



COMMONWEALTH OF MASSACHUSETTS
TOWN OF ACUSHNET
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OFFICE OF THE
By-Law Review Committee
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MEETING NOTICE & AGENDA

To: Town Clerk's Office
From: By-Law Review Committee
Date: October 17, 2023
Re: Meeting & Agenda

A meeting of the By-Law Review Committee is scheduled for Monday, October 23, 2023 at 3:00 p.m. in the Board of Selectmen's Meeting room, 122 Main St.

- I. Call Meeting to Order – 3:00 p.m.
- II. New Business:
 - ❖ Review and discussion of the following proposed amendment to Town of Acushnet General Bylaws to amend the Sewer Assessment Bylaw at the upcoming November 6, 2023, Special Town Meeting. A review of matters & votes may be taken

Article 13: To see if the Town will vote to amend Article X (Sewer Assessment Bylaw) of the General Bylaws by deleting the stricken language (in stricken red) from the present bylaw and by inserting the highlighted language (in bold red) (as shown below), or take any other action in relation thereto.

Proposed by the Water and Sewer Commissioners (Board of Selectmen)
Recommended by the Finance Committee
(2/3 Vote Required)

See Appendix I for amended language.

- III. Date for next meeting; votes may be taken.
 - IV. Adjournment
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Pamela Labonte
By-Law Review Committee

Appendix I

ARTICLE 13: AMENDMENT TO SEWER ASSESSMENT BYLAW

To see if the Town will vote to amend Article X (Sewer Assessment Bylaw) of the General Bylaws by deleting the stricken language (in stricken red) from the present bylaw and by inserting the highlighted language (in bold red) (as shown below), or take any other action in relation thereto.

Proposed by the Water and Sewer Commissioners (Board of Selectmen)
Recommended by the Finance Committee
(2/3 Vote Required)

ARTICLE X: SEWER ASSESSMENTS BY-LAW

The Town of Acushnet, ~~acting through its Board of Public Works~~ **through its Board of Selectmen acting as the Water and Sewer Commission ("the Board")**, shall assess one hundred percent of sewer project costs proportionately upon those properties that can be determined to benefit from the project. ~~In assessing one hundred percent of total project costs, the Board of Public Works shall determine what portion of such costs shall be assessed as betterment assessment and what portion shall be assessed as a privilege fee.~~

I. Assessment based on uniform unit method.

The Town of Acushnet, ~~acting through its Board of Public Work~~ **through the Board**, in assessing a portion of project cost as betterment assessments, shall assess the owners of land abutting a public sewer line installed by the Town by a rate based upon the uniform unit method. Sewer assessments shall be determined utilizing sewer unit values.

II. Statutory authority

The authority to assess betterments, as well as the permitted methodologies for doing so, are described in M.G.L c. 80, Betterments, and M.G.L. c. 83 Sewers, Drains and Sidewalks.

III. Severability

If any provisions of this bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of applications of this bylaw which can be given effect without such invalid provisions or applications.

IV. Method of assessing betterments: order of assessment

- A. The ~~Town of Acushnet~~ **Board** shall assess sewer betterments based upon the uniform unit method. Properties abutting a sewer street shall be assessed

by a rate proportional to the value assigned to the sewer unit at the time of the assessment. Said rate shall be determined by user class and shall apply to all lands developed or undeveloped abutting a sewer street. The total assessments shall not exceed the local share of the total sewer project cost which shall include total costs of engineering, survey and design, construction, land acquisition, construction engineering services, legal services, the cost of borrowing funds and all related contingencies less all state and federal aid received.

- B. The Board shall levy, by preparing an order of assessment, assessments against all properties abutting a sewer street. In the order of assessment, the Board shall designate the owner of each parcel, as of the preceding January 1, as liable to assessment stipulation under the provisions of General Law.
- V. Time of assessment
- A. Betterments. The equivalent monetary value of one sewer unit shall be set by the Board for the sewer construction projects. The time of assessment for lands abutting the sewer street shall be a reasonable time following that date upon which the sewer system with appurtenances is approved for use. In the case where the construction of that portion of the sewer system (lateral sewers), partially funded by betterments, is completed prior to the date upon which the sewer system is approved for use, it shall be within the powers of the Board to establish an earlier date of assessment.
 - B. Connection and Privilege Fees. All sewer connection fees and privilege fees shall be assessed pursuant to the provisions of Article VII of this bylaw.**

IV. Sewer unit designation

- A. General. Sewer units shall be designated based upon the user class of those properties to be assessed a betterment. Said classes shall include residential and nonresidential. The nonresidential class shall include commercial, industrial, institutional, municipal and any or all other nonresidential properties.
- B. Sewer unit determinations. Properties receiving direct benefit from the public sewer system, whether developed or undeveloped, shall be designated a number of sewer units in accordance with the following:
 - 1. Residential, developed.
 - a. Single-family dwellings shall comprise one sewer unit.
 - b. Duplex dwellings shall comprise two sewer units.
 - c. Three-family dwellings shall comprise three sewer units.
 - d. Four-family dwellings shall comprise four sewer units.
 - e. Multiple family dwellings (in excess of four dwelling units) shall

comprise a number of sewer units based on the following methodology:

- (1) Rental properties (apartments) shall be assessed one sewer unit for each apartment with more than one bedroom. Rental properties shall be assessed on half of one sewer unit for each one-bedroom or studio apartment.
- (2) Condominium complexes shall be assessed one sewer unit for each dwelling unit.

2. Nonresidential, developed.

- a. Nonresidential property shall include all commercial, industrial, institutional and municipal properties.
- b. Nonresidential buildings which are metered for water use shall comprise a number of sewer units based upon the average water consumption for the 12 months preceding the appropriation of the funds for construction using the following formula:

Nonresidential sewage

In gallons per day (gpd) = equivalent number of sewer units 300 gpd
(all decimals shall be rounded up to the next whole number)

- c. Nonresidential buildings not metered for water shall be assigned a water consumption based on Title 5 (Part 2, Section 13) of the State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage. An equivalent number of sewer units shall then be determined by using the following formula:

Nonresidential sewage

In gallons per day (gpd) = equivalent number of sewer units 240 gpd
(all decimals shall be rounded up to the next whole number)

3. Residential undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. Future subdivisions of the assessed lot shall be subject to the assessment of sewer privilege fees.
4. Nonresidential, undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. Future use of land shall govern the assessment of privilege fees.

VII. Betterment payment

- A. General. Except as herein, the provisions of the General Laws relative to the assessments, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefore and to interest thereon, shall apply to assessments made under this article, and the Tax Assessor of the Town shall have all of the powers conveyed by the General Laws.

- B. Lump-sum betterment. The lump sum betterment payment for an assessed property shall be equivalent to the product of the total number of sewer units designated upon said property and the appropriated value of one sewer unit at the time of assessment. Said values shall be determined as described herein.
- C. Apportionment of betterment payment. Property owners shall have the option to finance betterment payments through apportionment. The interest rate charged by the Town shall be 2% greater than the project bond rating being paid by the Town for the sewer construction project.
- D. Betterment deferral. The provisions of M.G.L. c. 80, 13B, with regard to deferral of betterment assessments shall apply.

~~VIII. Sewer privilege fees~~

- ~~A. For those properties not abutting the sewer line, but tying into the system at a future date, the time of assessment of privilege fee shall be the date upon at which that property connects into the sewer system.~~
- ~~B. For those properties serviced by the sewer system, but subdivided at a future date, the time of assessment of privilege fee for the unsewered subdivision shall be the date upon which those subdivision connect to the sewer system~~
- ~~C. Private sewer extension.
 - ~~1. If a developer or a person other than the Town of Acushnet, or dually authorized representative of the same, constructs a sewer extension to the public system, the Town shall assess a sewer privilege fee in lieu of the betterment assessment against each property tying into said sewer extension. The sewer privilege fee shall be equivalent to 90% of the calculated betterment assessment value pertinent to each property, as determined following the procedure outlined in Article VI of these regulations. Sewer privilege fees shall be levied at the time of connection to the public sewer system. Property owner options for payment of said fees shall reflect those related to payment of betterment assessment as described in Article VII.~~
 - ~~2. In addition, the developer and/or property owners connecting to private sewer extensions shall bear the burden of all costs, including legal services, related to the following:
 - ~~a) Review of design plans and specifications for the private sewer extensions to be accepted as part of the public sewer system, conducted by a registered, professional engineer, as authorized by the Board.~~
 - ~~b) Inspection fees of the Board related to the installation of the private sewer extension tying into the public sewer system.~~
 - ~~c) Application fees for a building sewer installation permit, which shall include all reasonable costs related to the installation inspection performed by an inspector for the Town of Acushnet.~~~~
 - ~~3. Costs associated with the design and construction of a private sewer extension shall be considered separate to the sewer privilege fee. Payments~~~~

~~or methods of payment related to these costs shall not be reflected within the sewer privilege fee.~~

~~D. If a property abuts a private or unaccepted way within which a public sewer has been installed, the Town shall assess the betterment assessment against said property. All rules and regulations governing the payment and the method of payment relating to betterment assessments, as described in these regulations, shall apply. The sewer privilege fee shall be levied at the time of the connection to the public sewer. All rules and regulations governing and method of payment related to better assessments, as described in these regulations, shall apply.~~

E. VIII. Sewer Connection/Privilege Fees.

A. Compensatory Sewer Privilege Fee.

1. Undeveloped property. In the situation where a betterment has been assessed to an undeveloped property based upon the number of sewer units required by these regulations, and said property is ultimately developed to accommodate a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.
2. In the situation where a betterment has been assessed to a developed nonresidential property based upon the number of sewer units required by these regulations, and the usage of said property is changed or increased, which results in a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.
3. The compensatory sewer privilege fee shall be equivalent to that sum of money that would have been charged, as a betterment assessment upon the property at the time of the original assessment, under the conditions to which they have changed or increased, less the amount of the original assessment.
4. All rules and regulations governing the payment and method of payment related to betterment assessments **pursuant to Article VII**, as designated in these regulations, shall apply.
5. The **Board of Public Works Board** is authorized to take any other action necessary or appropriate to accomplish the establishment and recovery of such betterment assessments.

B. Sewer Connection Privilege Fee.

- 1. Any property not subject to a betterment assessment or compensatory privilege fee, connecting to the public sewer system or connecting to a private sewer system that is laid with intention of becoming part of the public sewer system shall be assessed a sewer connection privilege fee for each sewer unit on the property. The number of sewer units shall be determined pursuant Article IV. The amount of the sewer connection fee shall be determined from time to time pursuant to Section 14 of Chapter 83 of the General Laws, by the Board of Selectmen acting as the Water and Sewer Commission.**
- 2. At any time, an additional sewer unit or units are added to any property having paid a sewer connection privilege fee, an additional sewer connection privilege fee shall be assessed to said property for the additional number of sewer units.**
- 3. All rules and regulations governing the payment and method of payment related to betterment assessments pursuant to Article VII, as designated in these regulations, shall apply.**

C. Private Sewer Extension Fees.

If a **private** developer or a person other than the town of Acushnet, or duly authorized representative of same, **proposes to** construct a sewer extension to the public sewer system, the developer shall be subject to the provisions of this section.

1. Application Fee.

- a. The developer shall be required to make application to the town for a sewer extension to the public sewer system. The town shall charge the applicant a non-refundable application fee at the time application is made which shall include all administrative costs to the town for proper review of said application and any submitted plans. The application fee shall be for an amount determined from time to time by the Board.**
- b. The application fee is due and paid in full at the time of application and any rules and regulations governing the payment and method of payment related to betterment assessments pursuant to Article VII, as designated in these regulations, shall not apply.**

2. Permit Fee

- a. Upon approval of said application for construction of a private sewer extension, the town shall charge the developer a permit fee which shall include all administrative costs related to the construction of said extension, including but not limited to inspections during construction, review of necessary changes during construction period.**

- b. **The permit fee shall be due and paid in full at the time of issuing the permit and any rules and regulations governing the payment and method of payment related to betterment assessments pursuant to Article VII, as designated in these regulations, shall not apply.**

3. Betterment Main Extension Privilege Fee.

- a. **In addition to a fee for application and permitting, for any extension of a sewer system main that was previously laid as part of a sewer betterment project paid for by the property owners where the cost to said owners can be ascertained, upon approval of said application, the town shall charge a betterment main extension privilege fee to the applicant developer in lieu of betterment assessment against each property that ties into said sewer extension. The fee shall be the equivalent to 90% of the cost to each of the property owners who paid an assessment for said betterment.**
- b. **This fee shall be due and paid in full prior to any property being approved for tie-in to the newly constructed sewer extension and any rules and regulations governing the payment and method of payment related to betterment assessments pursuant to Article VII, as designated in these regulations, shall not apply.**

Explanation:

The current sewer bylaw contains language that is very confusing about how fees are to be assessed. Developers, property owners and DPW staff often became confused about how and when fees were to be charged.

The purpose of the amendments is primarily to clarify what fees are to be charged and when they are to be charged, in a such manner that is fair to all property owners, developers and to the Town for costs absorbed during the process.

The betterment assessments to properties whenever a betterment project is undertaken by the Town do not change under this new amended version.

The privilege fees, however, are where the changes are made to be more clear.

The new bylaw would establish fees as follows:

Compensatory Sewer Privilege fee – is charged to any property located where a betterment project was completed and the property was assessed but then later, some time after the betterment project was completed, the property is subdivided and additional sewer units are added to the property.

The amount of this fee per sewer unit is the same as the amount charged to all properties along the betterment project.

***(this fee is also unchanged from the current bylaw).*

Sewer Connection Privilege fee – is charged to any property that ties into the sewer system. The only properties, not charged this fee when they tie in, are those that are subject to a betterment assessment or a Compensatory Sewer Privilege fee.

The amount of the fee will be established based on the costs to the town.

Private Sewer Extension Privilege fee - comes in 3 different phases and is charged, not to properties that tie in, but to the developer of an extension to the sewer system.

Application fee – the developer will be required to apply to the Town to extend the sewer main and pay this fee at the time of application.

The amount of this fee will be established to recover all the costs to the town to review the application and is non-refundable.

Permit fee – the developer will be charged this fee after the application has been approved and the Town is ready to give the developer a permit for construction. (Obviously if the application is denied, the permit is not given and this permit fee would not be necessary).

The amount of this fee will be established based on the town's cost of monitoring and inspecting during the construction phase.

Betterment Main Extension Privilege fee – this fee is charged (in addition to the application fee and permit fee) to a developer whenever the developer is extending a sewer main that was previously laid and paid for as part of a betterment project. The amount of this fee is 90% of the fee property owners had previously paid when the betterment sewer line was laid.

If the developer is extending a main that cannot be traced to a betterment project, this fee is not applied and only the Application fee and Permit fee would be paid by the developer.

NOTE: It should be clear that the Private Sewer Extension Privilege fees are charged only to a developer of the extension of the main sewer line and not to individual property owners that tie into the extension.

Once the extension is complete and ready for individual properties to tie in, each property tying in will be charged a Sewer Connection Privilege fee whenever any such tie in occurs.
