

**SUNAPEE SELECTBOARD
MEETING MINUTES
TOWN OFFICE MEETING ROOM
Monday, October 30, 2023, 6:30 P.M.**

REVISED 2/26/2024

Present: Chair Carol Wallace; Vice Chair Suzanne Gottling; Members Josh Trow, Jeremy Hathorn, and Frederick Gallup

Also present: Town Manager Shannon Martinez; Emily Wrenn; Land Use and Assessing Coordinator Allyson Traeger; Town Clerk/Tax Collector Joshua Boone; Town of Sunapee Finance Director Ronna Johnson-Davis

Meeting called to order at 6:30 p.m. by Chair Wallace, who led the Pledge of Allegiance.

1. REVIEW OF MINUTES

The Board reviewed the draft minutes for the October 16, 2023, Select Board meeting. It was noted that there is not an opening on the Select Board.

MOTION to approve the minutes as amended for the October 16, 2023, Select Board meeting was made by Member Trow and seconded by Member Hathorn. All voted in favor except Member Gallup, who abstained.

2. REVIEW OF ITEMS FOR SIGNATURE

CZCs

- Parcel ID: 0144-0004-0000, 62 Rolling Rock Road, John & Mary Higgins
- Parcel ID: 0124-0004-0000, 53 Ryder Corner Road, Daniel & Lindsey Antoniou
- Parcel ID: 0133-0101-0000, 14 Maple Court, Joseph & Jill Butler
- Parcel ID: 0148-0023-0000, 12 Hamel Road, Gregory & Marilyn Swick
- Parcel ID: 0233-0026-0000, 17 Bradford Road (old address) / 8 Timmothy Road (new address), MacLeay Prentiss Properties, LLC
- Parcel ID: 0105-0003-0000, 61 Seven Springs Road, Kelley Brooks
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- Parcel ID: 0203-0007-0010, Granite Ridge Road, John & Kim Galluzzo

LAND DISTURBANCE

- Parcel ID: 0149-0027-0000, NH Route 103, Kathleen Bouwkamp

AFTER THE FACT

- Parcel ID: 0124-0004-0000, 53 Ryder Corner Road, Daniel & Lindsey Antoniou (in accordance with CZC 23-4264)

DRIVEWAY PERMIT

- Parcel ID: 0238-0041-0000, Penacook Path / Nutting Road, Jessica Jones

Ms. Traeger asked for the Board's opinion regarding the OpenGov version of the driveway permit application sent to them. The agreed the electronic version was a cleaner copy.

DEMO PERMIT

- Parcel ID: 0121-0004-0000, 94 Woodland Rd, Mountain View Revocable Trust

USE OF FACILITIES

- **Date Change:** Abbott Library Falconry Exhibition: November 11th, 11am - 1:15pm

Consent Agenda: MOTION to approve CZCs, Land Disturbance, After the Fact, Driveway Permit, Demo Permit, and Use of Facilities made by Member Gallup, seconded by Member Hathorn. All voted in favor.

3. APPOINTMENTS

6:45 p.m. – Town Clerk/Tax Collector Joshua Boone

Josh Boone appeared before the Board to present a request to purchase a new ballot-counting machine. The current machine was purchased in 1999; servicing and programming the memory card can only be guaranteed through the 2024 election. The funds to purchase this machine are in the budget. It can be used for the first time for the March 2024 election. Town Manager Martinez noted the RSA requires the Board to approve this purchase.

MOTION to authorize the use and the purchase of an electronic ballot-counting device for counting ballots in the Town of Sunapee in accordance with RSA 656:40 was made by Member Gallup and seconded by Member Hathorn. All voted in favor.

Minutes Amended on February 26, 2024

Josh Boone appeared before the Board to present a request to purchase a new ballot-counting machine, **the Dominion ImageCast Precinct 2**. The current machine was purchased in 1999; servicing and programming the memory card can only be guaranteed through the 2024 election. The funds to purchase this machine are in the budget. It can be used for the first time for the March 2024 election. Town Manager Martinez noted the RSA requires the Board to approve this purchase.

MOTION to authorize the use and the purchase of **the discussed Dominion ImageCast Precinct 2, an electronic ballot-counting device for counting ballots in the Town of Sunapee in accordance with RSA 656:40 was made by Member Gallup and seconded by Member Hathorn. All voted in favor.**

7:00 p.m. – Ronna Johnson-Davis, Town of Sunapee Finance Director

Ronna Johnson-Davis appeared before the Board to present a snapshot of the Town's financial state of affairs. She introduced herself and described her background, as she is a new Town employee. She reported on the amount of the budget spent as of October 30, 2023. She noted the legal line is over budget, due to the need for legal advice on short-term rentals, ZBA guidance, and pending court cases. She presented a revenue analysis and answered the Board's questions on specific items. The Board welcomed her and expressed their appreciation for the information.

7:15 p.m. – Budget Advisory Committee

Ms. Martinez noted this is the time of year the COLA is discussed with the Board and explained this year's challenges. She recommended a 5% COLA and explained the difficulties with attracting and retaining qualified staff. Advisory Budget Committee Chair Patrick Fine noted that an explanation as to why this level of COLA is being proposed when inflation rates are falling should be offered so that the voters can understand the existing issues. The Board asked if the pay tables of other New Hampshire towns have been examined and Ms. Martinez said this has been done. Chief of Police Cobb reviewed the costs of attracting and retaining certified police officers. Fire Chief Galloway reviewed the challenges the Fire Department is facing and asked the Board to prioritize how funds are spent. Problems with library staffing were also presented.

Chair Wallace noted it is important to articulate balancing the cost of turnover versus the pay increase, the correlation between the cost of living decrease and the job market increase, and comparisons to neighboring towns, as part of educating the voters on this issue.

The Board discussed warrant articles that might be needed, including dock repair, transfer station/recycling, the public safety fund, and Cooper Street.

Mr. Fine commented the fiscally responsible way to create a budget is to start with the available revenue and determine the fixed costs, then decide on priorities for spending any discretionary funds. Ms. Martinez clarified they look at consistent revenues and try to understand how to create a budget with those. However, as revenues are not enough to meet all expenses, it is necessary to determine the appropriate tax rate to meet the demands.

The Board discussed the issues involved with creating a budget. They expressed it is difficult to maintain a flat budget, with increased costs for services that need to be provided. They noted hard decisions will need to be made to keep the tax rate reasonable. The cost of dealing with aging infrastructure and equipment issues was also noted and the need to prioritize the issues that need to be addressed.

Ms. Martinez commended the department heads on their fiscal responsibility, and stressed her desire to change the Town culture so that things are done the right way instead of operating on a shoestring. The Board discussed department heads determining the services they want/need to provide and what the cost would be, and the Board then could decide what is feasible and how to pay for it.

The Board asked Ms. Martinez to determine the available revenue, considering a tax rate that remains the same as last year, and present the proposed budget to the Board.

The Board took a break at 8:39 p.m.

The Board meeting resumed at 8:43 p.m.

4. PUBLIC COMMENT: (Public comments can be heard in full [here](#), beginning at 8:50 p.m.)

- **Christine** (via Zoom) thanked everyone for sharing during the budget discussion. She asked where the new approved rules and procedures can be found. Ms. Martinez said they were in the minutes, but will be updated online. She asked if the new ballot-counting machine will be connected to the Internet or have Bluetooth. Member Trow said by law, it cannot be. It can only be connected to the SD card plugged into it. She asked if the SD card is transferred to anybody after the vote. The Board did not know the answer to this, so she will speak with the Town Clerk. She asked what company has ownership of the software. The Board responded LHS Associates.
- **John, 6 Nutting Road**, (via Zoom) said he was disappointed in the budget discussion, as the funds budgeted for this year have not been spent. He suggested explaining to the public why the budget is consistently underspent. He suggested justifying why full-time staff positions have been added. He said every employee receiving a COLA and a step increase regardless of performance does not make sense. He suggested creating a pool of monies and prioritizing who should receive increases to reward performance.
- **Chris Whitehouse** thanked the Board for responding to his Right-to-Know request. He believes electronic communications for Right-to-Know requests is easier and more efficient, and shows more transparency than submitting a PDF. He found the valuations of the STRs online and said there are only 20 houses under \$400,000. He said the mindset that the STR issue is about providing working-class housing is incorrect and addressing the STR issue is a waste of money. He said he liked that some Board members were more conservative than department heads regarding the budget. He suggested Town Manager Martinez keep her husband from responding to car accidents and fires, if he is not covered by the Town's insurance policy.
- **Lisa Hoekstra** spoke on behalf of the Lake Sunapee STR Association regarding the proposed limit of 120 days on STRs. She said if the Select Board is asked to consider this issue, she asked for evidence of need, as this will not create more affordable housing and it will result in reduced economic income. She said there are few data points available, so the Town needs more facts before implementing more restrictions. She said the 120-day limit was proposed by two Planning and Zoning Board members who have proven conflicts of interest for this topic and collusion and she asked the Board to take a stand on this unethical behavior. She said STR owners have not been a welcome voice during this year-long process and asked that they have a year to gather data. She asked the Board to consider supporting the formation of a tourism committee.

5. SELECTBOARD ACTION

Lake Sunapee Scenic Byway Appointment: Allyson Traeger

MOTION to appoint Allyson Traeger to the Lake Sunapee Scenic Byway Committee was made by Chair Wallace and seconded by Member Trow. All voted in favor.

Old Business – Review Ethics Policy

The Board discussed whether the ethics policy needed to be signed every year. The Board noted that while there is an expectation the policy be followed, it is not legally enforceable. The Town Manager should determine if there are repercussions for employees who do not abide by the policy. The Board agreed it should be signed as part of the onboarding procedure and when changes are made; however, it is not necessary that it be signed on an annual basis. Elected officials would be asked to sign it after being sworn in.

MOTION to approve the ethics policy as written was made by Member Gottling and seconded by Member Hathorn. All voted in favor.

6. TOWN MANAGER REPORT

Ms. Martinez asked if the Board would like to receive a copy of her report before the meeting, to give them the opportunity to review it and to ask questions. The Board agreed on this policy change.

Legal Update

- **Begor Case:** This case was decided in the Town's favor. The Final Case Decision will be shared and included in the Agenda/Minute Packages and will be placed on the Town website.
- **KTP Cottages:** The pre-hearing has been scheduled for November 8, 2023, and the actual hearing on November 21, 2023. The notification will be shared in the Agenda/Minute Packages and will be shared on the Town website.

Budget Guidance

- **Warrant Articles:** These were discussed earlier in the meeting.
- **ARPA Funds/Georges Mills Bridge:** Ms. Martinez would like to ask the Board to approve a motion to repair the Georges Mills bridge with ARPA funds, but her presentation is not ready. Chair Wallace asked if a traffic study has been done to decide whether to repair or to close the bridge. The Board agreed they believed it was closed to provide time to do research to determine the extent of the issues and then decide what needs to be done. Ms. Martinez thanked Ms. Traeger for her work on the Master Plan session and all participants. Chair Wallace added her thanks for the work done on the session. Ms. Martinez noted that at the meeting, there was a lot of concern expressed about the safety of this intersection and what options are available to address this.

Assessing Hearings Update

Ms. Martinez provided an update from the Town assessors. They communicated with over 200 taxpayers, so every segment of the market was covered. They hope the MS-1 will be

complete by Friday, November 2, 2023. She expressed her gratitude for the time and effort expended by Ms. McAllister and Mr. Devarenne as they worked on this issue. Chair Wallace echoed her appreciation to the team for their work and to Emily Wrenn for her presentation.

GovOS Letters Sent Out

Ms. Martinez explained that the numbers regarding STRs change regularly, so they will not be citing numbers of STRs with any confidence until there is more data in the system. She asked if the registration deadline could be changed, as the letters were sent out later than originally planned. The Board agreed that since the letters are just being received, they will revisit this question in a month.

FEMA Recovery Meeting

Ms. Martinez will attend the FEMA Recovery Meeting on November 1, 2023, to see if any monies can be recouped.

Police Department Use of Public Docks

MOTION to authorize the Police Department to use the Public Docks in the interim was made by Member Trow and seconded by Member Hathorn. All voted in favor.

Sunapee Turkey Trot and Basketball Registrations are open

Sample Ballot and Deliberative Booklet Mailing Survey

Ms. Wrenn said the survey consists of eight questions and hopefully will obtain guidance as to what the residents want. It will be mailed out this week.

7. SELECTBOARD MEMBERS' REPORT

The Board expressed their surprise at the amount of the county assessment.

Member Gallup said he was approached by a resident with a proposal from a division of Santa Buckley Energy. It is currently being considered by the Water and Sewer Commissioners for the treatment plant. The land where the array would be located might need to be leased to the Water and Sewer Commission. He noted there are other proposals being considered. It will be placed in the Reading file for the Board to review.

Regarding the Board being able to interface with the public, in addition to public comment during Board meetings, Chair Wallace said a suggestion was made to add it to the end of the Community Conversation. The Board member in attendance could bring any comments to the full Board.

8. UPCOMING MEETINGS

- **School Board Meeting: November 1, 2023 - 6:00 p.m. to 7:00 p.m.**
- **Conservation Commission: November 1, 2023 - 7:00 p.m.**
- **Zoning Board Meeting: November 2, 2023 - 6:30 p.m.**

- **All-Day Budget Conversation: November 7, 2023**

9. ADJOURNMENT

The meeting was adjourned at 9:46 p.m.

Respectfully submitted,

Beth Haggeli
Recording Secretary

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MEETING AGENDA

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Monday, October 30th, 2023

Join us on Zoom: <https://us06web.zoom.us/j/86066395397>

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3. APPOINTMENTS:

6:45:

Town Clerk/Tax Collector Joshua Boone

Please be advised that New Hampshire law requires the governing body to vote to adopt a new device in a properly noticed public meeting and send to the Secretary of State a notice of that decision, clearly specifying which make and model of ballot counting device will be used in that town/city.

RSA 656:40 Adoption. – The mayor and aldermen of any city or the selectmen of any town, subject to the approval of the ballot law commission, may authorize the use of one or more

electronic ballot counting devices for the counting of ballots in such city or town on a trial basis for any regular or special election and pay the expense of such trial from any available funds. The use of such devices so authorized shall be valid for all purposes. Any town, or the mayor and aldermen of any city, may vote to lease or purchase electronic ballot counting devices for the elections held in said town or city. Any town, or the mayor and aldermen of any city, so acting shall notify the secretary of state of the action taken in regard to electronic ballot counting devices; and, after said action, electronic ballot counting devices shall be used in said town or city in accordance with said vote or authorization. If a special state election involving a state representative district occurs in a city or town that has adopted the provisions of RSA 656:40, the secretary of state may prepare and issue paper ballots which shall be used.

7:00 Ronna Johnson-Davis, Town of Sunapee Finance Director

Financial Snapshot,

7:15 Budget Advisory Committee

2024 Budget Guidance Discussion

4. PUBLIC COMMENTS:

-

5. SELECTBOARD ACTION:

- Lake Sunapee Scenic Byway Appointment: Allyson Traeger
- Old Business:
 - i. Review Ethics Policy

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- Legal Update
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 - All-Day Budget Conversation: November 7th
-

NONPUBLIC: The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II

The background image shows a harbor scene with several sailboats docked at a wooden pier. In the background, there are red houses and a forested hillside under a blue sky with some clouds. A semi-transparent dark green rectangle is overlaid on the left side of the image, containing the title and date information.

Town of Sunapee

FY 2023 Financial Update

October 30, 2023

Ronna Johnson-Davis, Finance Director

FY 2023 Expenditure Budget

Total Expenditure Budget
\$7,345,054

Total Actual Expenditures
YTD
\$4,837,598

Total Available
\$2,507,456

Total Percentage Spent YTD
66%

Expenditure Budget FY 2023



■ Total Expenditure Budget ■ Total Actual Expenditures YTD ■ Total Available



Legal

Legal is currently overspent by 75.89%.

Overage is due to legal advice needed on Short Term Rentals (Regulations, Registration & Compliance), ZBA Guidance, and the Town's big court cases currently pending.

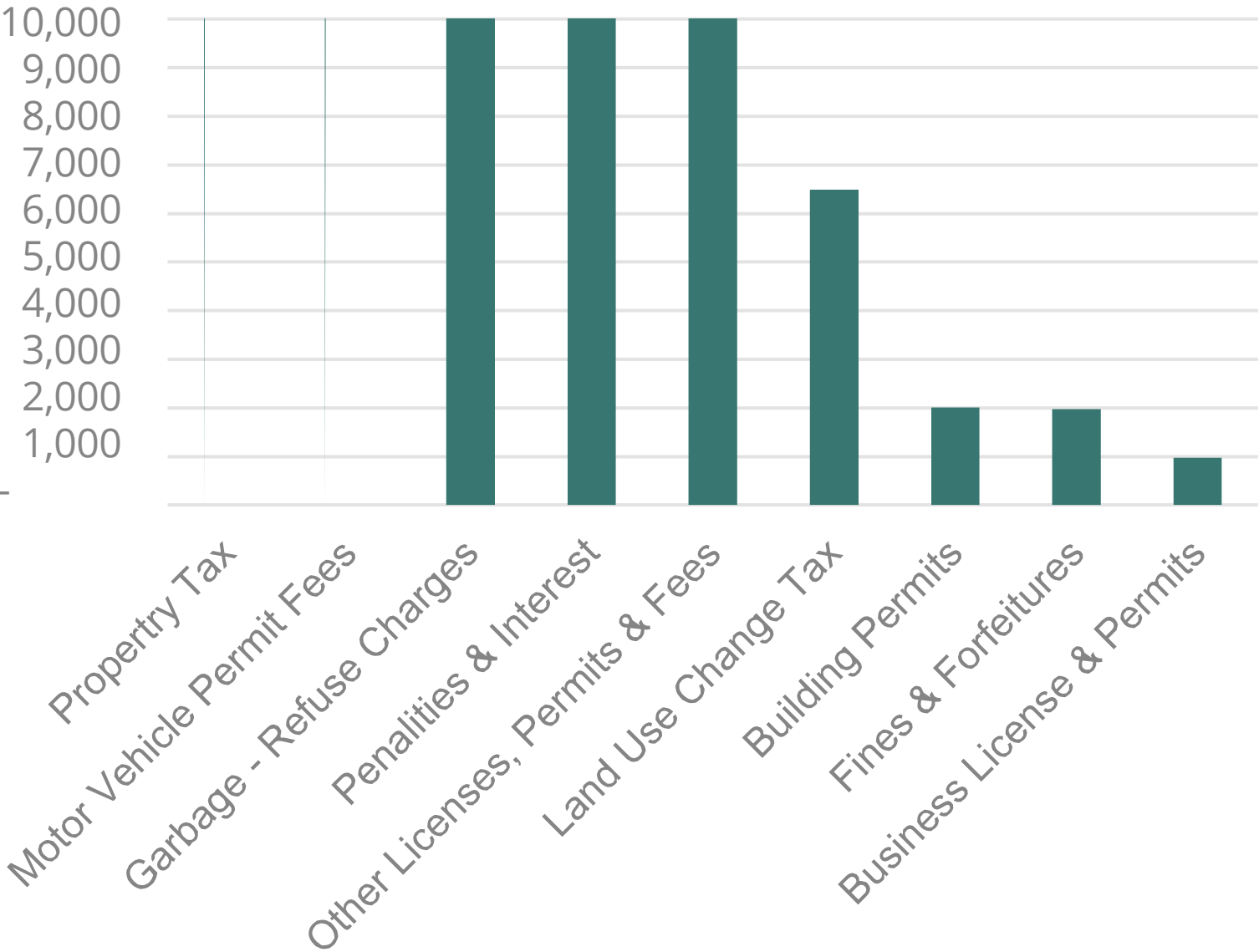
Department	FY23 Budget	YTD Actual %	of Year	Actual % Expended Over (-)	Actual % Under (+) or
Legal	20,000.00	35,178.49	75%	175.89%	-100.89%

FY 2023 Revenue Collected YTD

Taxes & Fees

Property Tax Revenue	\$10, 436,245
Motor Vehicle Permit Fees	\$855,077
Garbage – Refuse Charges	\$38,192
Penalties & Interest	\$30,102
Other Licenses, Permits &	\$21,060
Fees Land Use Change Tax	\$6,495
Building Permits	\$2,005
Fines & Forfeitures	\$1,980
Business Licenses & Permits	\$975
TOTALS	\$11,392,132

Taxes & Fees Total Collected YTD

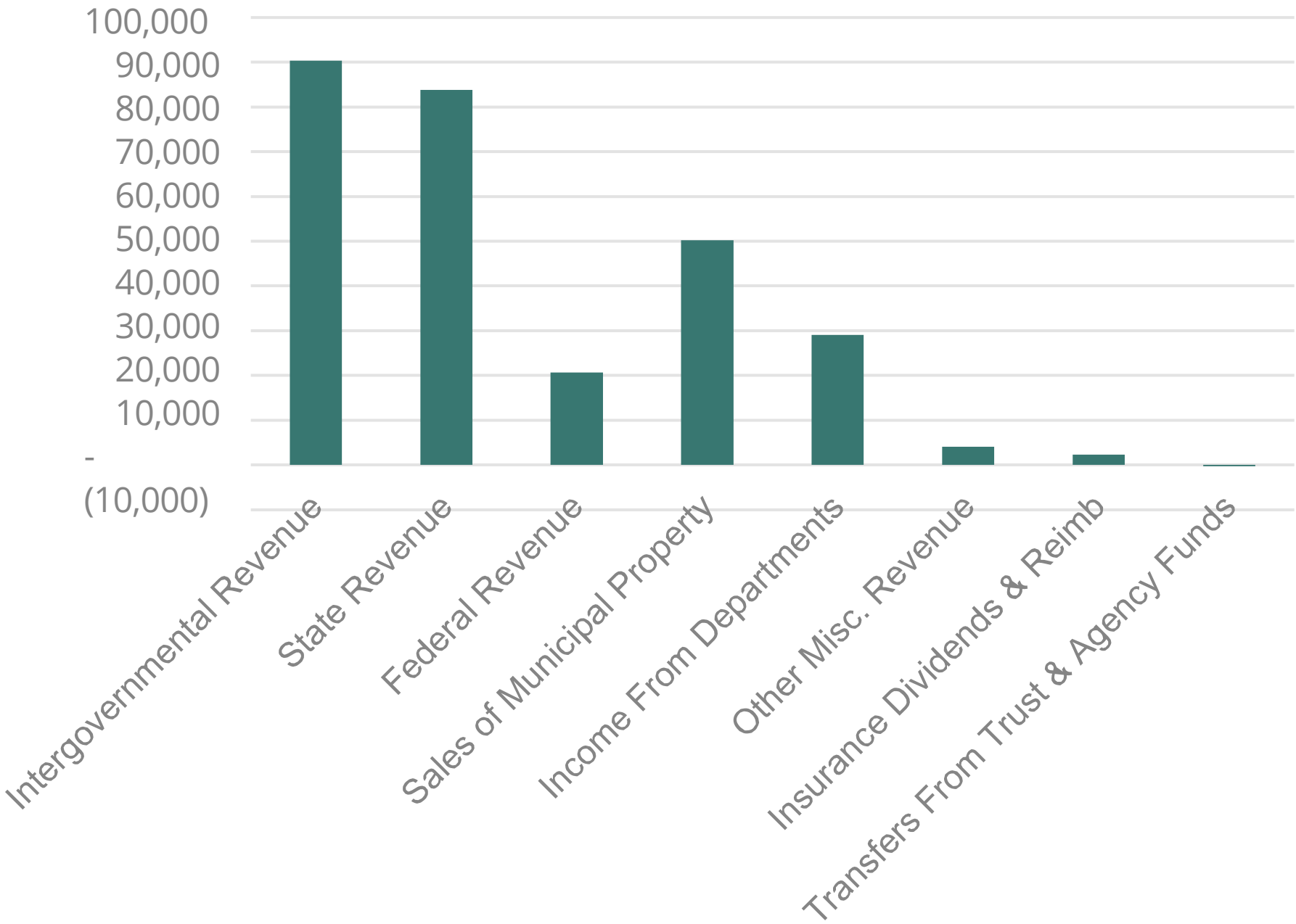


FY 2023 Revenue Collected YTD.....continued

Other Revenue

Intergovernmental Revenue	\$90,348
State Revenue	\$83,803
Federal Revenue	\$20,700
Sales of Municipal Property	\$50,245
Income From Departments	\$29,007
Other Miscellaneous Revenue	\$4,018
Insurance Dividends & Reimbursement	\$2,278
Transfers From Trust & Agency Funds	(\$260)
TOTALS	\$280,139
GRAND TOTAL ALL REVENUE	\$11,672,270

Other Revenue Collected YTD



Revenue Analysis FY17 Actual – FY23 YTD

GL Description	FY20 Actual	FY21 Actual	FY22 Actual	FY23 Actual
Property Tax Revenue	4,590,426.12	4,596,239.19	4,818,871.06	4,957,635.00
Land Use Change Tax - GF	11,617.41	14,779.81	97,917.50	6,495.00
Yield Taxes	3,476.02	9,548.35	1,026.81	-
Excavation Tax	79.80	369.18	-	-
Penalties & Interest	55,173.25	30,522.81	34,922.49	30,199.51
Business Licenses and Permits	1,495.50	1,215.00	1,587.00	975.00
Motor Vehicle Permit Fees	981,626.74	1,082,280.73	1,081,244.70	889,553.50
Building Permits	45,028.20	61,636.50	69,202.65	31,887.12
Other Licenses, Permits and Fees	27,027.61	27,322.20	21,500.68	21,103.12
Federal - House and Urban Development (HUD)	122,401.00	-	41,635.44	20,700.00
State - Shared Revenue Block Grant	35,087.82	-	-	-
State - Meals and Rooms Tax	176,552.84	257,424.00	294,330.15	-
State - Highway Block Grant	122,907.44	120,100.05	226,444.67	85,744.74
State - Water Pollution Grants	15,111.92	14,967.21	14,856.12	(1,942.23)
Other State Grants and Reimbursements	-	-	-	10,848.00
Intergovernmental Revenue	119,376.00	133,868.00	129,809.00	90,348.00
Income From Departments	89,974.69	132,938.55	60,115.07	29,006.77
Garbage - Refuse Charges	68,395.00	67,458.38	59,199.00	34,929.50
Other Charges for Services	6,600.00	5,150.00	7,050.00	-
Sales of Municipal Property	43,431.47	64,890.95	62,446.45	50,244.58
Rents of Property	18,441.30	20,000.00	20,500.00	-
Fines and Forfeits	5,865.00	3,867.00	2,530.00	1,980.00
Insurance Dividends and Reimbursements	-	-	-	2,278.28
Other Miscellaneous Revenue	1,710.00	4,474.00	2,591.07	4,017.99
Transfers From Special Revenue Funds	-	1,034.00	-	-
Transfers From Proprietary Funds	-	50,000.43	-	-
Transfers From Capital Reserve Funds	833,701.00	257,201.00	66,002.00	-
Transfers From Trust and Agency Funds	-	-	(0.25)	(260.00)
Proceeds From Long-Term Notes & General Obligation Bonds	-	-	589,454.00	-
Rounding	-	-	-	-
	7,375,506.13		7,703,235.61	6,265,743.88
		(1.00)		
		6,957,286.34		

Questions?



TOWN OF SUNAPEE ETHICS POLICY

For Town Officials, Board Members & Employees

It is the policy of the Town of Sunapee to uphold, promote and demand the highest standards of ethics and conduct from *all of* (agree remove) its employees and officials, whether elected, appointed or hired. The Board of Selectmen, all Town employees and all members of Town boards, commissions and committees should maintain the highest standards of personal integrity, truthfulness, *honesty* (agree remove) and fairness in discharging their public duties and never abuse their positions of trust for improper or personal gain. All Town officials, board members and employees should look to these principles for guidance.

I. **PURPOSE:**

The purpose of these principles is to establish guidelines for the ethical standards of conduct for Town officials, board members and employees. We expect our Town officials, board members and employees:

- A. To always act in the best interests of the Town
- B. To disclose any personal, *financial* (keep) or other interests in matters affecting the Town that come before them for action
- C. To remove themselves from decision making if they have a conflict of interest or even the appearance of one; and,
- D. To be independent, *impartial* (keep) and responsible to their fellow townspeople in their actions.
- E. We expect the Town's decisions and policies to be made through the proper channels of government.
- F. We expect any public position in our Town not to be used for personal gain. It is important that the public has confidence in the integrity of its government and that Town officials, board members, volunteers and employees know and understand the contents of this document and can thus have an opportunity to protect their personal reputation.

II. EXPLANATION OF THE ETHICAL PRINCIPLES:

A. There Should be no Conflicts of Interest

Town officials, board members and employees of the Town of Sunapee should avoid conflicts of interest or even the appearance of a conflict of interest.

Town officials, board members or employees should not participate in any matter in which they, or members of their family, have a personal interest that may directly or indirectly affect or influence the performance of their duties. In such instances, they should recuse themselves from discussion and decision-making. Recusal means to remove oneself completely from all further participation in the matter in question.

Town officials, board members or employees who have been recused should immediately leave the room or should seat themselves with the other members of the public who are present. When recused they should not participate in further discussions unless they clearly state for the record that they are doing so only as a general member of the public. As a recused person, they should not deliberate or vote on the matter in question.

B. There Should be a Duty to Recuse in Quasi-Judicial Action

A “quasi-judicial action” is any action where the board or committee is acting like a judge or a jury. For example, when a board or committee has a duty to notify the potential parties, hear the parties and can only decide on the matter after weighing and considering such evidence and arguments as the parties *chose* (choose) to lay before such a board or committee, they are involved in a quasi-judicial action.

The work of the Planning and Zoning boards is largely a quasi-judicial action. Not only do Town officials, board members and employees have such a duty to recuse themselves as outlined in the section above, they should recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided or are prejudiced to any degree regarding the pending matter or believe they cannot for any reason be totally fair and impartial.

C. There Should be a Duty to Disclose

Town officials, board members or employees should not participate in the conduct of business on behalf of the Town or enter into discussion or deliberation of any matter without first publicly and on the record stating all dealings, interests and relationships and any other possible conflicts that may exist with the parties or the issue under consideration.

D. There Should be no Unfair Use of Town Property

No person should use town property, *services* (keep) or labor personally or make the same available to others, unless such use is available to other residents upon request on equal terms.

E. There Should be no Misuse of Confidential Information

No person should use any confidential information acquired by virtue of that individual's official position for personal benefit or for the benefit of any other person or business.

In addition, no person should violate the privacy of others by publicizing, gossiping or discussing confidential information acquired in the course of official duties.

F. There Should be no Improper Gifts

No person should accept a gift (or allow acceptance of such gift by a family member) from any individual, group or corporation that has or is likely to have matters pending before the Town, board, committee (keep) or commission on which the official or employee serves.

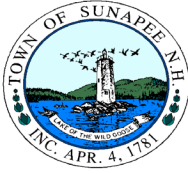
G. All Should Expect to Receive Fair and Equal Treatment

Acting in their official capacity, all Town officials, board members and employees should give *each and every* (each) person fair and equal treatment. No Town official, board member or employee should, in the course of their official duties, give or deny any person special consideration, advantage or treatment as result of the person's public status, position, sex, race, religion, creed, sexual orientation or national origin.

III. EDUCATION:

- A. At the time that each newly elected or appointed official, board member or employee takes the oath of office, they shall receive a copy of this Ethics Policy for signature.
- B. The Town Manager shall hold a meeting each spring for newly elected or appointed officials, board members and employees so they may familiarize themselves with the provisions of these ethical principles.
- C. It shall be the responsibility of each Board Chair and department head to ensure that all employees or volunteers are aware of, have reviewed and signed this Ethics Policy annually.

Approved and adopted by the Select Board of the Town of Sunapee, NH XX, XX, XXXX.



TOWN OF SUNAPEE
Post Office Box 717
23 Edgemont Road
Sunapee, New Hampshire 03782-0717
Phone: (603) 763-2212

MEMORANDUM

To: Shannon Martinez, Town Manager & Select Board

From: Kristen McAllister-Chief Assessor

Re: Revaluation Update

Date: October 30, 2023

We spent nearly 70 hours speaking with and e-mailing over 200 taxpayers. Every segment of the population was heard, so, if any individual missed their opportunity for an appointment, someone spoke to their issue.

Land value was the most common complaint. The land value takes into consideration location, you can pair very similar homes to those in Newport, Springfield, Bradford, Goshen, etc... The difference in value is Sunapee. The second most common complaint was Boat Slips, though sales in 2022 for slips were staggering, the demand has lessened, and we ultimately adjusted them after the hearing process.

This week is dedicated to the final review of the feedback we received. It is my goal to have the MS-1 completed by no later than Friday November 3, 2023 in order to place hold our spot in the tax rate setting queue.

As of today, the overall taxable value of Sunapee has grown 60+/-%, subject to change once the entire final review is complete.

I ask the Board if possible, to be available on Friday November 3 to review the final Grand List that will be submitted to The Department of Revenue, and sign the MS-1 for submission. Once approved and signed, I will release the final results to the public.

THE STATE OF NEW HAMPSHIRE HOUSING APPEALS BOARD

Governor Gallen State Office Park
Johnson Hall, 107 Pleasant Street
Concord, New Hampshire 03301
Telephone: (603) 271-1198
TTY/TDD Relay: (800) 735-2964
Visit us at <https://hab.nh.gov>



REVISED NOTICE OF PREHEARING CONFERENCE AND HEARING

Case Name: KTP Cottage, LLC v. Town of Sunapee
Case Number: ZBA-2023-21

The Housing Appeals Board ("Board") will conduct the following proceedings in the above-captioned matter in Room 315 of Johnson Hall, 107 Pleasant Street, Concord, NH 03301.

<u>Event</u>	<u>Date</u>	<u>Time</u>
Prehearing Conference	Wednesday, November 8, 2023	11:00 AM
Hearing on the Merits	Tuesday, November 21, 2023	10:00 AM

Counsel, or parties if unrepresented, shall appear at the prehearing conference; clients shall appear at this conference or be available for contact by telephone. Counsel and clients shall be prepared to discuss settlement, conduct of the hearing, and any pending motions.

All pre-hearing motions, including motions in limine and motions to expand the Certified Record, and proposed witness lists and/or exhibit lists shall be submitted to the Board at least 10 days prior to the prehearing conference.

Any memoranda of law and/or requests for findings and rulings (limited to 15 total requests) shall be filed with the Board at least 7 days prior to the date of the hearing on the merits. Absent prior Board approval, each party shall be allowed 30 minutes for their oral arguments.

To gain entry into Johnson Hall, parties must contact the Clerk by phone at (603) 271-1772 upon arriving to Johnson Hall. The vestibule at the front entrance of the Johnson Hall is unlocked to the public, but entry into Johnson Hall requires admittance and escort by staff of the building to the third floor where the foregoing proceedings will be held.

The parties may appear remotely via Webex. A Webex invite will be sent to counsel by email and may be forwarded to the parties and any Board-allowed witnesses. Be advised that the Board reserves the right to disconnect disruptive Webex participants from a proceeding.

If you will need an interpreter or other accommodations for the above proceedings, please contact the Board by phone at (603) 271-1198 or by email at clerk@hab.nh.gov.

BY ORDER OF THE BOARD

Elizabeth Menard

Elizabeth M. Menard, Clerk

Revised: October 12, 2023

State of New Hampshire

Board of Tax and Land Appeals



Michele E. LeBrun, Chair
Theresa M. Walker, Member

Anne M. Stelmach, Clerk



Governor Hugh J. Gallen
State Office Park
Johnson Hall
107 Pleasant Street
Concord, New Hampshire
03301-3834

Mark W. & Kristen F. Begor

v.

Town of Sunapee

Docket No.: 30583-21PT

DECISION

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “Town’s” 2021 assessment of \$5,643,400 on Map 112/Lot 12, 68 Woodland Road, a single-family residence on 2.19 acres (the “Property”). For the reasons stated below, the appeal for abatement is denied.¹

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; Tax 201.27(f); Tax 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show the Property’s assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayers failed to prove disproportionality.

The parties agreed the level of assessment was 77.2% in tax year 2021, the median ratio calculated by the department of revenue administration. This means, generally, assessments in

¹ Board Members Michele E. LeBrun and Theresa M. Walker heard and decided this appeal. The parties were before the board for the 2020 tax year (BTLA Docket No. 30201-20PT); the hearing was heard by Ms. LeBrun and a prior board member. The board took official notice of the decision in that appeal (the “Prior Decision,” issued September 22, 2022) in which an abated assessment was ordered (reducing the 2020 assessed value from \$6,125,600 to \$5,643,400 based on a market value finding of \$5,800,000).

tax year 2021 were lower than market value. The Property's equalized assessment was \$7,310,100, rounded (\$5,643,400 assessment divided by 77.2%). To prove overassessment, the Taxpayers would have to show the Property's market value was less than the \$7,310,100 equalized value. Such a showing would indicate the Property was assessed higher than the general level of assessment.

The Taxpayers were represented by Ryan P. Bigg of Commercial Property Tax Management, LLC and, to carry their burden, submitted an appraisal report by and testimony of Wesley G. Reeks, MAI, a licensed New Hampshire general appraiser (Taxpayers Exhibit No. 1, the "Reeks Report")². In his report, Mr. Reeks utilized six comparables on Lake Sunapee which sold between May, 2018 and July, 2021. The prices of the comparables ranged from \$3,600,000 to \$6,940,000 and, after adjustments were made to account for differences in physical characteristics, they indicated the Property's market value was between \$5,084,200 to \$5,728,100. (*Id.*, pp. 53-54.)

The most significant adjustments made were for "Location," which the Reeks Report stated was to account for "views, water frontage and site size." See Reeks Report, p. 56. Adjustments for location were made to five of the six comparables and ranged from \$400,000 to \$900,000. Mr. Reeks also adjusted for characteristics such as gross living area, basement and finished rooms below grade, number of garage stalls, out buildings, and so forth.

Mr. Reeks placed most weight on the following comparables: 100 Garnet Hill Road, Sunapee, a 1.2 acre lot with 194 feet of water frontage and improved with a 6,611 square foot residence, which sold for \$4,700,000 in June, 2020; 47 Sunset Shores Road, New London, a 6.88

² Mr. Reeks also prepared an appraisal report and testified at hearing in the prior appeal. In that case, he estimated the Property had a market value of \$5,400,000 as of April 1, 2020, which is the same market value contained in the Reeks Report for tax year 2021.

acre lot with 421 feet of water frontage and improved with a 4,984 square foot residence, which sold for \$5,700,000 in October, 2019; and 25 Burkehaven Road, Sunapee, a 4.2 acre lot with 922 feet of water frontage and improved with a 10,156 square foot residence, which sold for \$6,940,000 in July, 2021 (see Reeks Report, pp. 45-47). Based on his analysis, Mr. Reeks concluded the Property's market value, as of April 1, 2021, was \$5,400,000. Id., p. 57-58.

The Town, represented by Kristen McAllister, CNHA, Chief Assessor, argued the Taxpayers did not carry their burden of proof because the Reeks Report did not adjust for improving market conditions (time). In support of her argument that values did increase during the relevant timeframe, she submitted Municipality Exhibits A – D, which contain several spreadsheets detailing all sales on Lake Sunapee since 2002, a time analysis of those sales and waterfront sales throughout New Hampshire over \$5,000,000. Additionally, she discussed changes in the Town's level of assessment (97.3% in 2020, 77.2% in 2021, and 58.7% in 2022) and how those decreasing ratios indicated a market that was experiencing substantial appreciation.

Ms. McAllister stated the best evidence of market value was 25 Burkehaven Road, although she disagreed with Mr. Reeks' statement it had "expansive views of the main portion of the lake." In response to a question from Mr. Bigg, she stated that she "knows these properties like the back of her hand," and the Burkehaven Road property does not have expansive views because it is "tucked away behind an island." Therefore, she argued Mr. Reeks negative \$900,000 location adjustment was not credible.

Board's Rulings

In arriving at a judgment regarding proportionality, the board applies its learning and experience in taxation, real estate appraisal and valuation. See RSA 71-B:1; see also RSA 541-

A:33, VI. Arriving at a proper assessment is not an exact science, but a process requiring use of informed judgment and experience. See, e.g., Brickman v. City of Manchester, 119 N.H. 919, 921 (1979) (use of judgment in selecting valuation methodology and assumptions). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975); see also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence). In New Hampshire, assessments must be made on market value. See RSA 75:1; and generally, Shaw's Supermarkets, Inc. v. Town of Windham, 174 N.H. 569, 573 (2021):

“[T]he credibility of an appraisal is a question of fact that the trial court must decide based upon the evidence presented in a given case.” N. New England Tel. Operations v. Town of Acworth, 173 N.H. 660, 678 (2020). “[T]he trial court is in the best position to determine whether an appraisal presents an accurate opinion of market value.” Id.

The following description of the Property is generally not in dispute:

The Property is a large single-family dwelling with 9,023 square feet of gross living area in an “upscale residential district” with “very good locational characteristics on the shore of Lake Sunapee” with 2.19 acres of land and 507 feet of waterfront. (See Reeks Report, pp. 42-43 and the assessment-record card, Taxpayer Exhibit No. 2.) In addition to 5 bedrooms and 6 ½ baths, the Property has a 5,860 square foot “Carriage House” consisting of a “4-stall garage and workshop on the main level, a 3-bedroom guest house above, and a boat storage area in a lower level, walk-out basement.” (Id., p. 32.) The Property has a geothermal heating and air conditioning system. (Id., p. 30.)

Cf., Prior Decision, p. 3. Additionally, the Property has 283.7 feet of frontage on Woodland Road and the lot is generally boot-shaped with long water frontage. It had a building envelope that was capable of being developed with substantial improvements (over 15,000 square feet including the residence and carriage house).

Based on the evidence, and for the reasons stated below, the board finds the Taxpayers did not carry their burden and the appeal is denied. The board finds the Taxpayers’ evidence –

primarily the Reeks Report – is not credible and understates the market value of the Property significantly.

Fundamentally, the board does not agree with Mr. Reeks substantial location adjustments that he calculated by estimating the market value of the Property and all six comparable lots by analyzing nine “high-end land and improved sales many of which are tear-downs.” Reeks Report, p. 56. Based on those sales, Mr. Reeks estimated the Property’s lot had a market value of \$2,500,000 and the land comparables values ranged from \$1,600,000 to \$3,400,000. The location adjustments to comparables one to six were \$0, -\$900,000, -\$900,000, \$900,000, \$500,000 and \$400,000, respectively, which is the difference between the Property’s lot value and the comparables.

However, Mr. Reeks did not consider that many lots on Lake Sunapee are long and narrow (“bowling alley lots”) and are not physically capable of supporting significant, estate-type improvements. In the board’s experience, these estate lots (such as the Property), rarely come on the market and are in high demand. One of these estate lots is 94 Woodland Road (the same street as the Property), a 5.7 acre lot with 520 feet of water frontage which sold in June, 2017 for \$4,350,000. It is the most comparable to the Property and, after considering the lot sales as a whole, the board finds Mr. Reeks \$2,500,000 lot value estimate for the Property is significantly understated. This understatement of value directly impacts the large location adjustments discussed above.

Additionally, Mr. Reeks testified the Property’s location on a cove was inferior to the comparables located on the main portion of the lake that, in his opinion, have much more expansive water views. He did not, however, consider whether the Property’s cove location offered any benefits that would offset the somewhat diminished views. For example, he did not

consider that the Property is a short distance (only five lots) from the main lake, has less boat traffic, is in a no-wake zone and has more privacy. Nor did he consider the shape of the lot itself allows for docks that are protected from weather and boat traffic.

Again, using its judgement and experience, the board finds a reasonable value of the Property's lot, as of April 1, 2021, is \$4,000,000 and the location adjustments made to each comparable would change accordingly. This correction results in the range of indicated values increasing substantially.

The board also finds Mr. Reeks understated the contributory value of the 5,680 square foot Carriage House, which is larger than the main houses of three of his comparables: 47 Sunset Shores Road sold for \$5,700,000 in October, 2019; 81 Lighthouse View Road sold for \$3,650,000 in February, 2020; and 30 Lovejoy Lane sold for \$3,850,000 in May, 2018. See Reeks Report, pp. 46 and 49 - 50.

Correction of just these two factors resulted in indicated values of \$7,084,200 to \$7,991,100. Considering the quality and quantity of the evidence submitted, the board finds a conservative market value of the Property, as of April 1, 2021, was \$7,500,000.³ This market value estimate exceeds the equalized assessment (\$7,310,100) and therefore is supportive of the assessment under appeal (\$5,643,400). For all these reasons, the appeal is denied.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively "rehearing motion") within thirty (30) days of the clerk's date below, not the date this Decision is received. RSA 541:3; Tax 201.36(a). The rehearing motion must state

³ While the Town argued and submitted evidence (see Municipality Exhibits B - C) property values were increasing during the relevant time frame, the Taxpayers' representative and appraiser disagreed. It was the Taxpayers' position that the sale prices in the \$5,000,000 to \$10,000,000 range were generally flat during the relevant time frame. Because of the limited number of sales in this category (six total sales between 2019 and 2023 on Lake Sunapee), and because the board found the assessment was proportional without any consideration for improving market conditions, the board did not make any specific findings regarding this issue.

with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.36(b). A rehearing motion is granted only if the moving party establishes: 1) the Decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's Decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule Tax 201.36. Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:3 and RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS



Anne M. Stelmach, Clerk
Per Order of the Board

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Commercial Property Tax Management, LLC, 788 Elm Street, Manchester, NH 03101, Taxpayers' Representative; and Town of Sunapee, Chairman, Board of Selectmen, 23 Edgemont Road, Sunapee, NH 03782-2513.

Date: October 16, 2023



Anne M. Stelmach, Clerk