

The following is written in response to questions or concerns brought up in general and some specifically by homeowners at the March 16<sup>th</sup> , 2019 public KFAMA meeting (at the fire hall on Keyes Gap Road). Each homeowner's comment is indicated by dark blue, followed by black text for the response.

Many KFA property owners either did not read or otherwise fully comprehend the content of the information package mailed to each announcing the proposed formation of the KFAMA.

**Far more than a single package was sent to inform lot owners about forming a Keyes Ferry Acres Maintenance Association (KFAMA).** Preparation of the legal structure and necessary documents extended over a period of two-years. During that time, there was a conscientious ongoing effort to publicize what was being done to form the association. This lists many of the outreach efforts:

- A website, [kfama.org](http://kfama.org) was created where all documents could be viewed.
- The central documents forming the association 1) the Declaration, 2) Articles of Incorporation and 3) Association Bylaws were each posted and available to read on the website.
- May 12<sup>th</sup>, 2017 A packet with each of the above documents was mailed to every lot owner. Included was a copy of the petition requesting that the Association be formed (required paperwork for requesting approval from the County Commission).
- May 25<sup>th</sup> 2017 A letter was mailed to each lot owner with another copy of the petition.
- June 2017 A Q&A letter was mailed to each KFA citizen. Because the legal language of the association documents is so dense, the Q&A letter was an attempt to 'translate' the technical language into everyday common terms to answer central questions about forming the association. (The letter was compiled by five KFA citizens with no formal legal training; it was an effort to promote understanding of the intent of the association and how it was being formed.) In bold lettering it included the recommendation that **lot owners seek legal counsel if they had questions or further concerns about their rights as KFA lot owners.**
- August 8, 2017, bills for the Keyes Ferry Acres Road Fund, a current cash flow statement and reminder and petition regarding forming the Association was mailed to each lot owner.
- January 4, 2018, a reminder letter and petition regarding forming the Association was mailed to each lot owner.
- The County Commission could not be approached with a request to approve formation of the association until a petition was gathered signed by a super majority of owners, representing 60% of all lots owned. Petitions circulated to all lot owners were returned exceeding the minimum required.
- July 27, 2018 An announcement was mailed to all lot owners that the required number of signed petitions had been received. It provided the August 16<sup>th</sup>, 2018 date for the upcoming public hearing before the County Commission.
- Announcement about the County Commission hearing was also circulated by two notices posted at every road in Keyes Ferry Acres, and by a legal ad printed in the local newspaper.

- One County Commissioner (Peter Onoszko) was a particular stickler about minutely reviewing the provisions presented in order to be fully assured that all requirements had been met. He eliminated any petition that could not be fully validated.
- August 24, 2018, the County Commission authorized formation of the Keyes Ferry Acres Maintenance Association. On October 31, 2018, a notice was mailed about the upcoming public organizational meeting.
- December 1, 2018, an open public organizational Association meeting was held, at which time the founding Board of Directors was elected.
- As mandated, by certified mail on December 28, 2018, each lot owner was sent the annual budget and explanation of the options considered when setting the annual lot fee. This was mailed prior to sending bills.

Numerous properties owned by Oak Meadows, LLC won't perk, therefore Lee Snyder will install sewer that we would pay for and be forced to hook up to.

There may be building lots owned by Oak Meadows in KFA that won't perk, meaning that a septic system cannot be installed. If this is the case, a house cannot be built on the lot and its value is greatly reduced. Some have suggested that Oak Meadows would try to get around this by installing a community-wide sewer system at the expense of all lot owners and force them to hook up to the new system.

There are many reasons why that can't be done but, in any case, KFAMA would never be part of such an undertaking. The reason is that KFAMA is expressly prohibited from establishing or overseeing a utility such as a sewer system according to the Declaration approved by the County.

For those who need to verify the above statement, refer to the **Declaration** [page 5, **2.0 Purpose of the Association**]. Re-printed here only in part, the pertinent section is highlighted. The highlighted portion stipulates that the KFAMA cannot play any role in planning or establishing a utility, such as a sewer system:

**“The Association is created with the objective of establishing and maintaining the Common Area, including existing and future Improvements thereto, which include, but are not limited to, the Roads, streets, drainage facilities, sidewalk, signs, street lights and other improvements necessary for the protection of health, safety and welfare of the Unit Owners and general public. Provided, that such Improvements shall not include any utility system, pipe, drain, wire, main, pole, conduit, cable, support, guy wire, transformer, other utility component or Improvement owned by any private party, public utility provider or any instrumentality, agency or division of State government....”**

This definition of purpose clearly states why the KFAMA would have no part in creating a sewer system. Maintenance of the roads and common areas is the reason for the KFAMA and the building or operation of a utility system is not part of road maintenance.

“They are robbing me. I wasn’t represented. How can they charge me this [annual \$150/lot fee] amount?”

There are three different charges expressed above. Starting with the first - “**They are robbing me.**” **Billing for a service provided is not robbery.** Each of us expects to be billed for electrical or utility service. We are billed for cable service. Most of us use the roads daily. Roads are not free. As explained by attorney Steve Prunty, use of the subdivision roads comes with a common law duty to pay for maintaining the roads, shared by every lot owner. The KFAMA Maintenance Association puts in place the practical mechanism to facilitate this common law duty in a fair and equitable way.

“**I wasn’t represented.**” In fact, you are represented. By me. As a member of the board, I was elected to act as your representative. Perhaps you were not present for the election (at the Dec. 1st meeting), but in a vote by fellow lot owners each member on the board has been officially designated to serve as your representative. But as representatives, there is a dual responsibility. While doing our best to represent the needs of each as an individual, we must balance that with acting in the overall best interest on behalf of the community as a whole. No matter their own personal self-interest, each and every single Board Member is bound by fiduciary duty to act in the best interest of the community they serve.

How can they charge me this amount?”

Once again, because roads are not free.

Deciding the annual lot fee is a ‘Goldilocks’ challenge: **If the annual fee is too low**, collected funds may be sufficient to pay for snow removal (if no major snowstorms), but routine road maintenance would have to be deferred. Under the assumption that such a minimal level of road care does not meet the expectation of a majority of lot owners, a higher fee was considered. **If the fee is too high**, the collected funds might result in more extensive road improvements, yet could rise to a threshold of financial strain or hardship for some individuals.

**What rate then, would be a reasonable compromise?** This year, if paid by all lot owners, funds collected at the \$150 rate are expected to cover routine expenses anticipated for the year (outlined in the budget sent to every lot owner by certified mail). Once a certain amount is set aside for the next coming snow removal season and to build a contingency fund, there should be an amount available to pay for limited road care and repair.

## A cap should be placed on the percentage that the annual lot fee can be raised.

On behalf of the Association, the board is responsible for meeting financial obligations incurred. There are eventualities where expenses might conceivably come due that exceed available funds (as collected on an assumption of usual and ordinary yearly costs). Such a possible scenario might be snow removal cost in a year when snowfall goes beyond--perhaps far beyond—the usual amount. If billing for such a service exceeded available funds, the shortfall would have to be made up, even if by obligation to pay off a short-term loan.

Impeding the mandate to act as responsible financial managers for the Association would not be appropriate action by the board. Setting a cap to the annual fee could amount to nothing better than a false promise.