unit Size. The habitable floor space of an accessory dwelling unit must be a minimum of four hundred (400) square feet and no larger than eight hundred (800) square feet."

2015 Sewer Main Extension Project Assessment Plan

A. PROJECT DETAILS:

The basis of calculation for the assessment of each parcel is fifty percent (50%) for number of occupancy units (\$711,000.00), **established on a per-dwelling-unit basis for residences** and on a per-unit-of-occupancy basis for structures in nonresidential zones as found in the Town's property tax records.

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via **frontage or an existing public right-of-way less than one hundred (100) feet distant**, whether gravity flow is readily achievable or not.

Dwelling Unit: A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred fifty (650) square feet of habitable floor space and includes any subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).

Per-Dwelling-Unit: The basis of calculation of the number of dwelling units for residences assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.4.3.2 and 16, §2.2 Definition of Dwelling Unit

The relief sought as noted in the request filing asked the Council to find:

Parcel has only one dwelling unit for assessment. Exemption from connection requirement.

In order to grant the request, the applicant needed to demonstrate that:

Accessory dwelling unit space less than 650 square feet.

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Town Code Title 16 §8.25.4.2, Unit Standards; Aerial view, Tax Map excerpt; and, Assessment Map excerpt provided.**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was not**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does not**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

None.

Councilor Thomson expressed concern that Council's decision contradicted the basis for decision made previously.

Chairperson Beers advised if the applicant is 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.

-
- Vincent & Jessie King

Name of the requester: **VINCENT & JESSIE KING**

Map-Lot: **29-04** Street: **132 MARTIN ROAD**

Basic description of the issue on request:

Objection to exclusion of Shapleigh School from Assessment. Property wetlands not excluded from the assessment.

Mr. King explained that the abutting property coming from Rte. 236 is preventing the drainage from flowing off the land, thus, creating an unbuildable wetland. Also, the area is not accessible. He requested that the acreage not be considered in their betterment fee because that section is wetland.

Mr. King responded to Councilor Thomson's question that there has not been an exact measurement of the land excluding the wetland area.

Vice Chairperson Denault asked if the area has always resulted in a wetland. Mr. King affirmed that statement and added that it has worsened because of the backfill from the boats and there exists no culvert. He further explained that once that area filled, the level raised about at least 10-15 feet above the original plane. All that runoff is now forced onto the property whereas before it would runoff towards the business park.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor White explained his vote in the negative to the motion made in the August 15, 2016 special meeting that areas of wetlands are not to be excluded because it conflicts with other policies in town. He considered the applicant's request to be fair, but did not find any sufficient information regarding what the exemption should be to make a decision.

Ms. King replied to Councilor Thomson's question regarding the lots by providing a history of ownership

transfers within their family and how the property lines were adjusted. Councilor Thomson asked whether or not another dwelling could be added to the property if the property had no wetlands. Mr. King replied that there exists no access.

Councilor Thomson asked if there was access available, how many dwellings could potentially be proposed per the zoning. Chairperson Beers replied that only one dwelling would be allowable per the zoning. He echoed Councilor White's statement that further information regarding the square footage of wetlands is necessary to make a decision.

Councilor Dennett did not support considering wetlands for exemption. Chairperson Beers added that his understanding from past practice is that no lands were excluded.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 04 AT 132 MARTIN ROAD OWNED BY VINCENT & JESSIE KING, SECONDED BY COUNCILOR DENNETT.

Councilor Thomson stated his opposition to the motion because he saw no issue in waiting for additional information to make a decision.

Vice Chairperson Denault stated his opposition to the motion based on the knowledge of the area.

Councilor Lemont stated his opposition to the motion based on not having a clear understanding of the size of the wetlands.

Councilor White felt that even if the information regarding the size of the wetlands was determined, the plan itself excludes wetlands from exemption. Chairperson Beers concurred with that statement.

THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH VICE CHAIRPERSON DENAULT, COUNCILOR LEMONT, COUNCILOR THOMSON OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 04 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH VICE CHAIRPERSON DENAULT, COUNCILOR LEMONT, COUNCILOR THOMSON OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct. **Consideration To Reduce Area Requested.**

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan. There [**are not**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s):

Title 30-A: MUNICIPALITIES AND COUNTIES

Chapter 161: SEWERS AND DRAINS

§3442. Expense of construction

2. Estimate and assessment of costs; notice. When any municipality or sewer district has constructed and completed a public drain or common sewer, the municipal officers or sewer district trustees shall determine what lots or parcels of land are benefited by the drain or sewer, and shall estimate and assess upon the lots and parcels of land and against the owner of the land or person in possession, or against whom the taxes on the land are assessed, whether the person to whom the assessment is so made is the owner, tenant, lessee or agent and whether the land is occupied or not, the sum not exceeding the benefit they consider just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with any sewage disposal units and appurtenances that are necessary and in operation after May 31, 1979.

13.1.4.3 Assessment.

13.1.4.3.1 Determination of Benefits.

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefited by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers deem fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.

The whole of the assessments may not exceed one-half the cost of the entire project contract price of constructing and completing the sewer line including all necessary appurtenances and sewage disposal units. The municipal officers shall devise and utilize a formula for determining the fair and equitable cost to the owner or owners of land so benefited.

13.2.2 Unbuildable Parcel Appeals.

13.2.2.1 Definitions.

The following definitions apply to this Section only:

Unbuildable means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

13.2.2.2 Right to Unbuildable Parcel Appeal.

Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

The relief sought as noted in the request filing asked the Council to find:

Include Shapleigh in assessment formula. Reduce property area assessed by size of wetlands and unbuildable property.

In order to grant the request, the applicant needed to demonstrate that:

Shapleigh School should be included for assessment. Wetland areas should be excluded from area calculations.

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf:

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does not**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

None

Chairperson Beers advised if the applicant is 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.

-
- Deborah J. Rose

Name of the requester: **DEBORAH J. ROSE**

Map-Lot: **11-11** Street: **23 MARTIN ROAD**

Basic description of the issue on request:

Frontage and area numbers are incorrect. Connection stub location / access in question.

Ms. Rose stated the square footage in the Assessment is incorrect.

Mr. Kathios stated he observed the property and had discussion with the resident engineer. There was a mistake made in the location of the connection stub. Ms. Rose's property only extends 2 feet on each side of the building. The stub is located on Town line and he questioned how the Town will handle the situation. He did not have a chance to speak with DPW.

An individual that was present with Ms. Rose who assisted with her application stated that Ms. Rose prefers not to have an easement on her property because she is not in position to maintain more property. The applicant requests that the assessment be based on correct size of the property.

Mr. Kathios explained that the sewer line would be extended into 20 feet of Town-owned land in order to connect to her home. He questioned who would be responsible for maintenance and if there would be an easement.

Mr. Kathios clarified to Chairperson Beers the exact delineation on the map between Ms. Rose's property and the Town line.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett felt that the Town needs to decide what they can support and are willing to do regarding the situation before continuing with deliberations on the applicant's request. Councilor Thomson concurred with that statement and felt that additional information is required from various parties. Vice Chairperson Denault supported the notion of continuing the applicant's request.

Councilor Thomson suggested that additional information could be made available within 90 days and then an Assessment could be determined based on that. Chairperson Beers thought the property should be removed from the Assessment until further information is received. Town Manager Granfield felt that 90 days would be a reasonable amount of time to provide the necessary information. Councilor Dennett stated his support for continuance of the request.

A MOTION WAS MADE BY CHAIRPERSON 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 11 LOT 11 AT 23 MARTIN ROAD OWNED BY DEBORAH J. ROSE THAT THE LOT FRONTAGE IS AFFIRMED AT 25 FEET; LOT SIZE IS AFFIRMED AT 3,750SF; AND; THE ASSESSMENT CALCULATION IS TO BE SO REVISED; AND, THE TOWN WILL PROVIDE CONFIRMATION OF AN ACCESS STUB TO THE PROPERTY LINE WITHIN 90 DAYS, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

Chairperson Beers asked that Town Manager Granfield keep Ms. Rose informed of the Town's findings via written communication.

Chairperson Beers advised if the applicant is 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.

-
- Wallace W. Gerry

Name of the requester: **WALLACE W. GERRY**

Map-Lot: **20-13** Street: **27 ROUTE 236**

Basic description of the issue on request:

Determine if gravity flow can be obtained taking drainage ditch on Southside of property, frostline, and depth of service connection into consideration. Need access to service connection pipe without crossing another owner's property. Service connection pipe constructed to my property line.

Mr. Gerry advised confirmation that gravity flow was obtainable and withdrew that request.

Mr. Gerry explained that the hub for both his house and apartment house on his property is located on another individual's property that abuts Rte. 236. If the connection is made available on his property, then he would not have any issue. Chairperson Beers replied that the evidence provided illustrates a connection hub directly on Mr. Gerry's property.

Mr. Kathios explained that the two stubs were located off Mr. Gerry's property because of ditch considerations. However, the Town would not object to paying for relocation of the connection hub, so that it is available on Mr. Gerry's property.

Chairperson Beers concluded that the drawing provided to Council is incorrect. Mr. Kathios noted that version is most likely the proposed version. The actual as-built version would depict the connection hub not on Mr. Gerry's property. That version had not been received yet at the time of the meeting.

Councilor Dennett recommended that the request be continued and the Sewer Department provide a letter that indicates whether or not further requirements on the parcel owner are necessary for the connection hub to be located on his property.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO CONTINUE THE HEARING ON THIS MATTER OF MAP 20 LOT 13 AT 27 RTE 236, OWNED BY WALLACE W. GERRY, WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME AS THE SEWER DEPARTMENT INSTALLS A SERVICE STUB TO THE PROPERTY; AND, IS RETURNED TO COUNCIL IN DUE COURSE FOR CONCLUSION WITHIN 90 DAYS, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

Chairperson Beers advised if the applicant is 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.

-
- Megan Greenwood

Name of the requester: **MEGAN & BRAD GREENWOOD**

Map-Lot: **30-25** Street: **2 APPLGATE LANE**

Basic description of the issue on request:

Contesting property is not benefited because pump would be required; and, request consideration for wetlands, distance and proximity of holding tank to sewer main.

Mr. Greenwood explained that the proximity of the holding tank from the sewer main is approximately 365 feet. Due to the elevation changes and lack of gravity feed, a pump would be required. Therefore, he felt that connection would not be easy to attain and the property should be exempt from betterment fees.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Mr. Greenwood replied to Councilor Thomson that there is a leach field on the property.

Mr. Greenwood explained to Vice Chairperson Denault's questions that the sewer main is lower than the elevation of the house. He added that two contractors concluded a pump would be required from the holding tank to the main sewer line.

Mr. Kathios noted that the engineering firm did not survey the internal plumbing of homes. He explained that there are situations when the septic tank is lower than the level of the home and the connection can still be made. The pump station does not have to be located in an existing septic tank.

Chairperson Beers felt the evidence suggests that gravity flow opportunity does not exist and it does sit more than 100 feet.

Councilor Dennett stated his opposition based on the Council's interpretation of 100 feet and for consideration of the wetlands. Chairperson Beers noted that the wetlands were not part of consideration.

The access stub is at the property and the question was the gravity flow feed to the main sewer line.

Vice Chairperson Denault felt that the connection could be made regardless of the elevation. He stated his support for the exception on the basis of the 100 feet.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 30 LOT 25 AT 2 APPEGATE LANE OWNED BY MEGAN & BRAD GREENWOOD, AND PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM CONNECTION REQUIREMENT IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL LOCATED GREATER THAN 100' FROM SEWER MAIN, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR DENNETT OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 30 LOT 25 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR DENNETT OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are**] mitigating factors related to this request not considered in the plan.

Title 13, §1.1.11 Installation and Connection to Public Sewer Required.

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.1.11A and §1.1.11C

The relief sought as noted in the request filing asked the Council to find:

Whether gravity flow can be obtained from the parcel. Access to service connection stub.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow is or is not obtainable. Whether there is access to service stub not on property.

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**
Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Tax Map 30 and Assessment map excerpts; Construction engineer drawing excerpts; and, Aerial property view provided.**

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

Assessed Parcel: A benefited property included in an adopted Assessment Plan obliging payment of an Assessment Fee.

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is not**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Structure greater than 100' distant from the sewer main.

Chairperson Beers clarified to Mr. Greenwood that the betterment fee was not exempt from this Assessment.

Chairperson Beers advised if the applicant is 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.

-
- David Gerasin

Name of the requester: **DAVID GERASIN, GERASIN FAMILY REALTY, LLC**

Map-Lot: **21-18** Street: **1 RTE 236**

Basic description of the issue on request:

Relief from assessment fee due to granting of an easement to the Town, as had occurred for past projects. Deferral of connection requirement for the 20-year period allowed for recently installed septic systems. (NOTED TO OWNER – ADMINISTRATIVE PROTOCOL TO TOWN MANAGER.)

Mr. Timothy Phoenix, Attorney at Hoefle Phoenix Gormley & Roberts, P.A., was present for the hearing.

Mr. Phoenix stated he was involved in the original discussion with the Town for the negotiation of the property easement. He explained that Mr. Gerasin granted an easement over 1,800 feet long in 2014 with the understanding that there would be fair compensation in return. Mr. Gerasin negotiated with the Town to reduce his betterment fee by \$6,400. The easements were recorded as such.

Mr. Phoenix explained that in the June 27, 2016 Town Council meeting, Mr. Gerasin learned that there exists a policy for anyone who grants an easement to the Town would not be charged betterment fees. Mr. Gerasin felt that policy applies to his current Assessment.

Mr. Phoenix explained why the roughly \$27,000 Assessment amount on the property should be reduced by about \$6,000 as a result of the Town's policy to not require betterment fees for individuals that grant easements to the Town.

Mr. Phoenix stated that Mr. Gerasin does not have 286.15 linear feet along a public way of the sewer main, which is contrary to what the Assessment indicates. The sewer main does not cross his property at any point. It starts on an easement on his property. Mr. Phoenix concluded that Mr. Gerasin has no linear feet of frontage. Thus, the total Assessment should be reduced based on what was previously mentioned, then the remaining balance be waived based on the Town's policy for easements.

Councilor Thomson understood that the reference to the approximate \$6,000 is not associated to the betterment fee, but rather the connection fees. The Council further explained the implications of the betterment fees versus the connection fees.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

Councilor Dennett clarified that the Council has not had previous discussions with Mr. Phoenix on the matter. Mr. Phoenix concurred.

Councilor Dennett suggested that the application could submit request for deferral to the Town Manager based on the septic and leach installation.

Councilor White asked if in the past there have been Assessments that were granted waivers for the entire cost. Chairperson Beers recalled three examples and the overall Assessment in those cases ranged from \$2,000 to \$8,000. He further stated that a proper easement had been granted and was recorded in the York County Registry of Deeds. He pointed out that the value of the installed stubs and fixture fee was now \$36,400 as a result of the Title 13 and Town Code Appendix A revisions ordained on August 15th.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO AFFIRM THE 2014 EASEMENT AGREEMENT AND THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 21 LOT 18 AT 1 ROUTE 236, OWNED BY GERASIN FAMILY REALTY, LLC, SECONDED BY COUNCILOR DENNETT.

Councilor Dennett noted that the motion does not consider the deferral option that he previously suggested. Chairperson Beers noted that deferral was an administrative Town Manager protocol, not part of the hearing consideration

Chairperson Beers indicated to Vice Chairperson Denault that the six connections accorded have a current value of \$36,400.

THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR WHITE OPPOSED.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 21 LOT 18 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR WHITE OPPOSED.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is**] complete; made a part of the record; and, the applicant [**does**] have standing.

The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are no**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s): **None Found**

The relief sought as noted in the request filing asked the Council to find: **Relief from assessment fee.**

In order to grant the request, the applicant needed to demonstrate that: **Compensation granted for this project was not comparable to that for past projects.**

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Kittery Sewer Superintendent letter, 11/3/2014; Sewer Easement, 11/12/2014 and plan as recorded in the York County Register of Deeds, 11/21/2014.**

Article VI. New Sewer Service Connection Fees

13.1.6 Requirement.

13.1.6.1 Benefited and Assessed Properties.

Main extension projects include properties established by the Town Council as benefited and owners are obliged to pay an assessment fee as ordained above. Except as may be required pursuant to 13.1.6.2 and 13.1.6.3 as a result of changes to a benefited and assessed parcel, fees required by this chapter do not apply to connections to the municipal sewage collection system of any structure existing at the time of adoption of an Assessment Plan for such benefitted and assessed properties.

13.1.6.2 Changes to Benefited and Assessed Properties – Impact Fee.

An impact fee is assessed when there is a change in the use, character, or size, of any structure on a parcel, or any other condition that results in additional sewage flow from that parcel.

Additional sewage flow is any increase in the number of units of occupancy over that existing at the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge over that existing; or, reasonably estimated to have existed as date of the benefit assessment plan adoption.

13.1.6.3 New Main Entrance Connection.

Changes in use for benefited properties and all properties not included in a prior main extension Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.

13.1.6.5 Sewer Impact Fee.

13.1.6.5.1 Time Payable.

Sewer impact fees, payable by the property owner pursuant to this section, **must be paid prior to the connection of any sewer line to the municipal sewage collection system; or upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of any property already connected to the municipal sewage collection system.**

13.1.6.6 Special Sewer Entrance Connection Fee.

A. A special sewer entrance connection fee as set out in Town Code Appendix A is established on a **per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for nonresidential structures** for each new sewer entrance connection to a system main.

B. The entrance connection fee is to be paid in full prior to the issuance of a permit for the new connection.

Gerasin accepted an offer (letter, 11/3/14) of waiver of three connection fees and one fixture charge at a value of \$6,400.00 along with an additional five service connection stubs and executed a duly recorded easement agreement on November 12, 2014.

He suggests a past practice whereby assessment fees were waived for properties on other main extension projects as a precedent for grating full relief in this case. Actions taken by past Councils do not establish a precedent for any future Council, as in any given year, obligations beyond a given fiscal year require approval by vote of the Inhabitants of Kittery.

Past occurrences of this nature were invariably small in scope and cost....averaging approximately \$2,000....adjusted for inflation less than \$5,000, to the best of my knowledge.

Where we have here, as found in Title 13 and Town Code Appendix A:

**KITTERY TOWN CODE APPENDIX A
SCHEDULE 13. PUBLIC SERVICES
Chapter 13.1 SEWER SERVICE SYSTEM**

Article VI. New Sewer Service Connection Fees

Sewer Impact Fee (per unit charge) \$3,000.00

Sewer impact fees payable by the property owner must be paid prior to the connection of any sewer line to the municipal sewage collection system; or upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of any property already connected to the municipal sewage collection system. (See §13.1.6.5).

Special Sewer Entrance Connection Fee \$3,000.00

This fee is established on a per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for nonresidential structures for each new entrance connection to a system main. (See §13.1.6.6).

Which means the six connections and one fixture have an actual value of \$36,400.00 which is more than comparable compensation for the easement, in my opinion.

The applicant's evidence presented for the matter: [was] substantial;
[was not] credible;
[was] outweighed by conflicting evidence from the Town; and, the applicant
[did not] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does not**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?
None.

Chairperson Beers advised if the applicant is 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.

6. ADJOURNMENT

Prior to adjournment, Chairperson Beers noted that only one individual had submitted an application for the arbitration citizen panel at the time of the meeting. Council is obligated to nominate six individuals and the Council begged indulgence from the Planning Board, Board of Appeals, and Board of Assessment to serve.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT 9:03 P.M. SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

Submitted by Marissa Day, Minutes Recorder, on October 3, 2016.

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>.