

Town of Millbury
Minutes of
Sewer Commission Meeting
September 13, 2016

RECEIVED
TOWN CLERK

16 SEP 27 PM 6:13
MILLBURY, MASS.

ITEM ONE – CALL TO ORDER

Chairman Nelson called the meeting to order at 5:03 p.m. Those in attendance are noted below:

Board Members

Gary Nelson

Happy Erickson

Staff/Other

Rob McNeil

Andrea Paquette

ITEM TWO – APPROVAL OF MINUTES

Happy Erickson motioned to approve the minutes of the August 23, 2016 meeting as submitted; Gary Nelson seconded; a unanimous vote of approval was obtained.

ITEM THREE – FINANCE

The Commission approved and signed the following accordingly:

Warrant - \$233,035.75 UBWPAD FY17 2nd quarter invoice

ITEM FOUR – OPERATIONS

Warrants – Happy Erickson motioned to approve the following warrants; Gary Nelson seconded; a unanimous vote of approval was obtained for each warrant:

Sutton Quarterly Billing Warrant (April 1, 2016 – June 30, 2016) \$63,198.52

Bi-Annual Sewer Use Warrant (Jan. 1, 2016 thru June 30, 2016)* \$1,260,613.20

*bills to be mailed 9/14/16

ITEM FIVE – ABATEMENTS

The Commission reconsidered Pool Deduction Abatement Requests from the following: Joseph Lobas - 154 Main St. and Brian Smith - 84 So. Main St. Discussion followed. Rob McNeil recommended the applicants confirm the dates of the water usage to determine abatement eligibility. Happy Erickson motioned to table Abatement Requests for 154 Main St. and 84 So. Main St.; Gary Nelson seconded; a unanimous vote of approval was obtained.

ITEM SIX – BETTERMENTS

Rob McNeil updated the Commission with regards to the matter of sewer assessment charges recently billed to residents of Autumn Gate Circle. He explained that since the last Sewer meeting, Town Council has been reviewing the matter on our behalf, and just this evening received a letter in which their determination is explained. Rob read aloud the letter from Atty. Brian Falk of Mirick O’Connell, dated September 13, 2016 in which he confirms the Town’s position that the sewer privilege fees for Autumn Gates Estates Subdivision are correct at the current rate of \$5,000.00 per unit. Discussion ensued. Rob said he will contact Mr. Gallo and his attorney accordingly and will have Atty. Falk attend the sewer meeting of October 25, 2016.

ITEM SEVEN – SEWER CONNECTIONS

Rob McNeil advised the Sewer Commission that the sewer connection permit application for Knapik Builders, Inc. for new sewer connection 237 Millbury Ave. is not complete and recommends additional information before considering for approval. The Commission took no action regarding this application this evening.

ITEM EIGHT – FUTURE MEETING DATES

9/27/16, 10/11/16, 10/25/16

ITEM NINE – ADJOURNMENT

At 5:35 p.m. Happy Erickson motioned to adjourn the meeting, Gary Nelson seconded. Meeting adjourned.

Respectfully submitted,

Andrea Paquette

Andrea Paquette
Head Clerk

Gary Nelson

Gary Nelson

Happy Erickson

Happy Erickson

TOWN OF MILLBURY
MEETING NOTICE/ AGENDA TOPICS



Sewer Commission

September 13, 2016

5:00 PM

Small Conference Room

Regular Meeting

AGENDA

Date of Meeting:

Time of Meeting:

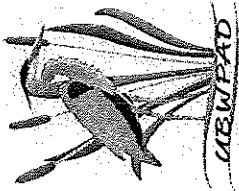
Meeting Location:

1. Minutes: August 23, 2016 Meeting
2. Invoices: \$233,035.75 UBWPAD FY17 2nd quarter
3. Operations :
Sutton Quarterly Billing Warrant: \$63,198.52 (April 1, 2016 – June 30, 2016)
Bi-Annual Sewer Use Warrant: \$1,260,613.20 (Jan. 1, 2016 thru June 30, 2016) to be mailed 9/14/16
4. Abatement Requests:
Pool Deduction Requests
Joseph Lobas 154 Main St.
Brian Smith 84 So. Main St.
5. Betterments:
Continuation of Discussion Re: Autumn Gates/Correspondence from Atty. George Kiritsy
6. Sewer Extensions/Connections:
Applications: 237 Millbury Ave. – Knapik Builders, Inc.
7. Upcoming Meeting Dates:
9/27/16, 10/11/16, 10/25/16
8. Adjournment

Any and all business not reasonably anticipated to be discussed

Signature of Chair Person or Clerk: _____

This notice is in accordance with the Open Meeting Law effective July 1, 2010.



UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT

Engineer Director / Treasurer Karla H. Sangrey, P.E.

BOARD OF DIRECTORS

Chairman
Matthew J. Labovites
Worcester

Vice Chairman
Jeffrey C. Mitchell
Auburn

Secretary
Philip D. Guerin
Worcester

Members

Vernon L. Jackson, Jr.
West Boylston

Gary F. Kellaher
Rutland

Donald G. Manseau
Cherry Valley Sewer District

Robert D. McNeil, III, P.E.
Millbury

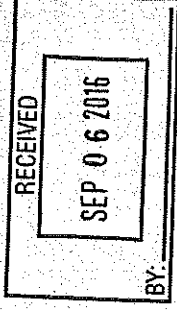
Robert L. Moylan, Jr., P.E.
Worcester

Stephen F. O'Neill
Worcester

Michael E. Traynor, Esq.
Worcester

John Woodsmall
Holden

September 1, 2016



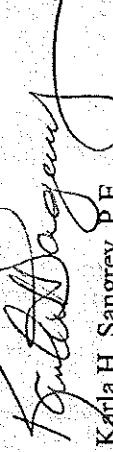
Board of Sewer Commissioners
c/o DPW
127 Elm Street
Millbury, MA 01527

To Whom It May Concern:

I am writing to remind you that your 2nd quarter payment in the amount of \$233,035.75 is due on or before October 15, 2016 relative to the 2017 fiscal year O&M Assessment to the Town of Millbury by the District.

Thank you for your attention to this matter.

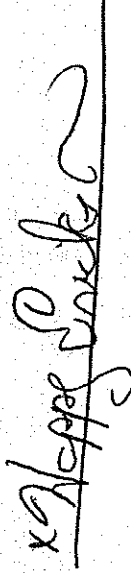
Very truly yours,
UPPER BLACKSTONE WATER
POLLUTION ABATEMENT DISTRICT


Karla H. Sangrey, P.E.
Engineer Director/Treasurer

KHS/eam

cc: Robert D. McNeil, III, P.E., DPW Director

X 

X 

X _____

SEWER COMMISSIONERS WARRANT TO COLLECTOR

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF MILLBURY

OFFICE OF THE BOARD OF SEWER COMMISSIONERS

To Denise Marlborough, Treasurer/Collector, of Millbury in the County of Worcester.

GREETING:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby required to levy on and collect, with interest as provided by law, from each person named in the list or lists herewith committed to you the amount therein set forth as a BETTERMENT OR SPECIAL ASSESSMENT constituting a lien on his land, the sum total of such list or lists being as follows:

BETTERMENT AND SPECIAL ASSESSMENTS

In accordance with orders or statements duly recorded under the provisions of General Laws, Chapter 80 or 83, or Special Act, 1963, Chapter 800; 1973, Chapter 307; 1978, Chapter 156; 1990, Chapter 491, 2002, Chapter 389, 2007, Chapter 11

As Certified to the Board of Assessors

Sutton Quarterly Billing	April 1, 2016 to June 30, 2016
TOTAL	\$63,198.52

And, at such times as the sewer commissioners shall direct, you are to pay over the amounts collected by you to the treasurer of the body politic on behalf of which the assessments were made. And you are to make written return of said assessments and interest with your list and of your doings thereon at such times as the assessors shall in writing require, and also to give to the city or town treasurer an account of all charges and fees collected by you.

But you are to complete, and make up and account of, the collection of the whole sum hereby committed to you, with interest on or before of the current year.

And in the levy and collection of such assessments hereby committed to you, and of interest, charges and fees, as provided by law, you are to have and to exercise the same powers and be subject to the same duties as in the case of the annual taxes upon real estate; but the owner of land assessed shall not be personally liable for any assessments made under said Chapters 80 or 83.

Given under our hands this 13th day of September 2016



BOARD OF SEWER COMMISSIONERS

Force Main from Millbury to the Upper Blackstone Water Pollution Abatement Facility (UBWPA)

Flows for the period:

16,922,000
93,127,000
110,049,000
15.38%

		SPENT	SUTTON ELIGIBLE
Salaries	\$ 254,898.00	\$ 73,328.19	\$ 71,995.16
Supplies & Materials	\$ 38,000.00	\$ 15,261.32	\$ 7,620.60
Purchased Services	\$ 292,189.00	\$ 87,400.18	\$ 30,392.29
Indirect Costs	\$ 320,679.00	\$ 80,169.75	\$ 80,169.75
UBWPAD Assessment	\$ 883,287.00	\$ 220,821.75	\$ 220,821.75
TOTALS	\$ 1,789,053.00	\$ 476,981.19	\$ 410,999.55

\$ 410,999.55

15.38%	\$	63,198.52
--------	----	-----------

\$ 63,198.52

Signed:

Town of Millbury
DPW/Sewer Division
127 Elm Street
Millbury, MA 01527

Sam Chubb
Happi Pickard

Millbury, MA 01527

SEWER COMMISSIONERS WARRANT TO COLLECTOR

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF MILLBURY

OFFICE OF THE BOARD OF SEWER COMMISSIONERS

To Denise Marlborough, Treasurer/Collector of Millbury in the County of Worcester.

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BETTERMENT AND SPECIAL ASSESSMENTS

In accordance with orders or statements duly recorded under the provisions of General Laws, Chapter 80 or 83, or Special Act, 1963, Chapter 800; 1973, Chapter 307; 1978, Chapter 156; 1990, Chapter 491, 2002, Chapter 389, 2007, Chapter 11

As Certified to the Board of Assessors

Sewer – User charges	
Date to Date:	
January 1, 2016 to June 30, 2016	
Mail date September 14, 2016	
TOTAL	\$1,260,613.20

And, at such times as the sewer commissioners shall direct, you are to pay over the amounts collected by you to the treasurer of the body politic on behalf of which the assessments were made. And you are to make written return of said assessments and interest with your list and of your doings thereon at such times as the assessors shall in writing require, and also to give to the city or town treasurer an account of all charges and fees collected by you.

But you are to complete, and make up and account of, the collection of the whole sum hereby committed to you, with interest on or before of the current year.

And in the levy and collection of such assessments hereby committed to you, and of interest, charges and fees, as provided by law, you are to have and to exercise the same powers and be subject to the same duties as in the case of the annual taxes upon real estate; but the owner of land assessed shall not be personally liable for any assessments made under said Chapters 80 or 83.



MIRICK O'CONNELL

A T T O R N E Y S A T L A W

Brian R. Falk

Mirick O'Connell

100 Front Street

Worcester, MA 01608-1477

bfolk@mirickoconnell.com

t 508.929.1678

f 508.983.6256

VIA EMAIL

September 13, 2016

Robert D. McNeil

Director of Public Works

Town of Millbury

127 Elm Street

Millbury, MA 01527

Re: Autumn Gates Estates Sewer Privilege Fees

Dear Mr. McNeil:

This is in response to your request to review an August 23, 2016 memorandum submitted to the Town by Attorney George Kirtsy on behalf of Fox Gate, LLC, developer of the Autumn Gates Estates subdivision.

In his memorandum, Mr. Kirtsy states that sewer privilege fees recently assessed to Fox Gate and several individual homeowners in the subdivision should be \$2,500 per unit, and not \$5,000 per unit. Further, Mr. Kirtsy offers in his memorandum that Fox Gate is willing to pay the sewer privilege assessment for all properties in the subdivision at a rate of \$2,500 per unit. Based upon the various special acts governing sewer privilege fees in Millbury, I do not agree with the conclusions set forth in Mr. Kirtsy's memorandum.

As noted in Mr. Kirtsy's memorandum, five special acts authorize and govern sewer privilege fees in Millbury. Section 2 of Chapter 307 of the Acts of 1973, as amended by Chapter 156 of the Acts of 1978, provides as follows:

Whenever a building or structure is accessible either directly or indirectly, to the town sewer system, or any connection already made, or whenever the use of a sewer previously connected is subsequently changed as hereinafter provided, a permanent sewer privilege fee shall be assessed. Such fee shall be that which is in effect at the time the sewer construction is completed; or, in case of a change in use of a sewer previously connected, then the fee in effect at the time an application for a building permit is filed; or if no such permit is required then at the time an occupancy permit is issued, or, if none, then at the time the new use begins.

(Emphasis added).

MIRICK O'CONNELL

Robert D. McNeil, Director of Public Works
September 13, 2016
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The prior version of said Section 2 provided that the sewer privilege fee applied “[w]henever a connection is made, either directly or indirectly, to the town sewer system” rather than “[w]henever a building or structure is accessible either directly or indirectly, to the town sewer system”. Therefore, as amended, Section 2 authorizes a sewer privilege fee when a structure or building *may connect* to the sewer system because a line has been installed to accommodate sewer service, rather than when a structure or building *actually connects* to the sewer system.

Further, Section 2 provides that the applicable sewer privilege fee to be assessed is the fee in effect at the time the sewer construction is completed. Given that there may be a time lag between the construction of a sewer line and the construction of buildings that may access the sewer line, the Town must keep track of the sewer privilege fee applicable at the time each sewer line is completed.

I understand that in 2002 Town Meeting set the sewer privilege fee at \$5,000 per unit, an increase from the prior fee of \$900 per unit, and that the fee has not been changed since then. In addition, I understand that the Autumn Gates subdivision was approved by the Planning Board in May 9, 2005, and that the sewer lines serving Autumn Gates homes were completed by the original developer (and not the Town) prior to February 8, 2007.

At the time the sewer lines serving Autumn Gates homes were completed, the sewer privilege fee was \$5,000 per unit. However, at that time Section 3 of Chapter 307 of the Acts of 1973, as amended by Chapter 156 of the Acts of 1978, provided as follows:

A. Residential use.

1. Each single family building accessible directly to the town sewer system shall be assessed as one unit.

...

3. In the case of approved subdivisions, when branch or secondary mains are installed and paid for by developers, or by persons other than the town of Millbury each single family dwelling accessible to the town sewer system shall be assessed one-half unit for a period of five years from the date of the original subdivision plan approval by the planning board. Paragraph 1 shall apply to all assessments made after the original five-year period.

According to his memorandum, Mr. Kirtisy reads Section 3.A.3 as providing that so long as a subdivision developer completes the sewer construction within five years after the date of the subdivision approval, all buildings later assessed a sewer privilege fee for such construction, (at any time in the future) must be assessed at the one-half unit fee. However, Section 3.A.3 clearly states that the full unit fee (set forth in Paragraph 1) “shall apply to all assessments made

MIRICK O'CONNELL

Robert D. McNeil, Director of Public Works
September 13, 2016
Page 3

after the original five-year period." Section 3.A.3 therefore contemplates that buildings in a subdivision may be assessed sewer privilege fees at the full unit rate once the initial five-year half fee period expires. In the case of Autumn Gates, the half fee period expired on May 9, 2010; after that date, any sewer privilege assessments must be based upon the full unit fee in effect at the time the sewer construction was completed, or \$5,000 per unit.¹

I understand that the Sewer Department sent the developer of Autumn Gates a letter dated November 21, 2008, stating that the "sewer connection fees" for the subdivision "will be assessed at \$2,500." At the time of the letter, \$2,500 per unit was the correct sewer privilege fee, as the five-year half fee period had not yet expired. The letter does not state that the \$2,500 fee would be in effect in perpetuity for units in Autumn Gates.

Based on the forgoing, the recent sewer privilege assessments to Fox Gate and several individual homeowners in the Autumn Gates subdivision used the correct sewer privilege fee of \$5,000 per unit. In addition, I do not believe the Board of Sewer Commissioners has authority to accept less than a full unit sewer privilege fee, as offered by Attorney Kiritsy, for any of the Autumn Gates units assessed after May 9, 2010.

Please let me know if you have any additional questions.

Very truly yours,



Brian R. Falk

BRF/

¹ Chapter 11 of the Acts of 2007 repealed Section 3.A.3, thereby eliminating the five-year half rate period available for residential subdivisions.

The Law Office
of
George P. Kirtsy

George P. Kirtsy, Esq.

Angela M. Cormier, Esq.

August 23, 2016

Town of Millbury Sewer Commission
Mr. Robert D. McNeil, Director-Public Works
127 Elm Street
Millbury, Massachusetts 01527

RE: Autumn Gates Estates Subdivision
Millbury Sewer Privilege Fee - Betterment

Dear Mr. McNeil and Members of the Commission:

Please be advised that I represent Fox Gate, LLC., the current developer of the above referenced project. Initially, on behalf of my client, I would like to extend our appreciation for your prompt and courteous availability and your willing to meet with my client, and the subdivision homeowners on Wednesday, August 23, 2016. The meeting was fruitful and informative.

I had been requested by my client to research certain issues regarding the betterment fee recently assessed by the Commission on lots in the subdivision. My research included a review of the assessment under MGL c. 80 and c. 83. My research also included a review of special legislation specific to the Town of Millbury. Those special acts date back to the early 1970's and include several amendments since then. Although I am certain that the commission is intimately familiar with the legislation, I have provided a copy of the special acts for your convenient reference with the letter. I have also provided a copy of a letter from Mr. Lange in 2008, which will be further referenced in this letter.

My research included an analysis of the town's authority to assess the privilege fee and the procedures under which the town might do so. For the purposes of this letter, my client acknowledges the authority of the town to levy the fee. Also, for the purposes of this letter, my client assumes the legitimate increase from the statutory rate of \$900.00 per unit in 1978 to \$5,000.00 per unit in 2002. I have not actually reviewed the process employed by the town at that time, and rendered no opinion to my client whether the increase was properly made or whether the amendment constituted a change to the town's charter requiring compliance with the Massachusetts Home Rule Procedures Act. As noted, this letter assumes the valid increase in 2002.

294 West Boylston Street, West Boylston, Massachusetts 01583
Phone: (508) 886-2800 ♦ Fax: (508) 886-2810 ♦ Email: georgekirtsylaw@gmail.com

Assuming that the increase was correct, my client, and the several home-owners recently assessed the fee, question both the timing and the amount of the assessment. I do not represent the homeowners, but I understand that they share my client's concerns. Please accept this letter as a short position statement which is the basis of a proposal my client will advance in an effort to resolve this issue for the benefit of all concerned.

In 1973, the Massachusetts legislature passed a Special Act, authorizing Millbury to assess a privilege fee to all properties with structures which have access to the sewer system. The fee was originally \$900.00, and Millbury was authorized to change the rate at its town meeting. The enabling legislation established the base rate, a formula for subdivision lots, and a time-line by which the assessment was to be calculated. In pertinent, it reads, "Whenever a connection is made, either directly or indirectly, to the town sewer system ... a permanent sewer privilege fee shall be assessed. *Such fee shall be that which is in effect at the time the connection is made...*" (Emphasis added). (1973 Acts, Chapter 307, Section 2)

However, in 1978, the controlling language was changed, and the time-line by which the rate is determined was altered. In pertinent part, it reads, "whenever a building or structure is accessible either directly or indirectly, to the town sewer system ... a permanent sewer privilege fee shall be assessed. *Such fee shall be that which is in effect at the time the sewer construction is completed.*" (Emphasis added). (1978 Acts, Chapter 156, Section 2) The amendment had two effects. First, it made all building to which sewerage was accessible subject to the assessment (regardless of connection). Second, it froze the rate to that in effect when the sewer line was constructed. That language has not changed.

Also, the 1978 Act provided that "In the case of approved subdivisions, when branch or secondary mains are installed and paid for by developers, or by persons other than the town of Millbury each single family dwelling accessible to the town sewer system shall be assessed one-half unit for a period of five years from the date of the original subdivision plan approval by the planning board. Paragraph 1 shall apply to all assessments made after the original five-year period." (1978 Acts, Chapter 156, Section 3.A.3)

Section 2 established the controlling date and Section 3.A.3 established the amount. Therefore, when determining the rate to be assessed, the controlling date is the date the sewer construction was completed, not the connection date. The sewer was completed before 2007, when the planning board released the security held for the sewer line and pump station. Because the sewer was completed within five years from the date of the May 2005 approval, the site was entitled to the one-half rate under Section 3.A.3.

Assuming that the base rate in at the time the sewer was completed was \$5,000.00, the applicable rate for connections to that sewer is \$2,500.00. At Wednesday's meeting, Mr. Gallo offered to pay the assessment (privilege fee) of \$2,500.00 for all lots in the subdivision. He would pay that amount now, in full, regardless of actual connection at this time. This offer is made to resolve any and all outstanding issues regarding the assessments. Under his contracts with his buyers, they are responsible for the assessments. Nevertheless, he is offering to cover them, provided that the amount is agreeable.

Moreover, this position is confirmed by letter issued by the former Sewer Superintendent in November 2008. In that letter, Mr. Lange established the applicable rate to be \$2,500.00. He informed Mr. Gallo that the fee would be \$2,500.00 per lot for the site and that it would be assessed at the issuance of each connection permit. His interpretation is consistent with mine. Please note that his letter was issued over one year after the legislature removed the subdivision deduction under Section 3.A.3.

As noted, this offer is based on my review of the controlling Special Law. Mr. Gallo would rather resolve this now than appeal the assessments, challenging the rate increase, assessment timing, and procedural history. This offer pays to the Commission the full amount due (as I calculate) now, rather than over twenty years. It also frees the homeowners from the burden of paying an assessment which they owe (by contract), but which they were unaware for the past few years. There are 27 lots in the subdivision and the gross assessment calculated hereunder is \$67,500.00. My client has already paid \$15,000.00. Therefore, my client offers to pay now the sum of \$52,500.00 for a full release of all lots, whether owned or sold.

This offer will free the Commission from having to assess future lots in the site. It will generate immediate revenues, rather than apportioned revenues over twenty years. It avoids the costs and time of 27 abatement applications, appeals or further review. It relieves the homeowners from the financial burden now impressed upon them. From my clients' perspective, it resolves the issue now, brings closure for them and for their customers, and save them the costs and time of the abatement process.

Finally, please accept this letter also as a formal offer in settlement of potential claims and defenses. Although for the purposes of this letter and the offer my client has conceded certain facts, my client reserves all rights in the event that this proposal is not acceptable. We respectfully request that the Commission review this proposal in light of the issues raised herein and by the residents at the site, and advise. If acceptable, my client will make immediate arrangements for payment as offered herein. If you have any further questions, please do not hesitate to contact me. Thank you.

Very truly yours:



George P. Kiritsey

cc: Steven Gallo
Robert Gallo



TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527 • TEL. 508/865-9143 • FAX 508/865-0853

November 21, 2008

Mr. Steve Gallo
31 Gallair Circle
Holden, MA 01520

Subject: Autumn Gate Development – Phase I
DEP Sewer Extension Permit BRP #W053874
Collection System and Pump Station

Dear Mr. Gallo:

This letter is intended to confirm that the existing collection system and pumping station system installed to connect the subject development property to the municipal sewer system adequately meets the requirements of this department subject to the following conditions.

In a letter from Earth Tech dated April 5, 2008 a punch list was prepared regarding the infrastructure installed. To date, items 1, 2, 6, 7, 8 & 9 have been corrected and/or addressed as required by the Department. The remaining items listed below require further action prior to or in conjunction with the activation of the pump station.

3. Proof of warranties must be provided for all equipment
4. List of Spare Parts to be provided (refer to April 5 letter for additional information)
5. Final Paving to be scheduled for inspection by Millbury DPW or Earth Tech with at least 5 days notice.
10. The ADT alarm system must be installed when the pump station is put in service for sewage transmission.
11. A street light will be installed within 40 feet of the perimeter fence of the pump station.

Also, in accordance with the Sewer Department regulations, you are required to contribute to the I/I fund which is used to provide additional capacity in the municipal sewer system to accommodate the additional flows. The required contribution is a value equal to three times the Title 5 flow rate. For the proposed 29 lot development, a total of \$28,710 (29 lots x 3 bedrooms/home x 110 gpd x 3/1 factor x \$1.00/gal) must be paid into the fund before any permits can be issued on the project. Note that this calculation is based on 3 bedroom homes. If 29 4-bedroom homes are constructed, the adjusted value would be \$38,280.

In addition to the I/I fund required for the sewer extension approval, sewer service connection fees for this development will be assessed at \$2,500 per lot prior to the issuance of a sewer connection permit to the drain layer.

SEWER COMMISSION

Gary C. Nelson
Chairman

Happy Erickson
Clerk

Frank J. Gagliardi
J. Bradford Lange
Superintendent

If you have any questions, or require any additional information, please call this office.

Very truly yours,

J. Bradford Lange

J. Bradford Lange, Superintendent
Millbury Sewer Department

Attachment

cc: Marie Cannon, Earth Tech

**Chap. 307. AN ACT RELATIVE TO SEWERAGE FACILITIES AND
BETTERMENTS IN THE TOWN OF MILLBURY**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapters eighty and eighty-three of the General Laws, the town of Millbury shall hereinafter charge a permanent sewer privilege fee as established by this act. The fees established herein may be changed from time to time upon vote of the town at any annual town meeting.

SECTION 2. Whenever a connection is made, either directly or indirectly, to the town sewer system, or any connection already made, or whenever the use of a sewer previously connected is subsequently changed as hereinafter provided, a permanent sewer privilege fee shall be assessed. Such fee shall be that which is in effect at the time the connection is made; or, in case of a change in use of a sewer previously connected, then the fee in effect at the time an application for a building permit is filed; or if no such permit is required then at the time an occupancy permit is issued, or, if none, then at the time the new use begins .

SECTION 3 The permanent sewer privilege fee shall be at the rate of nine hundred dollars per unit. For the purpose of this act, the number of units to be assessed on each connection shall be as follows:

A. Residential use.

1. Each single family building connected directly to the town sewer system shall be assessed as one unit.
2. Each dwelling unit in a multiple family dwelling, whether connected to the town sewer system directly or indirectly, shall be assessed one full unit and one-half unit for each additional unit in the dwelling. For the purpose of this section, multiple family dwellings shall be deemed to include, but not to be limited to, more than single family buildings, apartment houses, complexes, town houses, condominiums, or otherwise.
3. In the case of approved subdivisions, when branch or secondary mains are installed and paid for by developers, or by persons other than the town of Millbury each single family dwelling connected to the town sewer system shall be assessed one-half unit for a period of five years from the date of the original subdivision plan approval by the planning board. Paragraph 1 shall apply to all connections made after the original five-year period.

B. Other uses.

1. For uses other than residential, there shall be an assessment of a minimum of one unit, and an additional unit for every ten thousand square feet of floor space, or major portion thereof, exceeding an initial ten thousand square feet, up to a total of fifty thousand square feet of floor space; and an additional unit for every twenty-five thousand square feet of floor space, or major portion thereof exceeding the initial fifty thousand square feet.
2. In the case of approved commercial or industrial subdivisions, when branch or secondary mains are installed and paid for by developers or by persons other than the town of Millbury the charges assessed shall be one-half of the charges described in paragraph 1 for a period of five years from the date of the original subdivision plan approval. Paragraph 1 shall apply to all connections made after the original five-year period.

C. Changes in use.

1. When a sewer has previously been connected, in residential uses when additional dwelling units are added, a fee of one-half unit per additional dwelling unit shall be assessed.
2. When a sewer has previously been connected, in uses other than residential when additional floor space is added, a fee shall be assessed of one unit for each additional ten thousand square feet of floor space, or major portion thereof, up to a total of fifty thousand square feet of total floor space of the building; and an additional unit for every twenty-five thousand square feet of floor space, or major portion thereof, exceeding the initial fifty thousand square feet.

SECTION 4. The owner or occupant of any building upon land abutting on a public or private way, in which there is a common sewer, shall connect the same therewith by a sufficient drain. If such land, by reason of its grade or level or any other cause, cannot be drained into such sewer, a variance from this requirement may be granted by the board of health until said incapacity is removed, provided that a private septic tank system is installed which meets the requirements of the board of health, said variance to be only for so long as said system continues to meet those requirements as they may be amended or revised.

SECTION 5. The fee under this act shall be assessed by the sewer commissioners upon the estate benefited thereby.- Such assessment shall be made by filing with the board of assessors of the town a certificate, designating the way on which the premises connected lies, and giving the name or names of the owners of the estate for which such connection has been made and the amount of the assessment to be paid by such owner or owners. A copy or duplicate of this certificate shall, within

thirty days after the filing of the same with the board of assessors, be recorded in the registry of deeds for the county of Worcester, or, in the case of registered land, filed in the office of the assistant recorder for the Worcester County Registry District. The board of assessors shall, upon receipt of such certificate, forthwith commit such assessment with this warrant to the collector of taxes, who shall forthwith make a demand in writing for the payment of such assessment, and every owner shall, within three months after such a demand is served upon him or on the occupant of such estate, or sent by mail to the last address of the owner known to the collector of taxes, pay to the collector of taxes the sum so assessed or charged.

SECTION 6. Except as herein provided, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement, and collection of sewer assessments, to liens therefor, and to interest thereon shall apply to assessments made under this act. In applying said provisions to assessments made under this act, the notice referred to herein shall be deemed to be the demand of the tax collector. The lien for any assessment made under this act shall attach upon the recording or filing for registration of the copy or duplicate of the certificate of assessment.

SECTION 7. In addition to the fees prescribed by this act, the owner shall pay the rates established from time to time for sewer usage and shall also pay for all service work, materials, and inspection from the main to the building or buildings serviced.

SECTION 8. This act shall take effect upon its passage.

Approved May 24, 1973.

**Chap. 156. AN ACT RELATIVE TO BETTERMENT ASSESSMENTS FOR
SEWERAGE FACILITIES IN THE TOWN OF MILLBURY.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 307 of the acts of 1973 is hereby amended by striking out sections 2 and 3 and inserting in place thereof the following two sections:-

Section 2. Whenever a building or structure is accessible either directly or indirectly, to the town sewer system, or any connection already made, or whenever the use of a sewer previously connected is subsequently changed as hereinafter provided, a permanent sewer privilege fee shall be assessed.

Such fee shall be that which is in effect at the time the sewer construction is completed; or, in case of a change in use of a sewer previously connected, then the fee in effect at the time an application for a building permit is filed; or if no such permit is required then at the time an occupancy permit is issued, or, if none, then at the time the new use begins.

Section 3. The permanent sewer privilege fee shall be at the rate of nine hundred dollars per unit. For the purpose of this act, the number of units to be assessed on each building or structure shall be as follows:-

A. Residential use.

1. Each single family building accessible directly to the town sewer system shall be assessed as one unit.
2. Each dwelling unit in a multiple family dwelling, accessible to the town sewer system directly or indirectly, shall be assessed one full unit and one-half unit for each additional unit in the dwelling. For the purpose of this section, multiple family dwellings shall be deemed to include, but not to be limited to, more than single family buildings, apartment houses, complexes, town houses, condominiums, or otherwise.
3. In the case of approved subdivisions, when branch or secondary mains are installed and paid for by developers, or by persons other than the town of Millbury each single family dwelling accessible to the town sewer system shall be assessed one-half unit for a period of five years from the date of the original subdivision plan approval by the planning board. Paragraph 1 shall apply to all assessments made after the original five-year period.

B. Other uses.

1. For uses other than residential, there shall be an assessment of a minimum of one unit, and an additional unit for every ten thousand square feet of floor space, or major portion thereof, exceeding an initial ten thousand square feet, up to a total of fifty thousand square feet of floor space; and an additional unit for every twenty-five thousand square feet of floor space, or major portion thereof exceeding the initial fifty thousand square feet.
2. In the case of approved commercial or industrial subdivisions, when branch or secondary mains are installed and paid for by developers or by persons other than the town of Millbury the charges assessed shall be one-half of the charges described in paragraph one for a period of five years from the date of the original subdivision plan approval. Paragraph 1 shall apply to all assessments made after the original five-year period.

SECTION 2. Section 5 of said chapter 307 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such assessment shall be made by filing with the board of assessors of the town a certificate, designating the way on which the premises lies, and giving the name or names of the owners of the estate for which such assessment has been made and the amount of the assessment to be paid by such owner or owners

Approved May 12, 1978

**Chapter 491. AN ACT RELATIVE TO BETTERMENT ASSESSMENTS FOR
 SEWERAGE FACILITIES IN THE TOWN OF MILLBURY.**

Be it enacted, etc., as follows:

Paragraph 2 of subsection A of section 3 of chapter 307 of the acts of 1973, as amended by section 1 of chapter 156 of the acts of 1978, is hereby further amended by adding the following sentence:- If any units in a multiple family dwelling are individually owned they shall be assessed as one full unit.

Approved December 29, 1990.

**Chapter 389. AN ACT RELATIVE TO BETTERMENT ASSESSMENTS FOR
 SEWERAGE FACILITIES IN THE TOWN OF MILLBURY**

Be it enacted, etc., as follows:

Section 5 of chapter 307 of the acts of 1973, as amended by section 2 of chapter 156 of the acts of 1978, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- A copy or duplicate of this certificate shall, within 120 days after its filing with the board of assessors, be recorded in the registry of deeds for Worcester county, or in the case of registered land, filed in the office of the assistant recorder for the Worcester county registry district, unless the owner of the premises assessed pays the assessment before the time for filing as specified in this section.

Approved December 5, 2002.

**Chap. 0011. AN ACT RELATIVE TO THE SEWERAGE FACILITIES AND
 BETTERMENTS IN THE TOWN OF MILLBURY.**

Be it enacted, etc., as follows:

Subsection A of section 3 of chapter 307 of the acts of 1973, as appearing in section 1 of chapter 156 of the acts of 1978, is hereby amended by striking out paragraph 3.

Approved February 8, 2007.