



Agenda Item Executive Summary

Title: Sewer Backup Prevention Program - Additional Funding

Presenter: Steven M. Saunders, Director of Public Works/Village Engineer

Agenda Date: 08/16/16

- Ordinance
- Resolution
- Bid Authorization/Award
- Policy Direction
- Informational Only

Consent: YES NO

Item History:

At the August 2, 2016 Council meeting, the Village Council authorized staff to re-allocate \$50,000 from the Sanitary Sewer Fund budget to fund the previously unfunded Sewer Backup Prevention Program, a cost-sharing program authorized by the Village Code under which the Village can partner with individual homeowners to install anti-backup devices or overhead sewer systems to guard against basement sewer backups. Staff was also directed to update the Council on the number of applications received and the funding status of the program.

Executive Summary:

After the August 2 Council meeting, staff publicized the Council's determination to fund the program via e-Winnetka and the Village's website. As of August 9, staff had received 24 inquiries about participation in the program. If each of these applicants completes a backflow preventer installation project, that would obligate the Village for a reimbursement of up to \$84,000. Past experience has shown that approximately 50% to 60% of homeowners who inquire about the program complete the entire application, inspection, installation and reimbursement process. However, in the immediate aftermath of a flooding event, the completion rate could currently be higher. It is therefore likely that current and anticipated future inquiries will quickly exhaust the current allocation of \$50,000.

After a lengthy discussion during the budget preparation process, the Village Council opted not to fund the Anti-Backup program for the Fiscal Year beginning April 1, 2013. Reasons for discontinuing program funding varied among the Trustees but were generally focused on whether the Village should expend public funds to assist individual property owners, and whether the money could be better spent on other sanitary sewer improvements. The meeting materials and minutes from the March 5, 2013 Council meeting are attached.

Staff has evaluated the current budget and cash reserves in the Sanitary Sewer Fund and believes that an additional \$50,000 could be allocated to the program for the remainder of the Fiscal Year. Any future additional funding for the program should be evaluated during the 2017 Budget process.

Executive Summary (continued):

In addition to program inquiries and applications, staff has fielded several inquiries from homeowners who installed backflow preventers during the period April 1, 2013 through July 22, 2016 - when the program was unfunded - asking for a retroactive reimbursement. These requests have tended to advance the argument that it is not fair that some people had the opportunity to be reimbursed (when the program was funded) and others did not (when the program was unfunded). The Village Code states: "Reimbursements pursuant to this section shall be available only if the Village Council has allocated funds for such purpose in the Village's annual budget. The Village Council shall retain the sole and exclusive discretion to determine, for each fiscal year, whether and to what extent the program shall be funded." Because prior Village Councils had not elected to fund the program prior to their action of August 2, 2016, and given that the Council has sole discretion to determine the extent to which the program is to be funded, staff does not have the authority to apply retroactive funding for such requests. Staff is researching building permit activity to estimate how many property owners may have installed systems during this period and will present this information at Tuesday's meeting.

Recommendation:

1. Consider a motion authorizing an additional expenditure of \$50,000 on the Sewer Backup Prevention Program as authorized in Section 15.24 of the Village Code, for a total FY 2017 expenditure of up to \$100,000.
2. Provide policy direction on whether sewer backup prevention installations that occurred prior to July 23, 2016 should be eligible for Village reimbursement.

Attachments:

- 1) Winnetka Village Code Section 15.24.080
- 2) March 5, 2013 agenda materials and minutes

Section 15.24.080 Sewer Back-up Prevention Program.

A. Cost-sharing program. Subject to the terms and conditions established in this section, a property owner who meets the eligibility standards of this section may apply to the Village for reimbursement of a portion of the cost of the initial installation of an overhead sewer or anti-back-up device.

B. Terms and conditions of the program.

1. Participants must meet the eligibility standards established by this section.
2. The maximum reimbursement made to any person under this program shall be as follows:
 - a. The maximum reimbursement for the initial installation of an overhead sewer shall be 50% of the cost of the initial installation or \$5,000, whichever is less.
 - b. The maximum reimbursement for the initial installation of an anti-back-up device, 50% of the cost of the initial installation, or \$3,500, whichever is less.
3. Only those costs associated with the initial installation of anti-back-up device or overhead sewer shall be considered eligible for reimbursement. No reimbursement shall be allowed either for the replacement, upgrade, repair or maintenance of any anti-back-up device or overhead sewer, or for the replacement of any anti-back-up device with an overhead sewer.
4. Reimbursements pursuant to this section shall be available only if the Village Council has allocated funds for such purpose in the Village's annual budget. The Village Council shall retain the sole and exclusive discretion to determine, for each fiscal year, whether and to what extent the program shall be funded.
5. The cost-sharing program established by this section:
 - a. shall be a voluntary undertaking of the Village, which the Village shall be entitled to terminate or suspend at any time for any reason;
 - b. shall not be construed as an assumption of responsibility for, or legal liability arising from the design, installation, operation, maintenance, repair or replacement of any private sewer line, overhead sewer or anti-back-up device, including without limitation, any damages or injuries arising from the failure or malfunction of such sewer line, overhead sewer or anti-back-up device; and
 - c. shall not be construed as a waiver of any statutory or common law defenses or immunities the Village may be entitled to raise in response to any actions or claims of liability for damage or injuries arising from the design, installation, use, operation or maintenance of any public or private sewer line or of any overhead sewer or anti-back-up device, including without limitation, damages or injuries arising from the failure or malfunction of any such sewer line, overhead sewer or anti-back-up device.

C. Eligibility standards. No person shall be eligible for reimbursement under this section unless all of the following conditions are met:

1. The applicant must be the owner of record of a single family home that was built before 1970 and that is not currently protected with any overhead sewer or anti-back-up device.
2. The reimbursement request must be for the initial installation of an overhead sewer or anti-back-up device. The cost of replacement, upgrade, repair or maintenance of an existing overhead sewer or anti-back-up device is not eligible for reimbursement.
3. The property owner or a qualified contractor acting on the owner's behalf, shall procure all necessary permits from the Village or other agencies to install the overhead sewer or anti-

back-up device. All work shall comply with all applicable provisions of this Code, including all necessary inspections, contractor bonds or licenses. The property owner or the owner's contractor shall be responsible for scheduling all necessary inspections, and no reimbursement will be made for work that does not pass all required inspections.

4. The application for reimbursement shall be submitted with the permit application for the installation of the overhead sewer or anti-back-up device. The application form shall be provided by the Director.

5. The application for reimbursement shall include a waiver, signed by the owner of record, waiving any and all claims against the Village for damages or injuries of any kind arising from the installation, operation, maintenance or repair of the overhead sewer or anti-back-up device, including without limitation, the failure or malfunction of the overhead sewer or anti-back-up device. The statement of the waiver shall be prescribed by the Village.

6. The property owner shall arrange for a pre-construction inspection, to be performed by the Village or its authorized agent, to locate any prohibited sources of stormwater inflow or infiltration to the sanitary sewer system. If this inspection reveals any prohibited sources of stormwater inflow or infiltration to the sanitary sewer system, the property owner shall correct them or cause them to be corrected, and arrange for a re-inspection by the Village or its authorized agent. All such prohibited sources of stormwater inflow or infiltration to the sanitary sewer system shall be corrected to the Village's satisfaction before the applicant is eligible for reimbursement under this section.

7. No reimbursement shall be made until the work has been completed and has passed the final inspection as required by the applicable provisions of the Winnetka Sewer Code and the Winnetka Building Code.

8. No reimbursement shall be made unless the property owner provides the Village with evidence, in the form of a signed and sworn contractor's statement certifying that the contractor has been paid in full for the completed work.

D. Authority of Director. The Director of Public Works shall have the authority and discretion to administer the cost-sharing program established by this section, subject to the control and direction of the Village Manager. The Director of Public Works shall establish such administrative procedures as may be necessary to implement the program, which shall include, but shall not be limited to, establishing administrative priorities for processing and granting reimbursement requests based on such factors as the time of filing, time of completion, location in the floodplain or in flood-prone areas, and availability of funding.

(MC-5-2014, § 4, Amended, 04/17/2014; MC-8-2011, Amended, 09/20/11; MC-3-2006, Added, 05/02/06)