

September 13, 2011

My name is Jacques Menache. My family owns The Armadillo Grill building on the South side of Main street downtown.

As you know on August 26 a catastrophic sewer over-flow forced businesses to close early.

The problem was temporarily repaired by installing an ad-hock pumping station in the Barber shop alley and diverting the sewer to the Bank of America lateral line. The expense of such action was incurred by Acme restaurant and building owner Kevin Callahan.

I am here tonight on behalf of the property owners and business owners of the 100 block of Main Street, between Armadillo Grill and The Friendly barber shop,

We are all aware that the problem sewer line is designated as a Private Line. It is not the first time that we spend money on this problem.

If we do not act urgently existing businesses on this downtown block will have to close and future businesses will not be licensed to open.

We do not know yet the exact amount of what it will cost to perhaps solve the problem, but it will be at least \$ 60,000.00. I said perhaps, because it is a bit like surgery, we will not know until we open the ground, We don't know if the old line behind the block of buildings will need to be replaced as well.

I am respectfully asking you to consider the following three requests:

- 1) To designate an emergency fund of \$ 60,000.00 to deal with the problem now.
- 2) To take over the repair and maintenance of the sewer line.
- 3) To exert any power you may have to convince OWASA to adopt this project.

I will leave the voice to others present who have more knowledge and expertize to answer technical questions you may have. Thank you.

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO ISSUE EMERGENCY LOANS
FROM THE CARRBORO REVOLVING LOAN FUND FOR CERTAIN BUSINESSES ON EAST
MAIN STREET

Resolution No. 25/2011-12

WHEREAS, The Town of Carrboro established a Revolving Loan Fund in 1986 to provide incentives for individuals to start new businesses, expand existing businesses, or retain jobs and provide an incentive for people to do business in the Town of Carrboro; and

WHEREAS, the fund now has \$204,478 available to be loaned to applicants with viable projects; and

WHEREAS, the property owners between 108 East Main Street through 120 East Main Street share a joint sewer line and have identified an emergency public health issue related to the sewer connections for these buildings; and

WHEREAS, the sewer line has suffered a major failure and is causing a public health risk which could result in businesses being closed and having severe negative economic impacts on the Town;

WHEREAS, the applicants have requested assistance from the Town with a minimum amount of \$60,000 based on preliminary cost estimates for the needed repairs;

WHEREAS, the Board of Alderman have heard the request and considered the recommendation of the staff to utilize Revolving Loan Funds;

NOW THEREFORE, THE CARRBORO MAYOR AND BOARD OF ALDERMEN RESOLVES THAT: Based upon the emergency nature and public health risk and the potential negative economic impact to the Town the Board will make available to the property owners of the 108 – 120 East Main Street funds from the Revolving Loan Fund on the following conditions;

- a. Loan funds should only be made available to property owners who are a party to a contract for repairing or replacing the blocked/failed sewer line.
- b. Loan proceeds should only be released once a signed contract is submitted to the Town.
- c. Loans should be secured by deed-of-trust in the affected properties.
- d. Loans should be made available to property owners in the same proportion property owners agree to assign costs. For example, if the owners agree that Owner A is assigned 10% of the cost of the project, the available loan would equal 10% of the cost of the project.
- e. Loans should be offered at terms of 3% interest for 3 years. For reference, the monthly loan payment at those terms would be \$29.08 per \$1,000 financed. If the board decides to

recommend a longer loan term, the monthly payment for a 3% interest loan over 5 years is \$17.97 per \$1,000 financed. Staff recommends the longer repayment period only if the individual loans exceed \$5,000.

f. All affected property owners must enter into a maintenance agreement contract that establishes a funding mechanism for on-going maintenance and repairs to the shared sewer lines.

NOW BE IT FURTHER RESOLVED, that the Town Board authorizes the Town Manager to execute the necessary documents to make loans available under the conditions outlined in this resolution.

From: Ed Kerwin
Sent: Wednesday, September 21, 2011 10:54 AM
To: 'Matt Efird'
Cc: 'Catherine Wilson'
Subject: RE: Main St. Sewer

Matt,

After sending you information last Thursday about the East Main Street sewer situation, I viewed the video of your Board's September 13 meeting. As a result, I'm providing additional information to address the Board's discussion.

OWASA has previously administered assessment projects for developed areas that lacked public sewer service. For example, in 1996 forty property owners in the Mt. Bolus community were assessed \$7,103.05 each as their proportional share of the construction cost to provide OWASA sewer service in that area (as a result of failing private septic tanks). In addition to the assessment cost noted above, each property owner was responsible for installing their private sewer service lateral between their building and the OWASA sewer main. In accordance with OWASA's policy at that time, certain costs for providing sewer service were paid by OWASA and were not included in determining the assessed cost to each property owner. The assessed amount was also reduced by contributions to construction from the Town of Chapel Hill.

In 1999, the OWASA Board of Directors amended the assessment policy removing any participation by OWASA in the water/sewer construction cost. This policy (attached), which remains in effect today, specifies that full cost shall be recovered through assessments except for engineering design and construction observation expenses in an amount up to 15% of the total expenditures for a given project. Additionally, costs recovered through assessment shall not include the legal expenses in an amount up to 5% of the total expenditure for a given project. Any such engineering and legal costs in excess of these percentages will be included in the costs assessed to the benefitting parties.

The current situation on East Main Street is different than the Mt. Bolus sewer assessment project because OWASA sewer service is currently available in front of each building. We understand that it may be excessively expensive to change the plumbing for each of these buildings to connect directly to the existing OWASA sewer in front of the buildings.

If the Main Street property owners desire to have OWASA assume ownership and operation of a new public sewer main at the rear of their buildings they could elect to construct a sewer main to OWASA's specifications or petition the OWASA Board of Directors for an assessment project to provide the public sewer main.

The petition/assessment option would likely result in higher cost to each property owner as they would have the assessed sewer main cost to repay and the cost of having a private plumber relocate or install an individual sewer service line between the existing 4 inch common sewer line and the location of the new public sewer main. It is staff's expectation that our Board would be receptive to such an assessment in accordance with current policy assuming the necessary easements are also provided. The statutory requirements associated with an assessment project can take a year or so to complete.

As always, please let me know if you need additional information or assistance.

Regards,

Ed K.

Ed Kerwin

Executive Director

Orange Water and Sewer Authority (OWASA)

400 Jones Ferry Road; Carrboro, NC 27510

919-537-4211 (office direct)

919-968-4421 (main office & emergencies)

ekerwin@owasa.org; www.owasa.org

In keeping with the NC Public Records Act, emails may be released to others upon request without prior notification.

From: Ed Kerwin [<mailto:EKerwin@owasa.org>]

Sent: Thursday, September 15, 2011 4:37 PM

To: Matt Efird

Subject: FW: Main St. Sewer

Hello Matt,

Thanks for the information from Tuesday's Board of Aldermen meeting regarding the private common sewer lateral serving folks on 100 East Main Street. I'm writing to provide information about OWASA's role with regards to this matter.

Since this private sewer line was not part of the system transferred to OWASA when Carrboro's sewer system was acquired, its maintenance and operation is the responsibility of its owners.

We believe it is in everyone's interest to have this substandard 4" line relocated into an established, legal right-of-way and connected to OWASA's existing sewer main which is available for connection in front of each of these buildings. However, payment for such a connection benefiting these private properties is the responsibility of those properties' owners, in the same way that all property owners served by OWASA are responsible for extending and caring for the sewer laterals that join their homes and businesses to OWASA's sewer mains.

We understand the situation these property owners face and the difficulties that occur when there is more than a single entity or person responsible for maintenance of a private common sewer service line. As you know, we have provided assistance in the form of preliminary evaluations of this particular line. However, OWASA's practices and procedures, born out of the legal requirements undertaken at the time OWASA was organized, and followed over the past 34 years, do not allow us to allocate funds for the repair of this private sewer line or to assume future maintenance responsibilities for this line. With about 18,000 sewer connections in our service area, the cost to change our policy and practice would be enormous.

We share the Town's desire to help and we will continue to offer assistance consistent with our obligations. Please note that our next OWASA Board meeting is Thursday, September 22, 2011 at 7:00 p.m. at Chapel Hill Town Hall.

Regards,

Ed K.

Ed Kerwin

Executive Director
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RESOLUTION ADOPTING ASSESSMENT POLICY APPLICABLE TO
WATER AND SEWER EXTENSIONS TO EXISTING UNSERVED NEIGHBORHOODS

WHEREAS, the elected bodies of the Towns of Carrboro and Chapel Hill and Orange County have requested that OWASA review its assessment policies in order to assure that the manner in which the costs of water and sewer extension projects are calculated and assessed is fair and meets the requirements of the statutes and OWASA's obligations under the Sale and Purchase Agreements, and, in particular, that it does not impair the orderly availability or unduly discourage otherwise necessary connections to these vital public services; and

WHEREAS, the Board of Directors of OWASA has considered the opinions, requests and proposals made by citizens in recent public meetings about the costs of gaining access to these public services; it has reviewed the work of its staff, and has considered the suggestions of the elected bodies of the Towns and County, and the advice given on behalf of the University of North Carolina at Chapel Hill in this regard, and it has determined that the attached policy is necessary and appropriate to assure the availability and orderly provision of public water and sewer service to the Carrboro, Chapel Hill, and Orange County citizens within its service area, and that it is necessary and will result in the protection of the environment and public water supply, and that it will primarily benefit persons who are able to connect to these services as well as their neighbors and the public at large;

NOW, THEREFORE, BE IT RESOLVED:

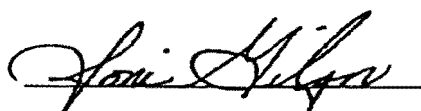
1. That the Orange Water and Sewer Authority Board of Directors adopts the attached policy entitled, *"Assessment Policy Applicable To Water And Sewer Extensions To Existing Unserved Neighborhoods"*.
2. That the policy shall become effective upon adoption.
3. That the Executive Director is directed to implement and interpret the *Assessment Policy Applicable To Water And Sewer Extensions To Existing Unserved Neighborhoods*.

Adopted this 27th day of May, 1999



Dan C. VanderMeer, Chair

ATTEST:



Joai Gilgor
Clerk to the Board

ORANGE WATER AND SEWER AUTHORITY

ASSESSMENT POLICY APPLICABLE TO WATER AND SEWER EXTENSIONS TO EXISTING UNSERVED NEIGHBORHOODS

PURPOSE: The purpose of this policy is to set forth the principles and guidelines for the extension of and the allocation of cost for the water and/or sewer mains of the Orange Water and Sewer Authority (OWASA) when such facilities are extended through the assessment process.

BACKGROUND: An integral part of the operation of OWASA is the orderly extension of water and/or sewer service from its existing facilities or the construction of new facilities. This extension of service may consist of the construction of new collectors, interceptors, mains, pump stations and other appurtenances necessary to serve a group of properties whose owners have petitioned OWASA for service and have agreed to assume the cost of the water and/or sewer extension or to serve properties without a petition from property owners that OWASA has determined are benefited by the extensions. The North Carolina General Statutes and the Sale and Purchase Agreements with Town of Chapel Hill, Town of Carrboro and The University of North Carolina at Chapel Hill enable OWASA to make such extensions and assess benefited properties the costs associated with the extensions.

POLICY: OWASA, at the discretion of the Board of Directors, may arrange for the installation of water and/or sewer mains to serve existing developed areas and assess the cost of the improvements to the benefited properties in accordance with the North Carolina General Statutes. Extension to new development will not be financed through the assessment process. If undeveloped land within an assessment area benefits from an assessment project then such land will be assessed for the improvements. Undeveloped land through or along construction of off-site line extensions may also be assessed.

Assessment projects must have prior approval of the OWASA Board of Directors and may be initiated by petition of residential property owners, County or State public health agencies, by a County or municipality, or by OWASA at its discretion. OWASA's decision to undertake an assessment project shall not be subject to prior endorsement from a majority of the property owners benefiting from said project. In determining whether or not to proceed with an assessment project, OWASA will consider the needs of all property owners who are impacted by such project. Multiple assessment project requests will be prioritized for construction by OWASA.

Extension of service shall be made in a manner to appropriately serve individual properties and to allow for the future orderly development of the water and/or sewer system to serve other properties

Water and/or sewer main extensions and appurtenant facilities installed by OWASA through the assessment process shall be financed by the owners of the benefited properties through (1) special assessments made in accordance with the provisions of the North Carolina statutes and laws; (2) prior funding of the improvements; and/or (3) other financial arrangements satisfactory to OWASA.

The cost of the assessment project, as determined by OWASA, shall be specially assessed against each of the lots or parcels determined by OWASA as benefiting from the project and set out in a Final Assessment Roll. Such allocation of cost shall be in accordance with the provisions of North

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Carolina General Statutes 153A, Article 9, Special Assessments.

Costs recovered through assessments shall not include the engineering design and construction observation expenses in an amount up to 15% of total expenditures for a given project. Costs recovered through assessments shall not include the legal expenses in an amount up to 5% of total expenditures for a given project. Any such engineering design and observation costs in excess of 15% and/or legal costs in excess of 5% will be included in the summation of costs to be assessed.

Costs recovered through assessments shall not include off-site costs, including any easement acquisitions of intervening improvements required to connect assessment projects situated within the incorporated limits of Chapel Hill and Carrboro when the OWASA Board of Directors determines that (a) the off site improvements are assessed to intervening benefitted properties; or, the cost of the off site improvements are reasonably anticipated to be recovered within the next 10 year period through fees from service connections or extensions to the proximate intervening properties; and (b) the costs of the off-site improvements that are not assessed are in reasonable relationship to the costs of the assessment project and funding is available in the approved Capital Improvements Budget for such off-site cost, or funds are reliably available from other sources such as grants, subsidies or contributions in aid of construction from private or public parties.

The exclusion of off-site costs for assessment projects situated outside of incorporated areas but within the Urban Service Areas of Chapel Hill and Carrboro shall be determined by the OWASA Board of Directors for each such project.

Exclusion of off-site costs shall not apply to assessment projects situated outside the Urban Service Area of Chapel Hill and Carrboro.

Off-site mains shall be defined as those sections of mains installed outside of the benefitted project area which do not provide service directly to individual lots within the benefitted area and are of a size so as to provide service to areas other than that defined by the assessment project resolution.

Upon completion of the project, property owners will be notified and a Final Assessment Roll adopted. Liens against the property will be recorded as security for the amount of the assessment.

Assessments may be paid without interest at any time before the expiration of thirty (30) days from the date that notice of confirmation of the Final Assessment Roll is published. If the assessments are not paid within this time, all installments shall bear interest at a rate set by the OWASA Board of Directors in the assessment proceedings until paid. In the event one or more payments of the assessment against a parcel of property are not made in accordance with the terms for such payment, OWASA will take action under the lien to collect the money due.

For assessment projects, the property owner connecting within sixty (60) days of the confirmation

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of the Final Assessment Roll may enter into a contract with OWASA to pay service availability fees for connections to lines extended by an assessment project, but not service connection fees, under established terms and conditions by monthly installments over the same time period and at the same interest rate as established for the assessment project costs. The installment payment of service availability fees shall become a part of the monthly billing for service, and nonpayment shall be subject to the same policies and penalties that apply to delinquency in the payment of monthly charges for water and sewer services provided by OWASA. The unpaid balance shall be secured by a lien against the benefited property and personal security to satisfy any outstanding balance upon sale of the property. The payment of the unpaid balance shall become due upon transfer of the property.

For assessment projects, the residential property owners connecting within ninety (90) days of notice from OWASA that the construction has been completed and service is available for active service connections, the service availability fees applicable to the property will be reduced by 25%, not to exceed \$500 per benefited property.

If an assessed lot is subdivided at any time after adoption of the Final Assessment Roll, the newly created lots shall be required to pay all applicable availability fees in accordance with the Schedule of Rates and Fees in effect at the time, prior to establishing a service connection to the system(s) owned by OWASA.

REFERENCES:

- OWASA Schedule of Rates and Fees
- OWASA Water and Sewer Extension Policies

Reviewed by General Counsel

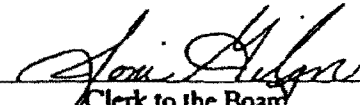
6-3-99
Date



General Counsel

Adopted by the Board:

5/27/99
Date



Clerk to the Board