Winnetka Village Council
STUDY SESSION
Village Hall
510 Green Bay Road
March 12, 2019
7:00 PM

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AGENDA

NOTICE

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Agenda Item Executive Summary

Title: Private Road Policy Discussion

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

Agenda Date: 03/12/2019

Consent: ☐ YES ☑ NO

☐ Ordinance
☐ Resolution
☐ Bid Authorization/Award
☑ Policy Direction
☐ Informational Only

Item History:

October 14, 2008 Village Council Study Session
November 18, 2008 Village Council Meeting
January 19, 2009 Village Council Meeting
March 3, 2009 Village Council Meeting

Executive Summary:

The president of the Ardsley/Pelham Road neighborhood association has requested that the Village consider modifying its policy on dedication of existing private streets to the Village, as the association is interested in dedicating its private streets to the Village. Ardsley and Pelham Roads are two connected private streets located between Hibbard Road, Rosewood Avenue, Westmoor Road, and Pine Street.

In addition to the roughly 52 miles of publicly-owned streets in the Village, there are 24 private streets, totaling approximately 6.4 miles. A public street is a strip of Village-owned property, usually 66 feet in width, on which the roadway, sidewalks, and public and private utilities are located. These facilities are all owned, operated, and maintained by the Village, and the land is tax-exempt. On a private street, the roadway and utilities are generally located on privately owned property within an easement, which grants certain access rights to non-owners of the property. The land, roadway, sidewalks, and drainage facilities are owned, operated, and maintained by the owners of the underlying property, or by an association of owners.

In 1994, the Village documented a policy (attached) outlining the requirements associated with transferring property ownership to the Village, upgrading the infrastructure to public standards, and dedicating the roadway to the Village. The attached agenda report provides additional details on the current policy, and prior discussions by the Village Council about possible modifications to the policy.

Recommendation:

1. Staff requests direction on whether to initiate discussions with the Ardsley/Pelham Association to determine interest and initial study parameters for dedicating the roads as public streets.

2. Staff also requests direction on whether to schedule a future study session to review and potentially update the Village's Policy on Dedication of Private Streets.

Attachments:

Memorandum to Village Council with Attachments

Memorandum

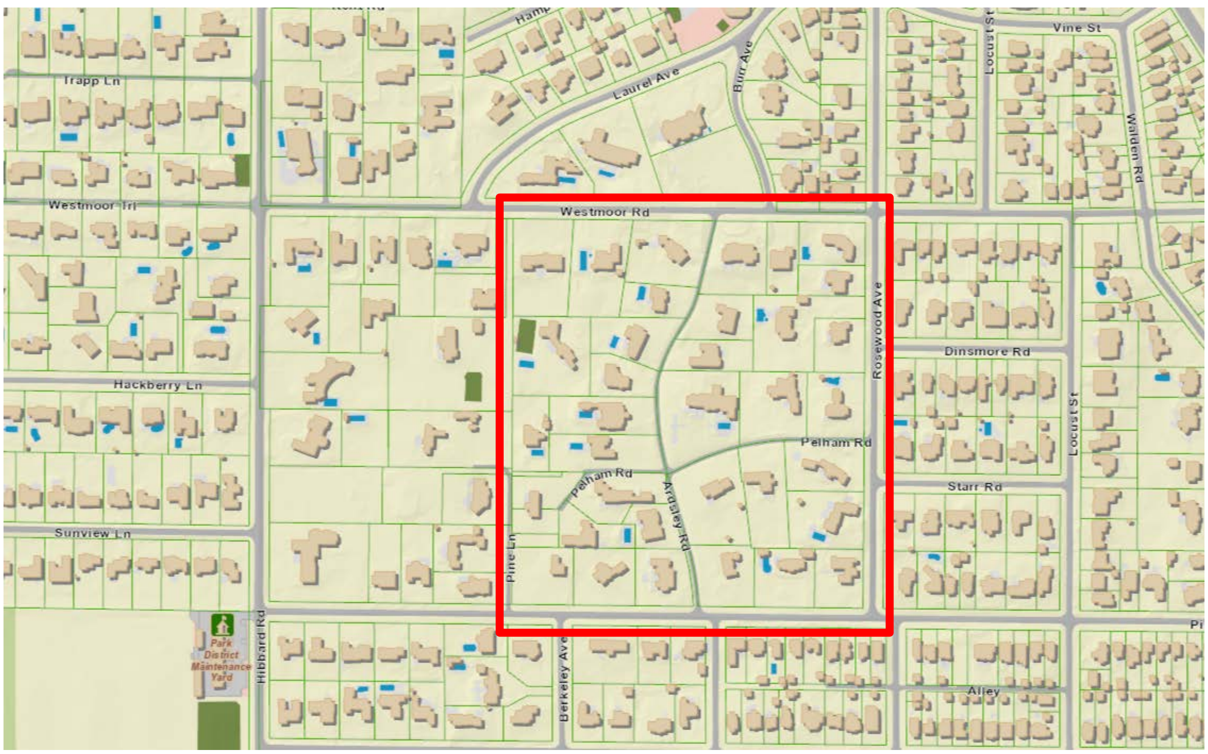
To: Village Council

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

Date: February 26, 2019

Subject: Private Road Policy Discussion

The president of the Ardsley/Pelham Road neighborhood association has requested that the Village consider modifying its policy on dedication of existing private streets to the Village. Ardsley and Pelham Roads are two connected private streets located between Hibbard Road, Rosewood Avenue, Westmoor Road, and Pine Street (see below).



The purpose of this memo is to receive direction from the Village Council regarding its interest in considering modifications to the Village's private street dedication policy and whether or staff should continue discussions with the Ardsley/Pelham neighborhood association regarding the potential dedication of its private streets.

Private Streets vs. Public Streets

In addition to the roughly 52 miles of publicly-owned streets in the Village, there are 24 private streets, totaling approximately 6.4 miles. Winnetka's private streets came into being when portions of the Village were originally subdivided. In Winnetka's early years, it was not uncommon for developers to choose not to dedicate improvements or rights-of-way to the Village, but rather to provide ingress, egress, and utility easements, and keep the resulting road under private ownership.

A public street is a strip of Village-owned property, usually 66 feet in width, on which the roadway, sidewalks, and utilities are located. These facilities are all owned, operated, and maintained by the Village, and the land is tax-exempt

On a private street, the roadway and utilities are generally located within an easement, which grants certain access rights to non-owners of the property. The land, roadway, sidewalks, and drainage facilities are owned, operated, and maintained by the owners of the underlying property. Unlike residents on public streets, residents on private streets each own a portion of the abutting roadway easement (typically, but not always to the centerline), and pay taxes on that land. Collectively, the owners of parcels abutting private streets are responsible for expenses such as snow removal, sweeping, maintenance/repair, and stormwater drainage. **Because the roadway and attendant facilities are privately-owned, the Village cannot expend public funds on their maintenance or upkeep.**

The public utilities (water, electric, and sanitary sewer) and investor-owned utilities (gas, phone, and cable/data) are owned and operated by the applicable utility company regardless of whether the street is public or private.

Because there are disadvantages to the creation of private streets, the Village Subdivision Code has for many years prohibited the formation of new private roads. These disadvantages may include deferred maintenance, poor drainage or other physical shortcomings, as well as an ad-hoc governing system covering cost decisions and budgeting. However, such private streets are not without their virtues. Private streets typically have a unique physical character, often defined by narrow pavement width, a lack of sidewalks and a generally natural landscape character.

Current Village Policy on Dedication of Existing Private Streets

On occasion, property owners have explored the possibility of transferring ownership of private streets to the Village. In 1994, the Village documented a policy (attached) outlining the and requirements associated with transferring property ownership to the Village, upgrading the infrastructure to public standards, and dedicating the roadway to the Village.

Key elements of the Village's policy include:

- The easement for a private street shall be dedicated to the Village by a plat of dedication, provided such easement is at least 20 feet wide. If the dedicated right-of-way is less than 50 feet wide, additional easements for utilities, roadway repair, etc.

shall be required adjacent to the dedicated right-of-way so the total aggregate width of the right-of-way and easements is at least 50 feet;

- As recommended by the Director of Public Works and approved by the Village Council, a portland cement sidewalk of at least 5 feet 4 inches wide may be required along one side of the street. No sidewalk shall be required on a cul-de-sac or dead end street where the number of potentially served homes is small;
- All costs associated with the dedication of private streets to the Village of Winnetka and the improvement of private roadways, storm sewers and appurtenances to bring it into compliance with Village standards shall be paid for by the owners of the private street in a manner as prescribed by the Village Council.

The policy also outlines standards for roadway geometrics, construction specifications, and stormwater management requirements that must be adhered to for a private roadway to be dedicated to the Village.

There are some advantages associated with dedicating private streets to the Village:

- Dedication simplifies and improves the Village's ability to oversee construction activities.
- Dedication enhances the Village's ability to provide stormwater and other infrastructure improvements.
- Dedication reduces the number of "special service" requests associated with private streets.

There are also some drawbacks associated with dedicating private streets to the Village:

- Even if the Village incurs no up-front costs in constructing the street and appurtenances, the Village will forever be responsible for all future repair and reconstruction of the road and storm sewer.
- The Village may receive reduced property tax payments once the property is reassessed to remove the road property from private ownership.
- The Village will incur increased annual maintenance expenses once the roadway and storm sewer become public assets to be maintained.
- In accepting such private streets, the Village may need to re-evaluate its street standards to align more closely with a "narrow estate lane" standard that is common on private streets.

Prior Village Council Discussions on Policy Modification

The Village Council has previously engaged in a lengthy discussion about the current policy. In fall of 2008, residents of Trapp Lane requested that the Village consider funding a portion of the costs associated with bringing the street into conformance with public standards – a cost the policy contemplates will be borne by the residents. The Council discussed potential modifications to the policy on October 14, 2008, November 18, 2008, January 19, 2009, and

March 3, 2009. At the end of that series of discussions, the Council did not reach a consensus about any amendments to the policy. Rather, "President Woodbury encouraged the next Council to continue the discussions about private streets and to keep moving the process forward." (*source, Village Council minutes March 3, 2009*). The Council has not addressed the matter since that time. Copies of agenda materials and meeting minutes are attached.

The Village Council did, however, continue discussions with the Trapp Lane residents, and ultimately agreed to participate in the cost of engineering and construction of improvements necessary to dedicate Trapp Lane as a public street. The cost-share was based on the cost of the stormwater improvements associated with an issue of significant overflow from the undersized public storm sewer on Hibbard Road, and the necessary improvement to the Trapp Lane storm sewer to convey the overflow stormwater down Trapp Lane to the public storm sewer along the edge of the Winnetka Golf Course. The Trapp Lane storm sewer project was ultimately funded by the Village, while the cost of necessary pavement and other infrastructure improvements was borne by the Trapp Lane homeowners, financed via a Special Service Area. The project was completed in 2011.

Practical Considerations Associated with Dedication of Private Streets

There are some practical considerations associated with dedication of private streets. First, dedication of the necessary right-of-way and easements to the Village must be voluntary and unanimous, unless the Village wishes to exercise condemnation powers. All owners of property that will form the required public right-of-way and utility easements must agree to transfer the necessary land to the Village; this can be difficult to accomplish. For example, the Trapp Lane dedication took over 20 years of periodic discussions and required some turnover of residents before unanimity could be achieved.

Second, a careful evaluation of the zoning impacts of dedicating a public right-of-way must be undertaken. The Village's zoning ordinance calculates setbacks and buildable area requirements based upon existing lot lines and ingress/egress easements. Dedicating rights-of-way or otherwise moving easement lines can impact the zoning conformity of existing properties if not done carefully; and sometimes such impacts cannot be avoided.

Finally, in order to effectively communicate the cost of bringing the private infrastructure up to Village standards, some preliminary engineering evaluation is necessary, including pavement evaluations, a zoning analysis, an evaluation of required roadway geometrics, and a stormwater analysis. This evaluation can be costly, and it may be difficult for private road associations to fund the up-front engineering.

Project Financing

There are two primary vehicles for funding the improvements associated with dedicating a private road to the Village. The first approach is a simple up-front payment. This is the easiest for the Village to administer, and allows the owners maximum flexibility in assigning the payment amount to individual properties; the Village isn't concerned with how the project cost is allocated among the road association members. Up-front funding must be provided to the Village as a lump sum. The payments cannot be amortized over time.

The second approach is a Special Service Area (SSA). An SSA is a special taxing district to pay for public improvements that benefit a specific geographic area. The portion of the cost borne by the property owners in the SSA is levied proportional to the Equalized Assessed Value (EAV) of each property within the SSA. For example, in a neighborhood with an aggregate EAV of $1,000,000, a property assessed at EAV $200,000 would pay 20% of the improvement; a property with an EAV of $300,000 would pay 30% of the improvement, and so on. While an SSA does have the advantage of allowing the cost to be amortized over time, it does not offer flexibility on how the project cost is assigned to each property – it is by EAV only, meaning not everyone pays the same amount. A summary guide to SSAs is attached.

Other Communities

Village staff surveyed adjacent communities to see if they have policies governing the dedication of private roads to the municipality. Responses were received from Wilmette, Northfield, Lake Forest, Highland Park, Glencoe, Deerfield, and Kenilworth. Of these seven communities, only Highland Park and Northfield have formal written policies. However, each community indicated that before a private road can be dedicated as public infrastructure, it must be brought up to applicable Village standards, at the cost of the adjacent residents. A summary of responses from these communities is attached.

Next Steps

Staff requests direction on whether to initiate discussions with the Ardsley/Pelham Association to determine interest and initial study parameters for dedicating the roads as public streets. Staff also requests direction on whether to schedule a future study session to review and potentially update the Village's Policy on Dedication of Private Streets.

Attachments

1. Ardsley Road Request
2. Existing Policy on Dedicating Private Roads
3. October 14, 2008 Village Council Agenda Material and Minutes
4. November 18, 2008 Village Council Agenda Material and Minutes
5. January 19, 2009 Village Council Agenda Material and Minutes
6. March 3, 2009 Village Council Agenda Material and Minutes
7. Guide to Special Service Areas
8. Summary of Municipal Policies
9. Map Showing Private Streets

1. Ardsley Road Request

Winnetka Village Council
510 Green Bay Road
Winnetka, IL 60093

Dear Council Members,

I grew up in Winnetka and have made it my home for the last 19 years. I live on Ardsley Road and have served as the President of the Ardsley-Pelham Association for the past 12 years.

As I have traveled for my job, my wife Vicki and I have been fortunate to live in wonderful communities very similar to Winnetka.
Ladue, MO. , Westwood, MA, Pacific Palisades, CA and
Wayne, PA.
None of those communities treated private roads the way they are treated here in Winnetka. I am not sure exactly when the decision was made to treat private roads differently from public roads. I am also not sure of the rationale used but we would like the Village to revisit and change that policy. This policy is outdated, makes no sense and is patently unfair to the Village residents that live on these streets and pay substantial taxes every year.

Many residents on Ardsley and Pelham roads pay a higher tax bill than a good percentage of the homes in Winnetka (based on home values) yet do not receive services that every other resident in the Village receives. We are expected to pay for our own street paving, curbs, storm drainage, rodding, signage and snow plowing..among other items. The financial burden it puts on the Winnetka residents living on Ardsley and Pelham roads is material and not fair. In addition, the time the Ardsley & Pelham Association must devote to keeping up with this level of detail is challenging.

What was an idea passed years ago has become a way for the Village to avoid paying for maintenance on these private Winnetka roads, which greatly add to the character, allure and tax coffers of the Village. In effect, we are subsidizing all of the Village services for every other resident. This practice should be updated to put private road Village residents on an equal level with every other homeowner in Winnetka. Is it possible to have this issue included on the agenda for a future study session? Also, could a private road be dedicated back to the Village in "as is" condition? Does it need to be upgraded as long as it is in reasonable condition?

Please let me know what steps we need to take to correct this obsolete policy and get it amended or reversed. Thank you for your consideration in this matter.

Respectfully,

Rob Apatoff
730 Ardsley Road
847-525-5700

2. Existing Policy on Dedicating Private Roads

Revised October, 1994

Village of Winnetka Policy Statement
Dedication of Existing Private Streets

There exist within the corporate limits of the Village of Winnetka many existing private streets. The dedication of such private streets to the Village is encouraged, subject to the following guidelines and standards:

1. The existing easement for a private street shall be dedicated to the Village as a right-of-way by a plat of dedication; provided, such easement shall be at least twenty feet in width;

2. If the dedicated right-of-way is less than 50 feet in width, additional easements for utilities, roadway repair, etc. shall be required adjacent to the dedicated right-of-way such that the total aggregate width of the right-of-way and easements is at least 50 feet;

3. If the dedicated right-of-way results in a dead end situation, a cul-de-sac or hammerhead turnaround shall be provided. Any cul-de-sac so provided shall have a minimum curb radius of fifty feet; provided, however, that the curb radius may be reduced to forty feet if no parking is allowed at the cul-de-sac. Any hammerhead turnaround so provided shall have dimensions as recommended by the Director of Public Works and approved by the Village Council;

4. All street cross sections within the dedicated right-of-way shall comply with those shown on the attached diagram, the specific cross section being dependent upon the right-of-way width and the parking restrictions applicable upon the street;

5. All streets within the dedicated right-of-way shall be improved with a minimum of type M-4.12 roll-type curb;

6. All streets within the dedicated right-of-way shall have a pavement with a minimum structural equivalent of a 10-inch gravel base and 4 inches of bituminous concrete surface;

7. As recommended by the Director of Public Works and approved by the Village Council, a portland cement sidewalk of at least 5 feet 4 inches in width may be required along one side of the street. No sidewalk shall be required on a cul-de-sac or dead end street where the number of potentially served homes is small;

8. As recommended by the Director of Public Works and approved by the Village Council, concrete pipe storm sewers with a minimum 10-inch diameter (meeting IDOT standard

specifications and special provisions) may be required;

All costs associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers and appurtenances to bring the same into compliance with the Village standards shall be paid for by the owners of the property having an interest in the private street in a manner as prescribed by the Village Council, from time to time.

If the costs and improvements are paid by way of special assessment or special service area, the Village shall not assume any maintenance or other responsibilities for the private street until such time as the improvements have been completed and the street dedication accepted by the Village.

3. October 14, 2008 Village Council Agenda Material and Minutes

October 14, 2018
- Agenda Materials
- Minutes

AGENDA REPORT

Subject: **Request by Trapp Lane Homeowners to Dedicate Trapp Lane as a Public Street**

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

Date: October 9, 2008

Background.

In addition to the roughly 52 centerline miles of publicly-owned streets in the Village, there are 25 private streets, totaling approximately 6.6 centerline miles. The key distinction between a public street and a private street is property ownership.

On a public street, there is a strip of publicly-owned property, usually 66 feet in width, on which the roadway, sidewalks, and public and private utilities are located. This land, the roadway, the sidewalks, the public utilities, and the drainage facilities, are all owned, operated, and maintained by the Village. The land contained within the publicly-owned right-of-way is tax exempt.

On a private street, the roadway and utilities are generally located on privately owned property within an easement, which grants certain access or use rights to non-owners of the property. The land, roadway, sidewalks, and the drainage facilities are all owned, operated, and maintained by the owners of the underlying property, or by an association of owners. Unlike property owners on public streets, property owners on private streets each own a portion of the abutting roadway easement (typically, but not always to the centerline), and pay taxes on that land. Collectively, the owners of parcels abutting private streets are responsible for expenses related to snow removal, sweeping, pavement maintenance and repair, and stormwater drainage that are all associated with the private ownership of the property.

The public utilities (water, electric, and sanitary sewer) and private utilities (gas, phone, and cable/data) are owned and operated by the utility owner regardless of whether the street is public or private.

Village policies and regulations acknowledge that there are disadvantages to the Village in the creation of private streets. Accordingly, the Village Subdivision Code prohibits the creation of new private streets. These disadvantages may include deferred maintenance, poor drainage or other physical shortcomings, as well as an ad-hoc governing system covering cost decisions and budgeting. However, such private streets are not without their virtues. Private streets typically have a unique physical character, defined often by a narrow pavement width, a lack of sidewalks and a generally natural landscape character.

On occasion, property owners have explored the possibility of transferring ownership of private streets to the Village. In 1994, the Village documented a policy (attached) outlining the specifications, actions, and requirements associated with transferring property ownership to the Village, upgrading the infrastructure to necessary public standards, dedicating the roadway to the Village.

There are some advantages to the Village associated with dedicating private streets to the Village.

1. It would simplify and enhance the Village's ability to administer and oversee construction activities by eliminating the complication of private ownership of the street and storm sewer.
2. It would enhance the Village's ability to provide stormwater and other infrastructure improvements, because the Village would own the property.
3. It would reduce the number of "special service" requests

There are also some drawbacks to the Village associated with dedicating private streets to the Village.

1. Even if the Village incurs no up-front costs in constructing the street and appurtenances, the Village will incur future financial liability because the Village will forever be responsible for all future repair and reconstruction of the road and storm sewer.
2. The Village may receive reduced property tax payments as the property is reassessed with the road property under public ownership.
3. The Village will incur increased annual maintenance expenses as the roadway and storm sewer become public assets to be maintained.
4. In accepting such Private streets, the Village may need to re-evaluate its street standards to align more closely with a "narrow estate lane" standard that is common on Private streets.

Trapp Lane Discussions.

Recently, The Village has been approached by the residents of Trapp Lane with the request that the Village take over the roadway as a public street. The Trapp Lane homeowners have expressed a desire to solve or minimize several ongoing problems with their roadway, and have come to the general conclusion that dedication of the roadway would be the best way to accomplish this. The problems articulated by the homeowners include:

1. Deteriorated pavement conditions. The existing pavement is in poor condition. While the homeowners' association has undertaken some pavement maintenance activities, there has been no comprehensive maintenance or rehabilitation of the Trapp Lane pavement for many years. The Village has from time to time, at the request and expense of the homeowners association, patched the pavement, but the pavement is in need of complete rehabilitation.
2. Poor stormwater drainage. The existing storm sewer system consists of undersized metal culvert pipe, at the end of its useful life. As a result, there are drainage problems after even modest rains, and the system requires frequent maintenance.

3. Frustration with effects of construction projects. As difficult as new home construction can be for residents on public streets, it can be more difficult for residents of private streets because of the private ownership of the street, storm sewers, and right-of-way. Homeowners associations are often not equipped to manage the access, restoration, and general disruption effects of major construction projects. The Village can, and does, use the occupancy process to require builders to effectively restore damaged or disturbed streets, parkways, and other property, but ultimately the private nature of this property places the responsibility for these assets, and acceptance of such repairs, with the homeowners association. This also works in reverse. For example, when a builder wishes to connect to a storm sewer, to satisfy the Village's drainage requirements, the Village does not have the final authority to permit connection to a private storm sewer system.

Village staff has held several meetings with Trapp Lane homeowners to try to understand the conditions behind the request, and to try to develop a solution that would address these concerns, dedicate the road back to the Village, not create any new zoning restrictions or nonconformities, and meet the Village's policy guidelines.

Project Description.

The following is a general description of the configuration and improvements developed for Trapp Lane.

1. Right of Way. The existing private roadway is 17 feet wide, and is contained in a 30' easement. Since all of the lot areas and zoning setbacks are measured with respect to the existing easement lines, the dedicated public right of way has been drawn to match the existing 30' easement, so there would be no zoning changes or nonconformities as a result of this action. In keeping with the Village's policy, the balance of the land needed to reach the 50' aggregate width would be dedicated in the form of utility easements.
2. Pavement. The existing deteriorated pavement is 17 feet wide. In order to meet the Village's standards, the existing pavement will need to be completely excavated and replaced. Staff has drawn the proposed roadway with a width of 20 feet. Staff believes that it will be possible to construct the improvements
3. Stormwater Drainage. In 2002 the Village completed a drainage study of the drainage area that includes Trapp Lane. In addition to recommending several public storm sewer improvements, which have been constructed, the study recommendations included some significant stormwater drainage improvements on Trapp Lane. The Village did not implement these improvements, because the roadway and storm sewer system are currently private, and not the Village's asset. The homeowners association wishes to coordinate the reconstruction of the roadway with construction of these recommended improvements.
4. Engineering. Staff anticipates hiring a consulting firm to do the detailed engineering firm to complete the necessary plans and specifications for the improvement, in order to keep the engineering costs separate form the Village's general operations, and because of the current staff workload of projects.

Cost & Funding Options.
Village staff has estimated the cost of the improvements as follows:

$174,000	Drainage
$243,000	Roadway
$63,000	Engineering
$25,000	Legal & Bond Costs
$505,000	Total

Under the Village's 1994 policy, the affected homeowners would be required to pay the costs associated with the dedication of the roadway. There are two primary financing methods; 1) cash payment, and 2) Special Service Area. Under the cash payment method, the cost of the improvement would be paid directly to the Village by each of the property owners. The improvement cost could be shared among the affected properties in whatever manner the Village and property owners agree, meaning the cost could be equally split, split based on assessed value, front-footage, property area, or any other means agreed upon. The only stipulation is that the homeowners would be required to pay as services or work is performed – the Village could not serve as a short-term lender carrying the cost of the improvement.

The second method, Special Service Area (SSA), a very commonly used means of financing public improvements by municipalities. Under this method of financing, a public improvement may be assessed to the property tax bills of those properties benefiting from the improvement. This means that the cost of the improvement can only be divided based upon assessed valuation – no other allocation methods are permitted. There are several legal requirements that guide the process of implementing the SSA that will not be discussed here, but it is sufficient to say that this is a fairly straightforward and simple exercise if the property owners in the proposed SSA are in agreement. The Trapp Lane group has expressed a fairly strong preference for this approach.

The discussions with the Trapp Lane homeowners have reached the point where general agreement has been reached on the scope of reconstruction needed to upgrade the roadway to Village standards, the layout and location of the right of way and easements to be dedicated to the Village, the Village's role as coordinating agency for the project, and the preference for the SSA method of funding the homeowners contribution to the cost.

Homeowner Request.
The only open issue at this point, which the homeowners have requested clarification on, is the Village's financial contribution to this process. Clearly, the 1994 policy contemplates that the private homeowners are responsible for the entire cost of dedicating a street to the Village, however the Trapp Lane homeowners have requested that the Village consider contributing financially to this project. The Trapp Lane homeowners have advanced two particular arguments to support this request. Without commenting on

the merits of these arguments from a policy perspective, it is fair to say that they are at least valid.

First, they have stated that they receive fewer Village services then their public-street neighbors, without a corresponding decrease in real estate taxes. Examples of services provided through property taxes on public streets that are not provided on private streets:

- Snow removal
- Pavement construction, maintenance, repair, or replacement
- Storm sewer construction, maintenance, repair, or replacement
- Parkway tree planting and maintenance
- Sign maintenance and replacement

Second, the homeowners have advanced an equity argument concerning the Village's demolition fee as it pertains to Trapp Lane. The Village significantly increased its demolition permit fees in 2003, and again in 2004 in order to have the true costs to the Village covered, including costs to all departments in oversight and administration of demolition permits, as well as to offset wear and tear on the street system from construction projects.

Between 2003 and today, the Village has issued three demolition permits on Trapp Lane, at 1294, 1304 and 1334 Trapp, collecting a total of $40,300 in demolition permit fees. The Village collects this fee for demolition/new construction projects on private streets, but the owners abutting private streets are left with the ultimate responsibility of accounting for the wear and tear on their roadway.

The 2003 demolition permit fee adjustment was a comprehensive effort to adjust fees to assure that the Village was not the costs of new construction, and attempted to account for all Village expenses ranging from police patrols, street sweeping and increased code enforcement activities. As one might expect, the ability to calibrate permit fees to actual expenses vary widely by the conditions surrounding construction.
And while the demolition permit fees for Trapp Lane and similar private streets have an inherent "cushion" in their calculation through an allocation for street repairs, code enforcement and related activities on such streets often "absorb" this cushion through a higher code enforcement presence.

The homeowners have suggested that these two factors create a fairness issue that would suggest that the Village contribute some amount towards an improvement project. No specific dollar figure has been requested, but the Trapp Lane homeowners have requested that the Council provide some indication of what, if any, Village funding might be forthcoming so that they can take a final vote on whether to formally pursue requesting the Village to take over Trapp Lane.

If the Village is inclined to consider funding any portion of this dedication request, it should be kept in mind that there are 24 other private streets (totaling about 6.4 miles) that could at some point approach the Village with a similar request. Based on an estimated cost of about $60 per square yard, the pavement construction cost alone on this remaining 6.4 miles of private streets is about $3.7 million, plus storm sewer replacement, which could add an additional $2 million.

Recommendation:

Consider the request of the Trapp Lane homeowners to provide policy direction on the level of Village financial contribution to a proposed project to improve Trapp Lane and dedicate it as a public street.

Print

Winnetka, IL Village Council Minutes

3) Request by Trapp Lane Homeowners to Dedicate Trapp Lane as a Public Street.

Mr. Saunders summarized the issue of private streets in Winnetka, and reviewed a request from the Trapp Lane homeowners that the Village take over Trapp Lane as a public street. He described the improvements that needed to be completed before the transfer could occur, and outlined the funding options available to the residents.

Mr. Saunders reported that the residents on Trapp Lane were requesting the Village's help to defray construction costs, on the grounds that, as residents of a private street they receive fewer Village services, without a corresponding reduction in real estate taxes. He said the homeowners feel that the demolition fees collected from Trapp lane properties in the last five years should also be taken into consideration, as part of those fees go into the Village's street repair fund. He indicated that the homeowners would like to know what amount, if any, the Village is willing to provide towards the upgrades before they can take a final vote on whether to formally request the Village to take over Trapp Lane.

Mr. D'Onofrio said teardowns and new construction cause some of the biggest problems on private streets, and that Trapp Lane is especially tough because it is only 17 feet wide. He noted that private streets don't have police enforcement for parking and other issues, and that the Community Development Department receives a high volume of requests for enforcement of construction parking rules. He indicated that a lot of repaving done on private streets after utilities are hooked in is substandard, resulting in a patchwork quilt effect, and added that staff spends a lot of time trying to sort out the problems, which is frustrating for both residents and staff.

Manager Williams observed that drainage is another thorny issue on private roads, and although the Village recently put in a new drainage system for the area west of Hibbard Road, not one private road has hooked into it. He said the Village has been dealing with the drainage problems for the past 35 years, and recommended that the Council consider some changes in its policy regarding the dedication of private streets. He suggested that evenly splitting the cost of bringing the private roads up to Village standards could be a good compromise, and that though this would be a paradigm shift, it would enable Village staff to solve problems that are currently out of their control.

President Woodbury agreed with Manager Williams and indicated that a change in the policy would create a positive framework for homeowners on private roads to partner with the Village.

There was a discussion about the ongoing burden of more roads to maintain without new revenue to pay for it, as well as the question of setting a precedent that might affect the Village's discretion to decline certain streets.

Mr. Saunders indicated that taking over more private roads would not require more staff or equipment.

President Woodbury observed that if the Council is interested in modifying its policy, a new one could be crafted that leaves flexibility for the Village in light of its financial obligations.

Trustee Rintz suggested that the Village develop a system of recapturing the Village's costs, if and when it helps to fund upgrades on a private street prior to dedication to the Village.

Trustee Greable indicated that he could find no fault with the current policy and likened the tax equity complaint to the issue of school choice in that people pay property taxes whether their children attend public school or not.

Manager Williams observed that private roads were put in by developers at the time of the subdivision's construction, and that many are substandard.

Mollybelle Berish, 1274 Trapp Lane, said she bought her house because they liked the house, and did not really consider the implications of living on a private road at that time. She noted that the construction activity takes a big toll on the road.

Tom Barron, 1284 Trapp Lane, observed that the drainage issues are a regional problem, and that one neighboring street does not even have a storm sewer. He said he believed residents were only asking for what is fair in light of the taxes they pay, and that the Village is charged with protecting the interests of all residents regardless of where they live.

Manager Williams agreed that drainage is a regional issue and said he was interested in helping to solve the problem.

After a lengthy discussion, the Council agreed that the policy should be updated, but that it should maintain flexibility so as not to create a big burden on cash resources, and directed Staff to craft a new policy for Council discussion.

4. November 18, 2008 Village Council Agenda Material and Minutes

November 18, 2008
- Agenda Materials
- Minutes

Agenda Report

Subject: **Private Road Dedication Policy Update**

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

Date: November 12, 2008

At the October 14, 2008 Study Session, the Village Council discussed a specific request by the 20 homeowners of the Trapp Lane Maintenance Association to dedicate Trapp Lane – a private road – to the Village to become a public street. As part of the discussion, the Council and staff reviewed the current (ca. 1994) policy on dedicating existing private streets for its current applicability and effectiveness. The Council affirmed the Village's general policy guidance that it is in the Village's interest for such streets to be dedicated, and the technical portions of the policy, but recognized that there may be an equity issue involved because residents of private roads pay taxes for general road and storm sewer maintenance and repair without receiving these services. The Council directed staff to draft an update to the policy that improves the shortcomings of the policy while maintaining flexibility so as not to create a significant burden on the Village's budget.

Staff has prepared the attached draft updating the policy to address the equity issue, and to provide some structure to the process. This draft is patterned after the Village's policy on constructing sidewalks which has successfully advanced several sidewalk projects in recent years. Key provisions include:

1. A demonstration of 100% interest in the project up front. While the Village does possess condemnation power to take land for public purposes, past practice and policy indicate that the exercise of such powers to take dedicate private streets is extremely unlikely. This means that for a project to come to fruition, there must be 100% agreement at the end of the process to voluntarily dedicate the land to the Village. If 100% of the homeowners are not even interested in the project, there is no reason to proceed.
2. Village commitment to an engineering/drainage study. As part of scoping the project, the Village would commit to performing a preliminary engineering study to develop and define the scope and cost of the project. If a stormwater drainage study is required, the Village would contract for that as well. There is an open issue as to whether the cost of any necessary drainage study should be considered part of the cost of the improvements.
3. 50% Village participation in project cost, subject to available resources. The policy provides for the Village to pay 50% of the cost of the improvement, based upon the equity argument that over the years, homeowners have contributed significantly through taxes to maintenance and repair of the street system as a whole, while still needing to pay to maintain their own street and storm sewer system. A rough calculation for the Trapp Lane neighborhood indicated that the

value of property taxes paid for these services over the 50 or so years since Trapp Lane was developed is roughly equivalent to 50% of the cost of the project as estimated today. There is a circuit breaker provision that if the Council, in its discretion, determines that resources are not available to fund a project, the Council can choose not to proceed.

4. 100% homeowner agreement is required. As previously mentioned, condemnation is an unlikely route to achieve the policy benefit of dedicated public streets, so 100% participation is required to move the project forward.
5. Special Service Area or up front payment are the only two financing options. In order to limit the administrative burden on the Village, the policy only provides for payment of the homeowners' share by Special Service Area or up-front payment.

Recommendation: Review draft policy.

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Winnetka, IL Village Council Minutes

9) New Business.

a) Warrant Lists 1581 and 1582. Trustee Johnson reviewed the Warrant Lists. After commenting on a number of the items, he moved to approve Warrant List No. 1581 in the amount of $1,008,715.72 and Warrant List No. 1582 in the amount of $479,210.57. The motion was seconded by Trustee Behles. By roll call vote, the motion carried. Ayes: Trustees Behles, Berger, Greable, Johnson, Poor, and Rintz. Nays: None. Absent: None.

Manager Williams asked Mr. Saunders to review the status of the Village's winter salt supply.

Mr. Saunders indicated that the Village has now received its entire salt order for the year, about 1,250 tons. He stated that the Village was able to secure about 20% of its salt order at about $106 per ton, but that the balance of the order was at the higher prices anticipated in September, about $155 per ton. This means that the Village will spend roughly $180,000 on salt this year, or about triple the anticipated budget amount. He added that the entire order has been delivered, so the Village will not face the situation that occurred last year when it could not get salt delivered .

b) Private Road/Public Road Policy. Mr. Saunders briefly reviewed the Council's discussion of the Trapp Lane neighbors' request at the October 14 th Study Session, which resulted in staff being was asked to draft an updated 1994 policy. Mr. Saunders reviewed key draft provisions that would revise that policy to address the equity concerns raised at the October meeting and provide some structure to the process. He mentioned that, of the approximately 25 private streets in the Village, 14 are specifically identified in the draft policy, since they serve as "de facto" public streets, meaning that they: (1) provide an important link between two public streets, or (2) serve 10 or more homes. He noted that the suggested procedural guidelines outlined in the draft are patterned after the Village's policy on constructing sidewalks, which has been successful in advancing several sidewalk projects in recent years.

Mr. Saunders then responded to questions from the Trustees.

Trustee Rintz inquired about funding methods, asking whether residents could be given a choice between a special assessment or a one-time payment.

Mr. Saunders said this was probably not feasible because of the complexities of the special assessment process, which covers a defined by area.

Trustee Behles remarked that working these projects into the capital plan will be very challenging, because of the many variables and the potential for costs to be much greater than those associated with a sidewalk. He expressed concern about setting an expectation that the Village will do the work if the criteria are met.

Speaking on behalf of the Trapp Lane neighbors, Ernie Weis, President of the Trapp Lane Neighborhood Association, reviewed the neighborhood's reasons for making this request. He noted that they have been trying to come to an agreement for many years and have finally reached the point where every current resident is in favor of the project, although there remains some discussion about how best to finance the residents' portion.

In response to a question from Manager Williams, Mr. Weis indicated that all of the residents were comfortable with the rough draft policy.

Trustee Berger commented that the issues advanced by the Trapp Lane homeowners apply equally to all private streets. She expressed concern that the draft policy sets up a situation where private roads that are not adequately maintained by homeowners will end being the responsibility of the Village, while well maintained private roads will receive no benefit from the Village. She added that the policy places a lot of responsibility on the sitting Council to decide whether or not to undertake any particular project, resulting in the possibility that some requests might be granted while others will not, depending upon the availability of funds at the time of the request. She suggested that, given the significant cost associated with addressing all of the private roads, budgeting for the total estimated cost should begin so that all private roads can be treated equally and that this is as a more global issue that needs to be addressed before adopting the draft policy.

Trustee Rintz concurred with Trustee. Berger, noting that by the time a request gets to the Council, the expectation that the Village will ante up is already there. He said if the Council commits to cost sharing, then doing so should not be based on other budgetary considerations. He agreed that there are equity issues since some private roads have already expended substantial amounts on their own to improve their roads. He suggested that the Village explore means of recapturing its portion of the cost sharing.

Trustee Behles endorsed the concept of adopting a policy, but said he is struggling with its structure. He cautioned against creating an incentive for private roads to move to the public side and adding a new financial burden on the Village. He said although there's benefit to the Village in terms of operation in taking over the private streets, given the magnitude of the associated costs and unpredictability of timing and extent of the requests, budgeting becomes problematic. He added that he was uncertain that a 50/50 split was appropriate.

Trustees Rintz and Poor agreed, and Trustee Berger suggested reaching out to the other private roads before adopting any policy.

Hearing a consensus to tentatively move forward with some sort of change in the current policy, President Woodbury asked staff to put together a proposal for further consideration that would incorporate a strategy for recapturing Village costs and a methodology for handling the potential expenses in five-year increments.

c) Semi-annual Capital Report. Manager Williams reviewed the status of capital projects for items budgeted at $50,000 or more.

d) Purchase of Replacement Mobile Computers. Chief DeLopez introduced Sgt. Rich Carlson, who explained that the existing equipment is outdated and will not be adequate to run the new CAD system software that allows officers in the field to receive and review calls in their squad cars.

Trustee Berger, seconded by Trustee Johnson, moved to approve the purchase of six (6) mobile computers for an amount not to exceed $26,850. By roll call vote, the motion carried unanimously. Ayes: Trustees Berger, Poor, Greable, Johnson, Behles, and Rintz. Nays: None. Absent: None.

5. January 19, 2009 Village Council Agenda Material and Minutes

January 19, 2009
· Agenda Materials
· Minutes

Agenda Report

Subject: **Private Road Dedication Policy Update**

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

Date: January 8, 2009

Ref: 10-14-2008 Study Session; 11-18-2008 Council Meeting

Background.
At the October 14, 2008 Study Session, the Village Council heard a request from the homeowners of the Trapp Lane Homeowners' Association that the Village take over Trapp Lane as a public street. The Village has a long-standing policy on dedication of private streets that can be summarized and paraphrased by the following statement:

"If the homeowners, at their expense, bring the roadway and storm sewer systems up to Village standards, and if the homeowners dedicate property to the Village in the form of right-of-way or right-of-way plus easements, then the Village will take over the road as a public roadway."

A copy of the current policy is attached.

The Trapp Lane homeowners' request involved the Village's help in defraying the construction costs associated with re-building the road to Village standards, and providing the required stormwater improvements. The Trapp Lane homeowners made this request on the grounds that, as residents of a private street they receive fewer Village services, without a corresponding reduction in real estate taxes. The homeowners also feel that the demolition fees collected from Trapp lane properties in the last five years should be taken into consideration, as part of those fees are calculated to offset damage to the Village's streets. The homeowners requested that the Village communicate what amount, if any, the Village is willing to provide towards the upgrades, so that they can take a final vote on whether to formally request the Village to take over Trapp Lane.

The Council discussed the request and agreed that the current policy should be updated, but that the policy should maintain flexibility so as not to create a big burden on cash resources, and directed staff to craft a new policy for Council discussion.

At the November 18, 2008 Council Meeting, staff presented draft update to the current policy. The updated policy listed certain private roads as being in the interest of the Village to have dedicated as public streets, and set forth a policy and procedures for the Village sharing the costs associated with bringing the road and drainage systems up to Village standards and dedicating the roadway.

The Council discussed this updated policy and expressed some concerns over the cost sharing formula, a desire to explore a strategy for recapturing Village costs, and the issue of how to effectively budget for the potential cost of upgrading private streets.

Alternate Cost Sharing Methodology
In response to the Council's discussion, staff has developed an alternative cost sharing methodology. Instead of basing the Village's share on 50% of the total improvement cost, the Village's share could be based on the cost of the stormwater improvements. This language follows:

2. Funding and cost sharing

Subject to the availability of Village funding, as defined by a designated percentage of the Village's Capital Plan for street and drainage improvements to be determined by the Village Council from time to time, the Village may fund 100% of the costs for stormwater drainage improvements associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers, and appurtenances to bring the same into compliance with the Village standards. This funding formula recognizes that stormwater drainage systems on private roads can and do convey stormwater runoff from other neighborhoods, and that stormwater flood relief can in many cases be considered a Village-wide responsibility.

If the Council approves public funding of stormwater drainage improvements required to upgrade the private street to Village standards, the private properties abutting the road will pay the remaining portion of the total improvement costs by either a special service area or an upfront payment to the Village.

If the Village receives multiple requests to dedicate a private street as a public road, the Village has and reserves the authority and discretion to prioritize road dedication projects for funding and implementation based on community need, public safety and welfare, and the availability of Village funds, as determined by the Village Council in the sole exercise of its discretion.

After the street and storm sewer improvements are completed and the street has been dedicated as a public street, the Village will assume all maintenance responsibilities for the street.

The Village will institute a recapture provision to recoup 50% of the Village's expenditures for the stormwater improvements. The recapture provision shall require that at such time as a new home is constructed within the improvement neighborhood, the property owner shall pay to the Village an amount equal to 50% the total cost of the stormwater improvements as constructed, divided by the number of properties in the improvement neighborhood, multiplied by an inflation factor calculated using the Chicago Consumer Price Index.

This cost sharing methodology recognizes that the source of stormwater runoff, and the scope of stormwater drainage improvements, is often beyond the scope of a single neighborhood, and that stormwater drainage improvements can provide benefits beyond the particular neighborhood in which they are located. The advantage of the Village participating in the cost of stormwater improvements, as opposed to the cost of the entire project, is that the Village expenditure can more clearly be connected to both public benefit, and addressing problems that extend beyond a limited neighborhood.

A further benefit of this methodology, but one which would need further consideration, is that the Village is about to embark on a course of undertaking drainage improvements in an area of town with several private roads. The Village will soon find itself wrestling with the issue of how to fund and construct drainage improvements that provide public benefit, but that also drain, and are located under, private roadways. If the Village is inclined to fund these improvements, one can argue that other private roads should be given similar consideration.

Policy Discussion.

To simplify the Council's discussions, it may be helpful to focus on four specific policy issues; how to determine the Village's share of the cost, recapture of Village costs, budgeting the Village's share, and the mechanism for assessing the private share of the improvements.

Village Cost Share. The Village's current policy states very clearly that the Village will not pay any portion of the cost associated with bringing private roads up to Village standards and dedicating them to the Village. While this policy has been in place for many years, it has, quite frankly, served as a disincentive to private road associations that have desired to upgrade their roads and dedicate them to the Village. If the Village Council is inclined to consider modifying this policy, there are broadly two avenues for cost sharing – to share a percentage of the total project, or to share a specific portion of the project to which public benefit could be ascribed, such as the stormwater drainage improvements.

To summarize, the Council could consider the following three cost sharing options.

1. Continue with the Village's current policy of not assuming any portion of the cost.
2. Adopt a policy where the Village would share in 50% of total cost of upgrading the road to Village standards.
3. Adopt a policy where the Village would share in 100% of the cost of drainage improvements associated with upgrading the road to Village standards.

Recapture of Village costs. If the Village Council is inclined to consider a cost sharing policy, the Council needs to decide how to address the idea of recapturing the Village's share of the cost, as was raised at the November 18 meeting. Recapture provisions allow the Village, over time, to recoup the cost of infrastructure improvements by assessing a fee to connect to or access the improvements. The issue of recapture fees should be examined in light of the following question: "Is the Village's investment in upgrading private road infrastructure considered a permanent infrastructure investment to benefit the public, or an incentive to facilitate dedication of the roadway?" If the answer to the question is that the investment is simply a means to facilitate dedication of the roadway, then a recapture provision that would make the Village whole over time could be reasonably considered. If, on the other hand, the Village considers the investment to be a permanent infrastructure investment with broader public benefit, then a lesser recapture, or no recapture, may be more appropriate.

Budgeting for projects. The Council expressed concern over finding themselves in the position of facing the expectations generated in a neighborhood that works through the process outlined in the draft policy, and then needing to determine if there were funds available to complete the project. One alternate way that this could be addressed is to allocate a portion of the capital funding for roadway or drainage improvements for possible private road projects. This would be similar to the way that we budget annually a sum of money for new sidewalk projects, however if no neighborhood projects are identified in a given year, this money is spent on sidewalk replacement. The council could allocate, for example, up to 15% of the street rehabilitation funds to private road improvements, and if no neighborhoods come forward, spend that funding for regular street rehabilitation.

Funding Mechanism for private share.

The current policy allows for two possible methods for homeowners to pay their share – payment up front, or Special Service Area (SSA). Under the payment up front method, the homeowners may divide their cost share among themselves in whatever way they see fit, and then simply write a check for their individual amounts in advance of the project. An SSA is a special taxing district to pay for public improvements that benefit a specific geographic area. The boundaries of the SSA are defined by the area that benefits from the project, in this case, the neighborhood or association desiring the improvement. Under an SSA, the portion of the cost to be borne by the property owners in the SSA is levied on those property owners, proportional to the Equalized Assessed Value (EAV) of each property within the SSA. For example, in a neighborhood with an aggregate EAV of $1,000,000, a property assessed at EAV $200,000 would pay 20% of the improvement; a property with an EAV of $300,000 would pay 30% of the improvement, and so on. A summary of how SSA's work is attached.

Summary.

Winnetka has about 58 miles of streets. Approximately 90% of the streets are public streets as the rights-of-way belong to the Village, state or county. 10% or about 6.3 miles of the streets are private as the roadway is owned by the adjoining property owners.

Winnetkans living on private streets are responsible for the maintenance of the roadway and storm sewer. They also pay the same taxes as Winnetkans living on public streets which are the Village's responsibility to maintain.

Private streets prevent the Village from addressing regional drainage problems as the storm sewer is privately maintained. When new homes or significant home additions are constructed on private streets, the Village has difficulty equitably addressing the road damage caused by this new construction. Many Village-owned water mains and sanitary sewers lie beneath private roads, meaning that any repair, replacement, or extension of these lines involves excavation under and disruption to private property. Private streets also result in a gap between the services provided by the Village and resident expectations, resulting in many special requests for services such as patching, sweeping, signage, and other services.

The Village Council needs to address four policy questions:

1. Should the Village fund any portion of improvements to bring private streets up to Village standards for dedication, and if so, how much?
2. If the Village chooses to fund some portion of these improvements, should the Village institute a recapture provision to recoup some or all of its expenditure?
3. If the Village chooses to fund some portion of these improvements, how should the expenditure be budgeted?
4. How should the private portion of the improvement be paid for?

Recommendation:
Provide policy direction.

January 15, 2009

To: Village Council Trustees and President Woodbury

From: Sandy Berger

Re: Private Road Dedication and Costs

In anticipation that the Private Road Dedication issue will be in front of the Council shortly, I wanted to share my thoughts on this. Although I am quite sympathetic to the issues which have been brought forward by the Trapp Lane homeowners, I am also quite concerned about how the village participation in the project costs impacts the same issues for all other homeowners on private streets. Since we are likely facing budget cuts to balance the budget for the upcoming fiscal year, we need to be extremely careful and transparent before approving expenditures that may "appear" as inappropriate Village expenses.

Staff has recommended that the Council consider the following (taken from Agenda Report dated Nov. 12, 2008 by Steven Saunders: "Subject to the availability of Village financial resources, as determined by the Village Council in the sole exercise of its discretion, the Village may fund 50% of the costs associated with dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers, and appurtenances to bring the same into compliance with the Village standards. This 50-50 funding formula recognizes that residents living on private streets have over the years paid for the general maintenance and reconstruction of all public streets and drainage systems while being directly responsible for the maintenance of their private streets and drainage systems."

First, I recommend that any changes to the current policy ***not*** be "subject to the availability of Village financial resources as determined by the Council". This could easily be viewed as arbitrary, subjective and possibly discriminatory.

Second, the 50-50 funding policy would appear to discourage homeowners on private roads from maintaining their private roads and storm sewers. As few as one or two homeowners on a private road could suggest that this wait as long as possible and then go public and have the Village pay half.

The argument that the residents living on private streets have paid for expenses on all public streets and drainage systems applies to all homeowners on private roads and is not specific to Trapp Lane. There are advantages and disadvantages to living on a private road; this is one of the disadvantages. In my opinion, any change to the policy on maintenance of private roads and in particular, storm sewers, should be considered for all private roads and not just for Trapp Lane homeowners. However, I believe that Kathy Janega has indicated that the Village absolutely cannot pay for any maintenance costs on private roads.

If the Village funds a portion of the costs for any private road to become a dedicated public street there is no authority in existence to allow a "credit" for the other residents on private streets.

There also seems to be an issue that Plum Tree Lane and Holly Lane (both private lanes) do not have storm sewers and this places an additional burden on the Trapp Lane homeowners. How should this be addressed?

The Trapp Lane homeowners have raised the issue of the Demolition Permit Fee and not receiving any benefit with regard to road repairs and additional strain on their storm sewer system. It is my understanding that this is somewhat moot as the Demolition Fee does not contain any significant "cushion" to absorb costs for road repair or for costs of the additional burden to the storm sewer system. This may be reason to review our current demolition fees and to increase this fee to include the anticipated costs for road repair and storm sewer issues (not sure how this can work on a private road).

The use of a Special Service Area would appear to alleviate the immediate financial burden to the homeowners. I assume this means that the actual cost for the private road dedication would be amortized over a period of ten to fifteen years; this would be collected via property taxes by assessment value for each homeowner on Trapp Lane. Since this would allow the homeowners to receive the tax benefit; this could significantly reduce their actual net cost by as much as 35% (I suggest we ignore the possible affect of the alternative minimum tax to keep this as simple as possible). I also assume this means that the Village has to provide the upfront costs, if the Council were inclined to pay the engineering costs, the bottom line to the homeowner is almost the same as if the Village were to pay 50% of the total costs.

If the Council is inclined to fund 50% of the total project costs, I recommend that a public hearing be held with sufficient notice to all homeowners on private roads to allow them the opportunity to weigh in on this issue.

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Winnetka, IL Village Council Minutes

2) Private Road Dedication Policy Update.

Mr. Saunders reported on developments since the November 18, 2008, Study Session, when the Council expressed concerns over the proposed new cost-sharing formula and how to effectively budget for the potential cost of upgrading private streets. The Council asked staff to revisit cost sharing for bringing private roads up to Code for dedication to the Village and how the Village might recapture some of its costs.

Mr. Saunders related that the issue before the Council resulted from the request of the Trapp Lane Homeowners' Association that the Village take over Trapp Lane as a public street. He explained that Winnetkans living on private streets are responsible for the maintenance of the both the private roadway and private storm sewer system underneath it. He summarized the Village's long-standing policy as being that, if the homeowners bring the roadway and storm sewer systems up to village standards at their expense and the appropriate right-of-way or right-of-way plus easements to the Village, then the Village will take over the road as a public roadway. He mentioned that one of the objections homeowners on private streets raise is that they pay the same taxes as Winnetkans living on public streets maintained by the Village, but they do not receive the same services.

Mr. Saunders then reviewed an alternative cost sharing methodology in which the Village's cost-sharing could be based on the cost of stormwater improvements rather than on 50% of the total improvement cost. He explained that this would recognize that the source and scope of stormwater runoff and the benefits of drainage improvements often extend beyond the neighborhood in which they are located. He added that this method would also clearly connect the Village's expenditure to both the public benefit and to addressing problems beyond a limited neighborhood, although it could also cause the Village to wrestle with the issue of how to fund and construct drainage improvements that provide public benefit, but that also drain, and are located under, private roadways. He pointed out that the likely solution to the White Oak Lane flooding would probably include drainage improvements on private streets.

Mr. Saunders identified the following four specific policy issues before the Council and commented briefly on each: (1) Village's cost share, (2) recapture of Village costs, (3) budgeting for projects, and (4) funding mechanism for private share.

Mr. Saunders summarized the three cost sharing options: (1) to continue with the current policy, (2) adopt a policy whereby the Village would share in 50% of the total cost, or (3) adopt a policy where the Village would share in 100% of the cost of associated drainage improvements. He stated that if the Village decides to implement some kind of recapture provision, it will need to determine if there is public benefit and whether the recapture provision is appropriate and consistent with what is done on public streets. He noted that there is significant benefit to the Village's owning the right-of-way because Village utilities are underneath the streets, so utility projects would be easier to accomplish. It would also help the Village address regional drainage problems and aid the Village in dealing with the negative and disruptive effects of construction projects.

Mr. Saunders suggested that one way to address budgeting for possible private road projects would be to allocate a portion of the capital funding for roadway or drainage improvements. Funding could be accomplished either via cash up front or through a special service area.

Responding to questions from Trustee Poor, Mr. Saunders stated that approximately 25 private streets that might choose to become public, with some being more desirable from a public policy standpoint, and estimated total costs at approximately $6,000,000. He reported that Glencoe's policy is similar to """Winnetka"'s current policy in that it will help the homeowners' associations, but does not enter into any kind of cost sharing arrangement with them.

In response to a question from Trustee Berger, Mr. Saunders suggested adopting a policy in which the village would pay 100% of the stormwater drainage improvement costs up front and then recapture 50% of that expense over time.

Manager Williams pointed out that the recapture would only be triggered by demolitions and rebuilds.

Trustee Berger remarked that it would then take a very long time to recover the costs.

Trustee Rintz indicated that he would be comfortable with a policy in which the Village covers the drainage portion of the work with the neighborhood picking up the road work portion because the Village gets a dedicated road back as the payoff for its investment. He pointed out that in some circumstances, i.e., White Oak/DeWindt, there is no tradeoff that benefits the Village, and that any change in policy should be implemented consistently.

President Woodbury pointed out that to spend public funds, there must be a public benefit.

Mr. Saunders commented that from a practical standpoint, it will take 100% agreement among the property owners to get a street dedication, making it unlikely that many private streets will opt to dedicate their streets to the Village, as many of the affected homeowners feel strongly about maintaining their ownership.

Among the Trapp Lane homeowners who then spoke in support of the amending the existing policy so as facilitate moving ahead with the Trapp Lane project were Ernie Weis, 1279 Trapp; Tom Barron, 1284 Trapp; Joe Bauer, 1294 Trapp; Bob Jacob, 1350 Trapp; Mike Hills, 1324 Trapp; and Carol Fessler, 1314 Trapp. All agreed that this would be a good public/private partnership and now is the time to get this problem solved and done well.

President Woodbury concurred, saying that now is the time for the Village to move forward. The questions are (1) which policy path is appropriate, and (2) what is the financial split?

Trustee Behles indicated support for the Village entering into some sort of cost sharing arrangement, but expressed concern about raising a level of expectation that the Village will be able to rectify the flooding in this part of town, which it can't. He said that without a regional solution, certain portions of the Village will be subject to flooding from time to time and added that he views the need to have 100% agreement among the homeowners to be a very limiting factor, so the chance of many more neighborhoods seeking to dedicate their streets is low.

Manager Williams supported Mr. Behles' remark, saying that even if the Village had owned the street with new stormwater improvements in place, flooding would still have occurred during last fall's severe storms.

President Woodbury likened the policy's evolutionary process to that of the sidewalk policy, which thus far has worked well and was designed to address a particular set of circumstances. In this case, the Trapp Lane neighbors, after many years of negotiating with one another, have come together as one to ask the Village to help them solve an existing problem.

Trustee Poor said the neighborhood has put forth a compelling case for the Village to address a long-standing problem that stems from a policy that existed when the neighborhood was first developed. He noted the long term problem of precedent remains and said he is not convinced that what the Council does for Trapp Lane has to become a long term policy that could affect years of expenditures. He said he would be in favor proceeding on Trapp Lane with a 50/50 split, but making it clear that this is not necessarily the policy that will apply on a going forward basis. He suggested sending notices to all private road homeowners to get a better sense of how big this issue is likely to be over the long term.

Trustees Greable and Johnson expressed some reservations about either cost sharing option based on the long term expenses and implications of any change in policy.

Trustee Berger voiced concerns about how the Village's participation in the project costs impacts the same issues for all other homeowners on private streets. She indicated that she could not vote in favor of the 50/50 policy as written without holding a public hearing to which all residents of private roads were invited to participate.

Trustee Rintz voiced the opinion that whatever the Village does for Trapp Lane, it should be consistent with what it intends to do elsewhere in the future. He said he could support either the 50/50 or stormwater only model, so long as there is ultimately a dedication of the street to the Village, because the key is the public benefit.

Manager Williams indicated that staff would bring a redrafted policy back before the Council in the spring.

6. March 3, 2009 Village Council Agenda Material and Minutes

March 3, 2009
- Agenda Materials
- Minutes

Agenda Report

Subject:	**Private Street Dedication Policy – Draft Revisions**
Prepared By:	Steven M. Saunders, Director of Public Works/Village Engineer
Date:	February 20, 2009
Ref:	10/14/08 Study Session; 11/18/08 Council Meeting; 1/19/09 Council Meeting

Background.

At the October 14, 2008 Study Session, the Village Council heard a request from the homeowners of the Trapp Lane Homeowners' Association that the Village take over Trapp Lane as a public street. The Village has a long-standing policy on dedication of private streets that can be summarized and paraphrased by the following statement:

"If the homeowners, at their expense, bring the roadway and storm sewer systems up to Village standards, and if the homeowners dedicate property to the Village in the form of right-of-way or right-of-way plus easements, then the Village will take over the road as a public roadway."

The Trapp Lane homeowners' request involved the Village's help in defraying the construction costs associated with re-building the road to Village standards, and providing the required stormwater improvements. The Trapp Lane homeowners made this request on the grounds that, as residents of a private street they receive fewer Village services, without a corresponding reduction in real estate taxes. The homeowners also feel that the demolition fees collected from Trapp lane properties in the last five years should be taken into consideration, as part of those fees are calculated to offset damage to the Village's streets. The homeowners requested that the Village communicate what amount, if any, the Village is willing to provide towards the upgrades, so that they can take a final vote on whether to formally request the Village to take over Trapp Lane.

The Council discussed the request and agreed that the current policy should be updated, but that the policy should maintain flexibility so as not to create a big burden on cash resources, and directed staff to craft a new policy for Council discussion.

The Council discussed possible revisions to this policy on November 18, 2008, and again on January 19, 2009. At the November 18 meeting, the Council discussed amending the current policy to list certain private roads as being in the interest of the Village to have dedicated as public streets, and setting forth a policy and procedures for the Village sharing the costs associated with bringing the road and drainage systems up to Village standards and dedicating the roadway.

At the January 19 meeting, the Council discussed an alternate funding formula, relating to stormwater drainage, for possible Village participation in private road dedications. At the close of that discussion, there was no clear consensus on what amendments to the policy, if any, are appropriate at this time. Staff agreed to present further policy options at a future meeting.

Policy Options.

As a follow-up and summary to the prior discussions, there are three policy avenues that could be considered.

Option A – Affirm Current Policy. The Village Council could choose to simply affirm the current policy stating the conditions under which the Village will accept private roads for dedication, and that the Village will not participate financially in such projects. The current policy is attached as **Attachment 1**.

Option B – Modify Current Policy for Stormwater Projects with Public Benefit.. The Village Council could choose to expand the current policy to allow Village funding of stormwater improvements associated with improving private roads to Village standards for dedication, but only if those stormwater improvements provide an identifiable broader public benefit, beyond the private road being improved. This option maintains the clarity of the current policy, while allowing for Village participation in those projects that provide broader public benefit. The amended policy that would permit this option is attached as **Attachment 2**.

Option C – Modify Current Policy to Permit 50% Cost Participation in Projects. The Village Council could choose to modify the current policy to allow the Village to fund 50% of the cost of dedicating certain private streets to the Village, subject to a maximum Village expenditure of $1 million (current dollars) over the period 2009 – 2019. This option allows for Village participation in the cost of improvements to private streets towards dedication, as a means of encouraging these projects and solving many of the problems created by private streets in the Village. The amended policy that would permit this option is attached as **Attachment 3**.

Recommendation:

Provide Policy Direction

Revised October, 1994

ATTACHMENT 1

Village of Winnetka Policy Statement
Dedication of Existing Private Streets

There exist within the corporate limits of the Village of Winnetka many existing private streets. The dedication of such private streets to the Village is encouraged, subject to the following guidelines and standards:

1. The existing easement for a private street shall be dedicated to the Village as a right-of-way by a plat of dedication; provided, such easement shall be at least twenty feet in width;

2. If the dedicated right-of-way is less than 50 feet in width, additional easements for utilities, roadway repair, etc. shall be required adjacent to the dedicated right—of—way such that the total aggregate width of the right—of—way and easements is at least 50 feet;

3. If the dedicated right-of-way results in a dead end situation, a cul-de-sac or hammerhead turnaround shall be provided. Any cul-de-sac so provided shall have a minimum curb radius of fifty feet; provided, however, that the curb radius may be reduced to forty feet if no parking is allowed at the cul-de-sac. Any hammerhead turnaround so provided shall have dimensions as recommended by the Director of Public Works and approved by the Village Council;

4. All street cross sections within the dedicated right-of-way shall comply with those shown on the attached diagram, the specific cross section being dependent upon the right-of-way width and the parking restrictions applicable upon the street;

5. All streets within the dedicated right—of—way shall be improved with a minimum of type M-4.12 roll-type curb;

6. All streets within the dedicated right-of-way shall have a pavement with a minimum structural equivalent of a 10-inch gravel base and 4 inches of bituminous concrete surface;

7. As recommended by the Director of Public Works and approved by the Village Council, a portland cement sidewalk of at least 5 feet 4 inches in width may be required along one side of the street. No sidewalk shall be required on a cul-de-sac or dead end street where the number of potentially served homes is small;

8. As recommended by the Director of Public Works and approved by the Village Council, concrete pipe storm sewers with a minimum 10-inch diameter (meeting IDOT standard

specifications and special provisions) may be required;

All costs associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers and appurtenances to bring the same into compliance with the Village standards shall be paid for by the owners of the property having an interest in the private street in a manner as prescribed by the Village Council, from time to time.

If the costs and improvements are paid by way of special assessment or special service area, the Village shall not assume any maintenance or other responsibilities for the private street until such time as the improvements have been completed and the street dedication accepted by the Village.

Revised ~~October~~March, ~~1994~~2009

ATTACHMENT 2

Village of Winnetka Policy Statement
Dedication of Existing Private Streets

There exist within the corporate limits of the Village of Winnetka many existing private streets. The dedication of such private streets to the Village is encouraged, subject to the following guidelines and standards:

1. The existing easement for a private street shall be dedicated to the Village as a right-of-way by a plat of dedication; provided, such easement shall be at least twenty feet in width;

2. If the dedicated right-of-way is less than 50 feet in width, additional easements for utilities, roadway repair, etc. shall be required adjacent to the dedicated right—of—way such that the total aggregate width of the right—of—way and easements is at least 50 feet;

3. If the dedicated right-of-way results in a dead end situation, a cul-de-sac or hammerhead turnaround shall be provided. Any cul-de-sac so provided shall have a minimum curb radius of fifty feet; provided, however, that the curb radius may be reduced to forty feet if no parking is allowed at the cul-de-sac. Any hammerhead turnaround so provided shall have dimensions as recommended by the Director of Public Works and approved by the Village Council;

4. All street cross sections within the dedicated right-of-way shall comply with ~~those shown on the attached diagram~~Village standards.~~,~~ ~~the~~ The specific cross section ~~being dependent~~shall be based upon the right-of-way width and the parking restrictions applicable upon the street. In no case shall the pavement be less than twenty feet in width, measured back-of-curb to back-of-curb;

5. All streets within the dedicated right—of—way shall be improved with a minimum of type M-4.12 roll-type curb;

6. All streets within the dedicated right-of-way shall have a pavement with a minimum structural equivalent of a 10-inch gravel base and 4 inches of bituminous concrete surface;

7. As recommended by the Director of Public Works and approved by the Village Council, a portland cement sidewalk of at least 5 feet 4 inches in width may be required along one side of the street. No sidewalk shall be required on a cul-de-sac or dead end street where the number of potentially served homes is small;

8. As recommended by the Director of Public Works and approved by the Village Council, concrete pipe storm sewers with a minimum 10-inch diameter (meeting IDOT standard specifications and special provisions) may be required;

9. All construction shall conform to the "Village of Winnetka Public Works and Engineering Design Guidelines";

All costs associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers and appurtenances to bring the same into compliance with the Village standards shall be paid for by the owners of the property having an interest in the private street in a manner as prescribed by the Village Council, from time to time.

In the event that the stormwater drainage improvements associated with dedication of existing private streets produce an identifiable broader public benefit, beyond only the neighborhood involved, the Village will participate financially in the cost of dedicating the existing private street to the Village of Winnetka by funding the stormwater drainage improvements. Examples of "identifiable broader public benefit" may include a) constructing drainage improvements identified by the Village as part of a regional set of stormwater drainage improvements; b) constructing improvements that would complete or benefit the public storm sewer system in the area; and c) constructing improvements that would relieve regional stormwater flooding affecting other neighborhoods beyond the existing private street being dedicated. The Winnetka Village Council shall, in the sole exercise of its discretion, make the determination of whether a drainage improvement provides and "identifiable broader public benefit".

If the costs and improvements are paid by way of ~~special assessment or~~a special service area, the Village shall not assume any maintenance or other responsibilities for the private street until such time as the improvements have been completed and the street dedication accepted by the Village.

March, 2009 Draft Update

ATTACHMENT 3

Village of Winnetka Policy Statement
Dedication of Existing Private Streets

Background:

Winnetka has about 58 miles of streets. Approximately 90% of the streets are public streets as the rights-of-way belong to the Village, state or county. 10% or about 6.3 miles of the streets are private as the roadway is owned by the adjoining property owners.

Winnetkans living on private streets are responsible for the maintenance of the roadway and storm sewer. They also pay the same taxes as Winnetkans living on public streets which are the Village's responsibility to maintain.

Private streets prevent the Village from addressing regional drainage problems as the storm sewer is privately maintained. When new homes or significant home additions are constructed on private streets, the Village has difficulty equitably addressing the road damage caused by this new construction. Many Village-owned water mains and sanitary sewers lie beneath private roads, meaning that any repair, replacement, or extension of these lines involves excavation under and disruption to private property. Private streets also result in a gap between the services provided by the Village and resident expectations, resulting in many special requests for services such as patching, sweeping, signage, and other services.

Many private streets serve as "de facto" public streets as they 1) provide an important link between two public streets, or 2) they serve 10 or more homes.

Policy Statement:

1. Eligible private streets

It is the policy of the Village of Winnetka to encourage the following private streets to become dedicated public streets to resolve regional drainage issues, to address the tax equity issue, and to solve the problem of who pays for road damage that is caused by residential construction projects:

- DeWindt Road: Hill Road to Sunset Road
- White Oak Lane: Sunset Road to Willow Road
- Sunset Road: The western extension of the public street Sunset Road to western terminus
- Thorn Tree Lane: Hill Road to northern terminus
- Indian Hill Road/Golf Lane: Hill Road to southern terminus at Village limits

- Blackthorn Road: Pine Street to northern terminus
- Ardsley Road: Pine Street to Westmoor Road
- Pelham Road: Rosewood Avenue to western terminus west of the private road known as Ardsley Road
- Westmoor Trail: Hibbard Road to western terminus
- Trapp Lane: Hibbard Road to western terminus
- Whitebridge Hill: Sheridan Road to northern terminus at Village limits
- Fisher Lane: Green Bay Road to eastern and northern termini
- Crescent Lane: Northern terminus at Village limits to southern terminus at Fisher Lane
- South Private Road: Green Bay Road to Sheridan Road

~~2. Funding and cost sharing~~

~~Subject to the availability of Village funding, as determined by the Village Council in the sole exercise of its discretion, the Village may fund 50% of the costs associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers, and appurtenances to bring the same into compliance with the Village standards. This 50-50 funding formula recognizes that residents living on private streets have over the years paid for the general maintenance and reconstruction of all public streets and drainage systems while being directly responsible for the maintenance of their private streets and drainage systems.~~

~~If the Council approves public funding of 50% to upgrade the private street to Village standards, the private properties abutting the road will pay the remaining 50% of the total costs by either a special service area or an upfront payment to the Village.~~

~~If the Village receives multiple requests to dedicate a private street as a public road, the Village has and reserves the authority and discretion to prioritize road dedication projects for funding and implementation based on community need, public safety and welfare, and the availability of Village funds, as determined by the Village Council in the sole exercise of its discretion.~~

~~After the street and storm sewer improvements are completed and the street has been dedicated as a public street, the Village will assume all maintenance responsibilities of the street.~~

2. Funding and cost sharing

Subject to the availability of Village funding, and subject to a maximum expenditure of Village funds not to exceed $1 million (2009 dollars) between 2009 and 2019, the Village may fund 50% of the costs of improvements associated with the dedication of existing private streets to the Village of Winnetka and the improvement of private roadways, storm sewers, and appurtenances to bring the same into compliance with the Village standards.

If the Village Council approves public funding of 50% of the cost of improvements required to upgrade the private street to Village standards, the private properties abutting the road will pay the remaining portion of the total improvement costs by either a special service area or an upfront payment to the Village.

If the Village receives multiple requests to dedicate a private street as a public road, the Village has and reserves the authority and discretion to prioritize road dedication projects for funding and implementation based on community need, public safety and welfare, and the availability of Village funds, as determined by the Village Council in the sole exercise of its discretion.

After the street and storm sewer improvements are completed and the street has been dedicated as a public street, the Village will assume all maintenance responsibilities for the street.

3. Guidelines and standards

The dedication of these particular private streets to the Village is encouraged, subject to the following guidelines and standards:

1. The existing easement for a private street shall be dedicated to the Village as a right-of-way by a plat of dedication; provided, such ~~easement~~ dedicated right-of-way shall be at least twenty feet in width;

2. If the dedicated right-of-way is less than 50 feet in width, additional easements for utilities, roadway repair, etc. shall be required adjacent to the dedicated right-of-way such that the total aggregate width of the right-of-way and easements is at least 50 feet;

3. If the dedicated right-of-way results in a dead end situation, a cul-de-sac or hammerhead turnaround shall be provided. Any cul-de-sac so provided shall have a minimum curb radius of fifty feet; provided, however, that the curb radius may be reduced to forty feet if no parking is allowed at the cul-de-sac. Any hammerhead turnaround so provided shall have dimensions as recommended by the Director of Public Works and approved by the Village Council;

4. Sidewalks may be installed if the existing guidelines for the construction of new sidewalks are met by the residents;

5. All improvements must meet current Village of Winnetka "Public Works and Engineering Guidelines" for new road construction.

Procedural Guidelines:

The following procedures apply to the requests to dedicate an eligible private street as a public street:

1. 100% of the abutting property owners must petition the Village that they wish to explore dedicating the private street to the Village as a public street;
2. Village staff will perform a preliminary engineering study of the street to determine required rights-of-way and easements, required improvements (streets, drainage, curbs, etc), and a preliminary cost estimate;

~~3.~~If staff determines that a separate engineering study is required for drainage improvements, staff will seek RFP's for such study and submit them to the Council for review. The Council, acting its sole discretion, may ~~approve~~ award the engineering contract.

3. The cost of the stormwater engineering study shall be borne 50% by the Village, and 50% by the abutting property owners
4. Once a preliminary engineering study is completed, Village staff will hold at least two neighborhood meetings to discuss the project in detail with the affected residents;
5. Following the neighborhood meetings, the Village's engineering staff will update the preliminary engineering plans, incorporating the neighborhood's comments and suggestions to the extent reasonably possible;
6. The updated, preliminary engineering plan and projected costs will be distributed to all affected property owners;
7. Staff will submit the preliminary plan to the Village Council who will determine if the Village has the resources to fund the Village's share of the costs to upgrade the street;
8. If the Council determines that Village resources are available for the project, staff will notify all affected property owners of the estimated total cost of the project which includes all engineering costs, legal costs, improvement costs, and a 10% contingency fund;
9. 100% of the property owners must formally agree to dedicate the required rights-of-way and easements to the Village, and to fund 50% of the estimated total project cost;
10. If 100% of the owners agree to make the required R-O-W and easement dedication, the Village will establish either a special service area or an upfront payment plan, finalize the engineering plans (either in-house or by contract), prepare dedication and right-of-way plats, seek bids, and construct the improvements if the bids are within 10% of engineering estimates.

amount of $1,197,684.21 and Warrant List No. 1596 in the amount of $361,276.48. The motion was seconded by Trustee Behles. By roll call vote, the motion carried. Ayes: Trustees Behles, Berger, Greable, Johnson, Poor and Rintz. Nays: None. Absent: None.

b) Private/Public Road Policy. Mr. Saunders reported that the issue of Village participation in funding private road improvements was raised by the residents on Trapp Lane, after the neighborhood reached unanimous agreement to dedicate Trapp Lane to the Village. He observed that revisions to the Village's private street dedication policy were discussed at the November 18, 2008, Study Session, and again at the January 19, 2009, Council Meeting.

Mr. Saunders reviewed the current private street dedication policy and then outlined changes that were proposed at the prior meetings. He indicated that dedication of private streets to the public domain creates benefits that include uniform appearance of streets, facilitating completion of infrastructure projects, and providing a better equity of service levels throughout the Village. He said Staff had devised amendments to the private street policy based on Council's concerns of focusing on streets that provide the most public benefit and on funding considerations.

Mr. Saunders explained three possible options for the Council's consideration: a) affirm the current policy; b) modify the current policy for stormwater projects with public benefit; and c) modify the current policy to permit 50% cost participation in dedication projects.

Trustees Behles and Rintz commented that the third option was the most clear and understandable, and didn't include a lot of subjective considerations. They asked for clarification on the issue of public benefit.

Mr. Saunders indicated that in areas like White Oak/DeWindt, where private and public drainage systems commingle, there is a public benefit to pursuing drainage projects even if the streets are going to remain private, because the larger watershed is affected. He noted that the Burke engineering study will give a better understanding of what can be done to help with drainage problems in the White Oak/DeWindt neighborhood.

President Woodbury observed that the amendments to the current policy were crafted at the direction of Council to deal with Trapp Lane so as to limit concerns about setting precedent, and said he would like to limit the discussion to Trapp Lane.

Manager Williams indicated that the figures chosen for Option C were arrived at based on Staff's best estimate of the costs of bringing all the private streets in Winnetka up to standard and assuming a 50/50 funding ratio over a ten year period. He noted that the cost estimate is approximately 9% of the street resurfacing budget, and since 10% of Winnetka's roads are private, the numbers dovetail.

Trustee Poor noted the patience of the residents on Trapp Lane and said the Village should respond to their situation with Option C.

Trustee Behles said he thought Option C gave the most protection against setting precedent, and it seemed a fair way for homeowners to have a discussion about street dedication, as the terms will be understood ahead of time.

Trustee Berger recommended holding a public hearing so the remaining homeowners on private roads could give their views, and cautioned against setting precedent. She remarked that if incentive is offered for maintenance of private roads, there should also be a benefit with regard to stormwater maintenance, and she added that she was concerned that putting in a cap on the Village's participation would not be fair for everyone throughout the Village.

Trustee Johnson agreed with Trustee Berger.

Trustee Greable indicated that he preferred to wait until the Burke study is concluded to get an overall picture of the situation but added that he could support Option C as a way to move forward at this time.

After further discussion, President Woodbury said he thought the Village owed it to the Trapp Lane residents to move forward, that the public hearing option is not dropped, but a consensus is needed to make a decision in this instance. He noted that the Burke study will raise many difficult issues beyond private road dedication. He asked for a motion to authorize Staff to commence engineering and design work on a 50/50 partnership with Trapp Lane for the eventual dedication of Trapp Lane of a public street.

Trustee Poor, seconded by Trustee Behles, moved to grant approval to Staff to proceed with design and engineering to bring the roadway and storm sewer system of Trapp Lane up to Village standards, splitting costs evenly with Trapp Lane residents, in order to dedicate Trapp Lane as a public street. By roll call vote, the motion carried. Ayes: Trustees Behles, Greable, Poor and Rintz. Nays: Trustees Berger and Johnson. Absent: None.

President Woodbury encouraged the next Council to continue the discussions about private streets and to keep moving the process forward.

c) Electrical Line Clearance (Tree Trimming). Mr. Keys reviewed the electric line clearance bid received last February from Nels Johnson Tree Experts, and he explained that the bid was structured so that rates were given for three years, with annual renewals at the Village's discretion. He observed that Nels Johnson has been performing the line clearance for many years and is trained in working around energized conductors. He noted that the firm has never experienced a safety accident while working for the Water & Electric Department, and recommended awarding the second-year contract to Nels Johnson for an amount not to exceed $100,000.

There being no further questions or comments, Trustee Berger, seconded by Trustee Behles, moved to award the contract for electric line clearance to Nels Johnson Tree Experts in an amount not to exceed $100,000 . By roll call vote, the motion carried. Ayes: Trustees Behles, Berger, Greable, Johnson, Poor and Rintz. Nays: None. Absent: None.

10) Reports

a) Village President. None.

b) Trustees.

7. Guide to Special Service Areas

SB Friedman
Development Advisors

WHAT IS A SPECIAL SERVICE AREA (SSA) & WHAT CAN IT DO?

What is a Special Service Area (SSA)?

A Special Service Area (SSA) is a property-taxing mechanism that can be used to fund a wide range of special or additional services and/or physical improvements in a defined geographic area within a municipality or jurisdiction. This type of district allows local governments to establish such areas without incurring debt or levying a tax on the entire municipality. In short, an SSA allows local governments to tax and deliver services to limited geographic areas within their jurisdictions.

Legal Authority for an SSA

The 1970 Illinois Constitutional Convention granted municipalities and counties the authority:

> *"to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services."*

The process for establishing an SSA is outlined in the "Special Service Area Tax Law" (Article 27, 35 ILCS 200/27). This process and subsequent case law form the basis for SSA implementation in Illinois. SSAs are excluded from tax cap legislation and are still available for home rule and non-home rule municipalities in "capped" counties.

What Can an SSA Do?

SSAs are financing tools used to support and implement a wide array of services, physical improvements, and other activities. Among the list of common services and activities provided by SSAs are the following:

Support Services

- Downtown Marketing
- Special Events
- Seasonal Decorations
- Downtown Promotion/Advertising
- Tenant Search/Leasing Support
- Transportation (e.g., Downtown Trolleys)
- Improved Snow Removal Services
- Improved Trash Removal Services
- Security Improvements/Services
- Improved Parking Enforcement Services
- Downtown Maintenance Staff/Activities
- Planning/Marketing Consulting
- Program Administration
- Membership Services
- Public Relations Activities
- Store Window Display Assistance

Infrastructure Improvements

- Streetscaping/Landscaping
- Lighting
- Benches
- Trash Receptacles
- Alley Repaving
- Curbs
- Sidewalk Paving
- Street Improvements
- Storm Sewers
- Sanitary Sewers
- Parking Lots or Garages

Land and Building Improvements

- Redevelopment
- Store Front Improvements, Grants or Loans
- Interior Rehab/Build-out Assistance

How Have Communities Used SSAs?

As of 2011, the Illinois Department of Revenue has documented more than 600 SSAs in Illinois, with many communities having 10 or more active SSAs. These SSAs included real estate valued at over $22 billion (EAV), and generate annual taxes of over $70 million covering all types of new and existing residential, commercial and industrial land uses. The number of SSAs has continued to increase each year.

SSAs are largely used to support retail districts, especially central business districts. A survey of communities with SSAs that cover central business districts indicated high community satisfaction with the SSA's ability to provide essential services and improvements. Additionally, in some communities, SSAs are used for improvements such as infrastructure in newly developing areas.

Steps in Establishing an SSA

Success in establishing an SSA depends largely on obtaining support of property owners and taxpayers within the area. Therefore, the following process is used:

Determine Organizational and Process Alternatives. The most important step is determining the overall strategy to organize support and build a consensus. Will the proposal be led by a government agency, the Chamber of Commerce, or another group? Should a new group be formed? Is it important to have objectives and/or professional assistance, such as consultants? Which structure will govern the SSA? There are many more questions.

Define the Boundaries. SSAs levy an additional property tax on parcels within a defined geographic area. Larger areas tend to generate more revenue, but usually require more effort during the planning stages to build a consensus.

Define the Services. SSAs can be extremely flexible in their uses, but these uses must be specifically authorized by the enabling ordinance. It is critical to take enough time and effort during this stage to build support for the proposed services.

Determine Costs/Budget. Preliminary costs are determined based on the services required and the boundaries of the area.

Define the Maximum Duration of the District and Maximum Tax Rate. State law requires that the ordinances establishing the district define the maximum duration of the district and maximum property tax rate.

Propose the Ordinance. Ultimately, the SSA must be established by an ordinance of the local government.

Send Out Public Notices. The local government must notify affected taxpayers by U.S. Mail and public notice in a general circulation newspaper.

Conduct Public Hearing(s). At least one public hearing (and more if necessary) must be held to discuss the creation of the SSA, including the proposed geographic area, budget, services and tax levy. This usually occurs within 60 days of adopting the ordinance that proposes the establishment of an SSA.

Proceed after Waiting Period. The local government, if it chooses to proceed, must wait at least 60 days following the last hearing before implementing the SSA ordinance. During that time, opponents are allowed to submit petitions in opposition to the ordinance. If an opposing petition is submitted to the City Clerk or County Clerk within 60 days AND carries the signatures of at least 51 percent of registered voters residing in the proposed SSA area AND at least 51 percent of property owners of record in the area, the SSA is defeated and CANNOT be resubmitted for two years.

Adopt the Ordinance. The ordinance may be adopted by a simple majority vote of the local governing body, usually a City Council, County Board, or similar body.

Approve Budget and Levy. The local governing body must approve the annual budget and levy each year. Tax monies are received the following year by the City or County Clerk and can only be used for authorized activities.

Propose Amendments. An SSA can be amended after its approval, provided specific procedures are followed.

For more information, please contact us at **(312) 424-4250** or **info@sbfriedman.com**

8. Summary of Municipal Policies

Municipality	Name	Formal Policy?	Notes	Copy of Policy	Require road be improved to Village standards prior to transfer?
Lake Forest	Jim Lockefeer	No	No written policy, but questions about transferring a private road to public have come up in the past. Lake Forest has responded by saying that if a private road is built to the City standard (appropriate base, width, curb, gutter, stormsewer, etc.) the City would take steps in taking ownership of the private road. Once residents understand what the costs are associated with constructing a road to City standard, they no longer pursue a transfer of ownership. Lake Forest did not recall one instance of a transfer actually occurring.	N/A	Yes
Highland Park	Ramesh Kanapareddy	Yes	Highland Park has a formal policy. The policy requires that the process be inititated by a resident and requires 100% of the affeected lots owners approval inorder to proceeed. Initial costs for evaluation by the City will be paid for 100% by the property owners. Private infrastrucutre must be inspected and approved by the City and must meet City Standards and City Code. Minimum width of Minor Streets shall be no less than 28-feet, including width of curbs. Pavement upgrades must include storm sewers and minimum street and curbs standards must be met. Possible funding mechanisms for lot owners to pay for conversion requirements include direct payment of 100% of costs by homeowners, creation of a Special Service Area no more than 15-year limit, or possible short term loan from City with Council approval.	N/A	N/A
Glencoe	Adam Hall	No	No written policy. The last time Glencoe converted a road from a private lane to a public road was approximately 10-15 years ago. They don't have a hard policy, but typically Glencoe require the homeowners to meet current minimum width standards including curb and gutter, and we look at existing utilities. Typically the private roads have private storm sewers and we require them to bring the storm sewer up to standard before transfer of ownership. The process to get the owners of the street to agree and to bring the street up to an appropriate standard took a lengthy amount of time. There has to be 100% agreement from all property owners, and they require that in writing. In 2016, the Glencoe worked with the residents of Washington Place, a private street located off the west end of Washington Avenue, to facilitate a process to bring the private roadway up to Village standards and transfer jurisdiction over to the Village. A special service area ("SSA") is the financing vehicle Glencoe used to accommodate this process. The pavement and storm sewer system on Washington Place was in a severe state of disrepair. In February 2015, the five current owners on Washington Place signed letters of intent indicating their desire to work with the Village to initiate the dedication process. In October 2015, the Village Board approved a proposing ordinance for the SSA as well as a resolution authorizing the Village Manager to execute a contract with DiMeo Brothers, Inc. for construction of the Washington Place improvements. On December 17, 2015, the Village Board approved Ordinance No. 2015-18-3390 establishing a SSA for the purpose of improving, maintaining, and operating Washington Place, a non-standard concrete private road. The conversion of Washington Place from a private to a public road will require the execution and acceptance of a plat of dedication. All five property owners signed off on the plat of dedication and the road is currently a public road in town.	N/A	Yes
Kenilworth	Donald Leicht	No	No policy in place. However, Kenilworth does have road standards (ex: road width). Kenilworth takes these standards and compare them with the current road conditions for the potential street dedication. The one that they are currently working on has a very narrow street where the homes are right up against the road and cannot be widened in some areas. Their offer to the residents on this privately owned street was to widen the road by a few extra feet with a grind and overlay. This forced some homeowners to remove some bushes and brick pavers. The Village also required the installation of a storm sewer drain pipe because of historical flooding of neighboring yards. Since road rehabilitation and storm sewer drain pipe can be expensive, Kenilworth has offered them the opportunity to pay for the road rehabilitation upfront and the storm sewer drain pipe could be a special assessment tax over the course of 5 years. Kenilworth has not heard from the residents since August when they brought forward their options. If half of the residents decided to go through with street dedication, they would bring it to the Village Board and ask them to approve the dedication. Currently, Kenilworth is in the midst of working with Kenilworth Terrace residents with regards to the same issue. As of right now, Kenilworth Terrace is a privately owned road and the residents would like for the Village to take it over, however there are issues with this road and we are requiring certain things to be done prior to our take over.	N/A	Yes
Wilmette	Guy Lam	No	No policy in place.	N/A	N/A

Northfield	Dick Knudson	Yes	Northfield has a formal policy. The policy requires a 60' right of way dedication (30' each side) and then that the roadway be reconstructed in conformance with the current subdivision code standards before the Village would accept dedication. In over 20 years, no one has wanted to do those things due to both cost and private party property impacts. Most people want the Village to take the road over because they don't want to pay to fix it. To build it to our Village standards is more expensive and then some lots would be left as "non-conforming" due to the right of way dedication.	Yes	Yes
Deerfield	Justin Keenan	No	No formal policy. However, in order for the Village to ever consider assuming a roadway, the roadway must first be built to Village standards. Many private roads lack the proper roadway width and thickness and therefore, would be required to be reconstructed before ownership is changed. The large cost typically associated with bringing private roads into compliance with our standards is usually not something an HOA wants to tackle.	N/A	Yes

CITY OF HIGHLAND PARK

RESOLUTION NO. R82-2016

A RESOLUTION APPROVING THE PRIVATE TO PUBLIC INFRASTRUCTURE CONVERSION POLICY

WHEREAS, Section 93.346 of "The Highland Park Code of 1968," as amended ("***City Code***"), provides, among other things, that the service and maintenance (including, without limitation, snow removal) of any and all private roads and easements in the City is the responsibility of the owners thereof; and

WHEREAS, the owners of private roads and easements on occasion request that the City take ownership of private infrastructure for the purpose of transferring responsibility for maintenance and/or replacement of a private improvement from the residents to the City; and

WHEREAS, City acceptance of ownership or responsibility for such improvements is not always desirable nor beneficial to the City and would require the subsidy of such maintenance or replacement of the private improvements by all City taxpayers; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its residents and property owners to establish a well-defined process for conversion of private infrastructure to public infrastructure;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HIGHLAND PARK, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE: **RECITALS**. The foregoing recitals are hereby incorporated and a part of this Resolution as findings of the City Council.

SECTION TWO: **ESTABLISHMENT OF POLICY**. The City Council hereby adopts the Private to Public Infrastructure Conversion Policy, as set forth in **Exhibit A** attached to this Resolution ("***Policy***").

SECTION THREE: **EFFECTIVE DATE**. This Resolution, and the Policy adopted hereby, will be in full force and effect upon the passage and approval of this Resolution in the manner required by law.

AYES: Mayor Rotering, Councilmen Stone, Kaufman, Frank, Blumberg, Knobel, Holleman

NAYS: None

ABSENT: None

PASSED: May 23, 2016

APPROVED: May 23, 2016

PUBLISHED IN PAMPHLET FORM: May 24, 2016

RESOLUTION NO. R82-2016

Nancy R. Rotering, Mayor

ATTEST:

Ghida S. Neukirch, City Clerk

EXHIBIT A

City of Highland Park
Department of Public Works

Directive Number: **02-2016-36**
Subject: **Private to Public Infrastructure Conversion**
Effective Date: **05/23/2016**
Current Date: 05/23/2016
Review: **As Needed**
Amends/Supersedes: **None**

Purpose:

The purpose of this Private to Public Infrastructure Conversion Program (the ***"Program"***) is to provide guidelines for property owners on how to convert privately-owned and maintained infrastructure to public infrastructure that will be maintained by the City.

Scope

Current City Code Chapter 93 provides residents of private roads and easements a mechanism for service and maintenance by the City provided 100% of the effected property-owners are in agreement and reimburse City for all costs. The provision in City Code is for specific service such as snow removal, asphalt or concrete repair. The service provided does not alter the ownership, improvements, and/or permanent maintenance roadway. A key distinction with private improvements is that the responsibility for maintenance and/or replacement of said private improvements rests with the owners of the responsible properties, and not with the City.

This policy provides for the conversion of private infrastructure to public infrastructure. It applies to all situations where City is asked to take ownership of private infrastructure; for example private streets, alleys, street lights, sidewalks, stormwater management areas, or other privately-owned infrastructure. The policy is based on the underlying assumption that most private improvements are purposefully established and carefully considered as part of the subdivision development approval process. Furthermore, the policy is based on the premise that City acceptance of ownership or responsibility for such improvements is neither desirable, nor beneficial to the City and would in fact require the subsidy of these private improvements by residents citywide. This policy is intended to ensure that all owners of private improvements have a clear understanding of the City's policy, and the process by which the City will evaluate any request involving the City accepting ownership of or responsibility for private improvements.

Statement of Practice:

The City Council, in its legislative discretion, has determined that the best interests of the City will be served by providing residents with a well-defined process for conversion of private infrastructure to public infrastructure.

The following conditions apply for the private-to-public conversion:

EXHIBIT A

1. The process is initiated by a resident volunteer and requires 100% of affected lot owner's approval prior to City's evaluation.
2. City's evaluation would include preliminary surveying, zoning regulations, engineering and construction cost estimates for lot owner's consideration. City may seek outside consultant to perform the evaluation.
3. All costs associated with the initial evaluation, surveying, improvements, inspections, legal fees would be paid by the 100% by lot owners.
4. Prior to acceptance by the City, the private infrastructure must be improved to meet City standards and City Code.
    a. Pavement upgrades must include storm sewers.
    b. Minimum street and curb standards as listed in Section 93 of City Code must be met.
5. Lot owners agree to dedicate a public right-of-way or a public easement for the improvements. Dedication of a public right-of-way may impact private lots and create non-conforming lot(s) requiring zoning process.
6. Possible funding mechanisms available for lot owners to pay for conversion of private infrastructure include:
    a. Homeowners pay 100% of all associated costs
    b. Special Service Area: City may front (loan) the installation cost upon request by lot owners and approval by City Council. Residents' payback with interest, including bond interest, amortized over 15 years.
    c. Special Assessment: City may front (loan) the installation cost upon request by lot owners and approval by City Council. Residents' payback with interest, including bond interest, within a short duration, typically a year.

Implementation:

All Department of Public Works policies, procedures, and practices are to serve as a supplement to City of Highland Park regulations. The City Manager is authorized to resolve any conflict or inconsistency between language in this directive and in any other law, regulation, or directive of, or issued by, the City of Highland Park.

Approval: K. Ramesh K **Date:** 05/23/16

Ramesh Kanapareddy, P.E., CFM
Director of Public Works

Approved by the City Council by Resolution No. R82 on May 23, 2016.

VILLAGE POLICY - PROCEDURE STATEMENT

Village of Northfield, Illinois

SUBJECT: Public/Private Infrastructure Improvements

ISSUED BY: Mark J. Morien, Village Manager EFFECTIVE DATE: March 1997

CHECK ONE: [X] Official Village Policy Approved by Board

[ ] Administrative Regulation Issued by Village Manager

[ ] Departmental Procedure Applying to ____________________Dept(s)

THIS IS A: [X] New Policy or Procedure

[ ] Amends or [ ]Supersedes Previous Policy Dated __________

Relating to____

POLICY:

In an effort to ensure consistency in determining funding for infrastructure improvements, the Village President and Board of Trustees have established a policy that balances the Village's resources with the present and future needs of its residents.

This policy will identify the procedures for residents to follow with regard to the identification for request for infrastructure improvements in the Village. This policy will distinguish projects from a public benefit and private benefit perspective, and address potential funding mechanisms.

In terms of projects identified as substantially of public benefit, the Village's current policy regarding these infrastructure improvements within the public right-of-way (ROW) and easements, is that they are funded publicly. In cases of a newly-annexed area and/or developments, the Village requires new residents and developers to be responsible for the new infrastructure expenses. For those improvements of a substantially private benefit, the residents are responsible for their cost.

Improvements built and paid for by the Village will be maintained by the Village. Any infrastructure projects which are not dedicated to the Village are maintained privately. Should residents desire to dedicate these private infrastructure projects to the Village, a petition must be signed by all affected property owners requesting dedication. Following Village Board acknowledgment that dedication would be considered, the infrastructure project must be brought up to the current Village standards as determined by the Village Engineer and Public Works staff. Such costs will be borne by the residents. Once dedicated, the Village will assume maintenance. In those cases where an existing infrastructure improvement meets Village specifications, but is not new, it can be dedicated to the Village if the homeowner(s) pay for depreciation of the improvements to date, or pay to bring the improvement back to brand new condition.

Potential new infrastructure projects may be brought to the Village's attention by residents, the Village Board, or Staff. Once the Village Board has determined through a study and review with the Village Engineer and Public Works staff that an infrastructure project should be implemented, the Board will utilize this policy to determine the breakdown of the public/private benefit of the improvement based on the criteria identified in Exhibit A as follows:

1. SUBSTANTIAL PUBLIC BENEFIT

Following review by the Village Engineer and Public Works Staff, if the proposed project is deemed to predominately benefit a neighborhood or significant portion of the community, and/or existing public facilities, the Village Board will consider installation of the infrastructure project as part of its annual Capital Improvement Plan. The latter is discussed in conjunction with the development of the Village's Budget each spring. The Village will maintain these facilities.

2. SUBSTANTIAL PRIVATE BENEFIT*

Following review by the Village Engineer and Public Works Staff, if the proposed project is deemed to predominately benefit private property, the Village, through negotiations with the property owner(s), may elect to participate in one or more of the following:

1. Make no monetary contribution and thus the property owner(s) pay for the entire cost of the project;
2. Establish a Special Service Area or Special Taxing District (see Exhibit B) via the County for the property owner(s) to pay for the project;
3. Establish an informal Special Service Area (and lien property) to advance funds for the cost of the project and to bill the property owner(s) directly on a semi-annual basis to recover the advance plus interest;
4. Consider providing the engineering and contract administration as the Village's contribution to the project;
5. Consider providing a financial contribution to the project;

In this case, the property owner(s) will have maintenance responsibility for the project.

*private property encompasses residential and/or commercial property

3. MIX OF PUBLIC AND PRIVATE BENEFIT

There may be projects which are neither of substantially public or private benefit. Should the project be a mix of public and private benefit, the Village Engineer and Public Works staff will recommend to the Village Board the percent of public vs. private benefit. The Board, through negotiations with the property owner(s) may, elect to participate in one or more of the following:

1. Establish a Special Service Area or Special Taxing District via the County for the property owner(s) to pay for their share of the project based on the estimated private benefit;
2. Establish an informal Special Service Area (and lien property) to advance funds for the property owner(s) portion (private benefit) of the project and to bill the property owner(s) directly on a semi-annual basis to recover the advance plus interest;
3. Consider providing the engineering and contract administration as the Village's contribution to the project;
4. Consider making a financial contribution to the project.

In this case, the Village will recognize the fact that the infrastructure improvement may or may not be dedicated to the Village. If it is dedicated to the Village, the Village pays for the maintenance. If it is not dedicated, the Village would only assume maintenance of that new improvement which is in the Public Right-of-Way.

As a general rule, if there is to be any assessment against property owners, 75% of the property owners affected by the proposed infrastructure improvement must agree to the project, thereby obligating the remaining 25% of the affected property owners to participate in the project. The Village's payment for public infrastructure projects, together with contributions to private projects, will depend upon availability and allocation of funds. If property owners request an improvement, they will be required to provide the necessary easements for the project at no cost to the Village. Property owners will be responsible for all permits and costs associated with connection to any infrastructure improvements.

Annexations. This policy would be used as a guideline for annexations. The final determination as to infrastructure improvements, cost sharing, dedication, etc., would be memorialized in an annexation agreement.

(Re)Development. From time to time, new development, redevelopments, Planned Unit Developments, etc. occur in the Village. This policy may be used as a guideline, however, final determination of infrastructure improvements, cost sharing, dedication, etc. would be negotiated and memorialized by a development agreement.

COWHEY GUDMUNDSON LEDER, LTD.
CONSULTING ENGINEERS • LAND SURVEYORS • NATURAL RESOURCES

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IRMA RUBY-TERRY
DWIGHT A. TROSTLE

November 4, 1996 (updated 3/6/97)

Mark Morien, Village Manager
Village of Northfield
361 Happ Road
Northfield, IL 60093

Re: Capital Improvement Program
Public/Private Cost Sharing

Dear Mr. Morien:

In response to your request and as an extension of a discussion which was begun at the Village budget meetings this year, I offer my comments regarding factors which determine whether a capital project is public or private in nature and of the public projects the degree of participation by private benefited individuals which would be appropriate. The Village Attorney at the March 12, 1996 budget meeting addressed certain aspects of this issue in the context of Special Assessments and Special Taxing Districts. Among the comments made by the Village Attorney at that time was the statement that any repair project of a public infrastructure system was not appropriate to be undertaken on a cost shared basis and that a public project by definition has a public benefit component which must be funded by the governmental entity initiating the capital project.

Whether a capital project is public or private in nature is determined by consideration of a number of factors. These factors often times are subject to a fair degree of subjectivity. The following is a listing and discussion of those factors.

Benefited Parties. By definition a public project must benefit the public. The difficult aspect here is that most if not all public projects also have a private benefit. For example the construction of a sidewalk in front of a property benefits that property by providing pedestrian access to and from that property. However, when such a sidewalk is part of an overall sidewalk system, the public benefits by the connective nature of each individual segment.

The question then becomes how many properties must be served by a project to be considered public in nature. Technically any project serving more than one property has a public component. A water service from the main to the house, a drive approach from the

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ITASCA, ILLINOIS 60143
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street to a parcel of private property and a storm sewer to drain an area of flooding on one individual property are examples of private capital projects. When an improvement is part of an overall system as discussed previously or serves more than one property it has value to the public. At the March 12, 1996 meeting the Village Attorney stated that the courts in dealing with Special Assessment projects have found that any public project has at least a ten percent benefit to the public. The Village should therefore endeavor to make an objective determination that at least ten percent of a projects value must benefit the public before the village would consider participating in the implementation of such a project.

Location of Improvement. A public capital project must be located on publicly owned or publicly controlled property. Unless a public entity has the legal authority to enter upon and control the land upon, under or through which an improvement is made such a public entity has no control over such a facility and such a facility is of no value to the public. Such control can be provided by the grant of easements or the outright transfer of all ownership interest to a property upon, over or under which an improvement is to be made.

Type of System. If a capital project under consideration is an extension of an existing public system, there presumably is a public component which must be assessed. If the reason for extending such a system is to serve newly developed properties the magnitude of its public benefit is far less than if the primary reason for the system extension is to improve system performance to the community. Similarly if a capital project under consideration is intended to benefit publicly owned land it likewise has a public benefit component which must be assessed.

To summarize the preceding, whether a capital project is of a sufficient public nature to warrant public funding or public participation in funding will depend upon a evaluation of the above stated factors. This evaluation must also consider a public policy of the community on capital improvement project funding and consider realistic budget limitations.

Once a project is determined to have a sufficient public benefit, a community as is the case with Northfield, may consider requiring the private benefit component of a project to be funded by those private property owners which will directly benefit from the implementation of the project. The following is a discussion of how the private benefit may be allocated for a variety of project classifications under consideration by the Village of Northfield.

Water Fund. Any new construction related to the pumping, storage or metering of the public water supply benefits the entire community and should be considered a totally public project and be entirely funded by the community. The extension of the public water distribution system to serve additional areas has a primarily private benefit. The public benefit component should consist of oversizing costs which increase the water flow rates and pressures throughout the community and consist of the costs to loop the water distribution system to also achieve improved system flow rates and pressures. As stated previously even a non-looped minimum sized water system extension benefits the public by forming a portion of a future loop and has a benefit to the community. Where there is no future opportunity to loop a watermain extension there is little public benefit. Normally the allocation of the private benefit costs is made on a property frontage basis with the community absorbing the costs associated with the lesser frontage of dual frontage properties and the costs associated with right-of-way crossings. A suggested public/private benifit cost allocation for certain classifications of Water System projects is listed below:

Looping Projects	10-100% Public Benefit (a system improvement)
Interconnection Projects	100% Public Benefit (a system improvement)
Repair/Replacement Projects	100% Public Benefit (a system improvement)
General Improvement Projects	10-100% Public Benefit (a system improvement)
System Extension Projects	10-50% Public Benefit (depends on looping, public properties served, pipe oversizing, etc.)
Studies	100% Public Benefit (a system improvement)

Sanitary Sewer Fund. Any new construction related to lift stations, interceptor or trunk sewers benefit the entire community and should be entirely funded by the community. The extension of a public sanitary sewer to serve additional properties has a primarily private benefit. The public benefit component should consist of any oversizing costs necessary to serve additional areas beyond the immediate area for which the extension is to be constructed. Normally the allocation of the private benefit costs is made on a frontage basis with the community absorbing dual frontage and right-of-way crossing costs. A suggested public/private benifit cost allocation for certain classifications of Sanitary Sewer projects is listed below:

Repair Projects	100% Public Benefit (a system improvement)
Replacement Projects	100% Public Benefit (a system improvement)
Slip Lining Projects	100% Public Benefit (a system improvement)
System Extension Projects	10-30% Public Benefit (depends public properties served, pipe oversizing, etc.)
Studies	100% Public Benefit (a system improvement)

Storm Sewer Fund. The benefits of a storm sewer project extend to only those properties located within its associated watershed. Therefore an improvement to provide storm sewers throughout a watershed which previously had none, should be borne by all properties within the watershed in proportion to the percentage of the watershed represented by each property. The public benefit portion would be determined based upon the percentage of the watershed area which is publicly owned, i.e. rights-of-way, etc. A suggested public/private benifit cost allocation for certain classifications of Storm Sewer projects is listed below:

Repair/Replacement Projects	100% Public Benefit (a system improvement)
System Extension Projects	20-50% Public Benefit (depends on public properties served, pipe oversizing, etc.)
Community-Wide Studies	100% Public Benefit (a system improvement)
Neighborhood Studies	20-40% Public Benefit (a system improvement)

Capital Improvement Fund. Any other improvements such as sidewalks. streets. street lighting etc. construction should have the public and private benefit costs established in a manner similar to those discussed within the Water Fund discussion above. A suggested public/private benifit cost allocation for certain classifications of these types of projects is listed below:

Repair/Replacement Projects	100% Public Benefit (a system improvement)
General Improvement Projects	20-50% Public Benefit (depends on public properties served, the nature of the improvement, etc.
System Study	100% Public Benefit (a system improvement)

I hope this information will be helpful to the Village during its consideration of capital project funding.

Sincerely,

Cowhey Gudmundson Leder, Ltd.

Michael E. Hughes, P.E.
Village Engineer

xc: Village of Northfield:
- Buzz Hill
- Kathleen Tempesta
- Michael Nystrand

ARNSTEIN & LEHR

MEMORANDUM

To: Mr. Mark J. Morien. Village Manager
From: Mr. Everette M. Hill. Jr.
Subject: The Use of Special Assessments or Special Service Area Financing to fund the Private Benefit Portion of Public Improvements
Date: October 24. 1996

Municipalities often decide to fund a local improvement by specially taxing those properties which receive the greatest benefit. The Illinois Municipal Code provides that this may be done by either special assessment or special service area financing. Since the two methods are so similar. for purposes of this discussion. they will be considered interchangeably. However. it should be noted that if special service area financing is to be used. the County Clerk will perform the billing services only if the cost is to be spread on an *ad valorem* basis. Additionally, the establishment of a special service area does not require approval of the Courts. Special assessment financing does. Those points having been made. from this point on. the term "special assessment" will refer to both methods.

Special assessment is a method of financing municipal local improvements when that improvement will benefit a particular area specially, that is. to a greater extent than the municipality as a whole. The cost of the particular improvement is assessed against an individual property in an amount that may not be greater than the benefit to that property. In Illinois. the Courts have typically held that the standard for determining the amount of the benefit is the increase the improvement will bring to fair cash market value of the property. The assessment is payable in annual interest bearing installments. or in one lump sum and is a lien on the title to the affected property.

The type of improvements that are subject to special assessment are those that typically relate to streets. sidewalk. lighting, sewer. drainage and water. Special assessment usually contemplates a new improvement or the substantial upgrading of an existing improvement. and is usually not available for mere repairs. As stated by the Court in Calumet Country Club v. Roberts Environmental Control Corporation, 136 Ill. App 3d 610.

> "An improvement. such as a watermain. is an addition to real property amounting to more than mere repair or replacement and substantially enhances the value of the property including buildings and substantial additions or changes to existing buildings."

In Village of Downer's Grove v. Bailey, 325 Ill 186. (1927) the Court dealt with the issue of what constitutes a local improvement.

"Whether an improvement is local or general depends upon the nature of the work, the situation of the improvements, surrounding conditions and whether the substantial benefits to be derived therefrom are local or general in nature. If its purpose and effect are to improve a locality, it is a local improvement, although there is incidental benefit to the public. But if the primary purpose and effect are to benefit the public, it is not a local improvement, although it may incidentally benefit property in a particular locality."

While it is not possible to categorize a particular type of improvement and state that that type must be constructed through general taxation instead of by special assessment, most authorities believe that once a municipality has established a practice of one type of financing for a particular kind of improvement, there should be some consistency in this practice, unless there is a major change in circumstances. Therefore, if streets have consistently been financed through general corporate revenues, including MFT funds, the Village may have some difficulty in defending a change in that policy as to one area of the municipality.

If special assessment financing is to be considered for a particular project the Village Board, sitting as the Board of Local Improvements must approve the projects and must also approve the spreading of the assessment, although the actual recommendation for the manner of spreading the assessment is typically done by the Village Engineer.

The determination of the amount to be assessed against an individual property is typically a two-step process.

First of all, a determination must be made as to the apportionment between public benefit and private benefit of the improvement. As a rule of thumb, Courts have typically held that no public project is 100% private in nature and usually apportion at least 10% of the benefit to the public.

The second step is to allot the private benefit portion among those properties which will be benefitted. The standard method of allotting the private benefit portion among the properties is to do so on a frontage foot basis. In other words, if a new storm sewer is to be installed, a property which has three hundred feet of frontage, will pay twice as much of the assessment as a property with one hundred and fifty feet of frontage. Other methods which have been approved by the Courts are apportionment according to square footage of the benefitted properties, apportionment according to the value of the properties benefitted and apportionment according to the way in which particular properties will use the improvement. If the assessment or apportionment is challenged in Court, the Village must be able to demonstrate that, regardless of how the apportionment was done or whatever the ultimate cost is to the property owner, the improvement has increased the market value of the property at least to the extent of the amount of the assessment.

Examples of the type of improvements which have been held to be not assessable against specific property owners but rather to the public generally are as follows:

1. Oversizing of sewers or watermains designed to improve the system as a whole but not necessarily for the area adjacent to the improvement.

2. Interceptor sewers.

3. Pavement beyond standard width to accommodate through traffic.

4. Heavier pavement construction in terms of structural design to handle special traffic volumes or loads.

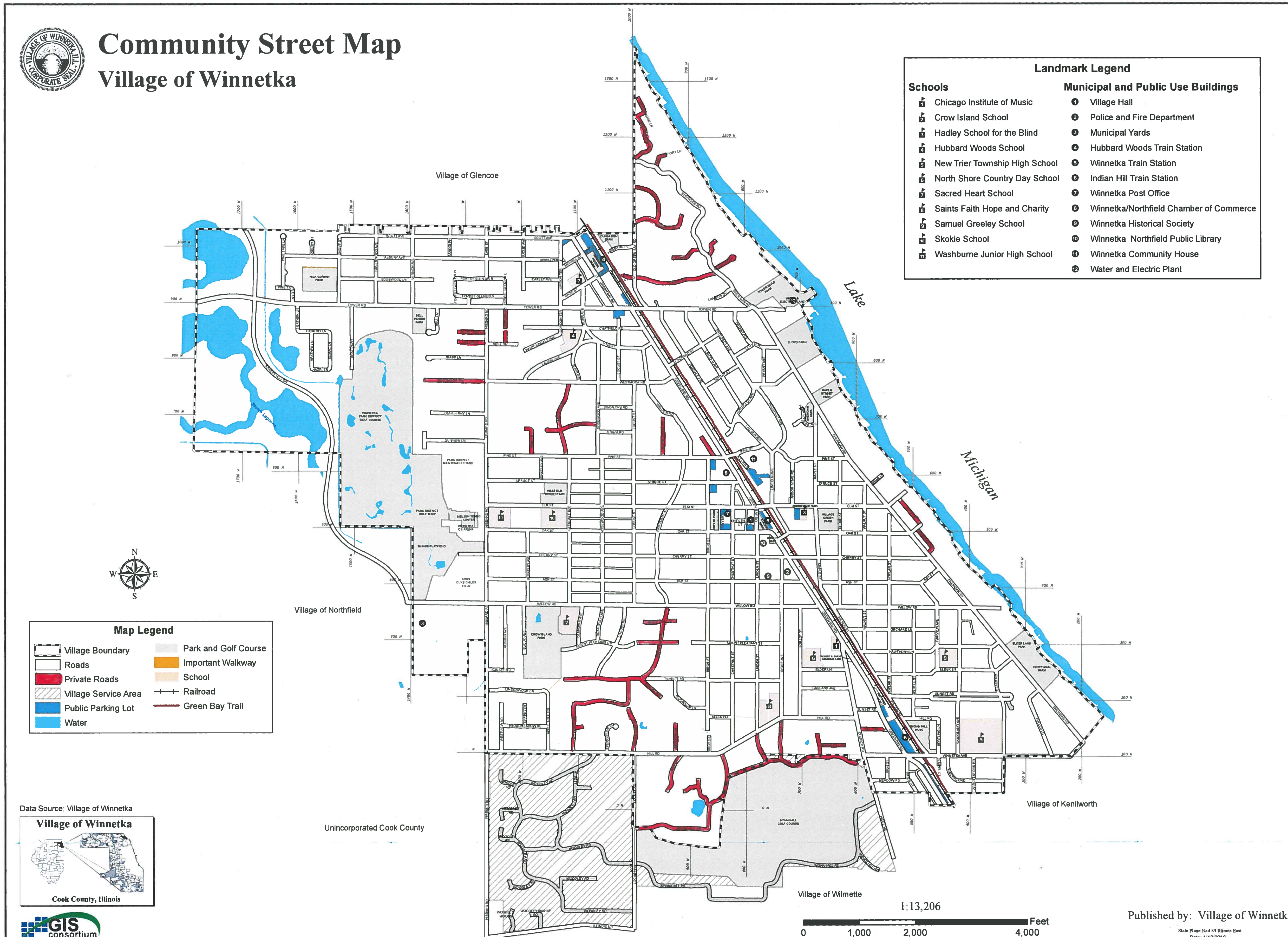
5. Street intersections.

In the earlier part of the century, there was a series of cases which held that if an improvement was more than 50% public in nature there could be no local assessment. However, that no longer appears to be the law and Courts have approved special assessments in circumstances where the local benefit has been determined to be as little as 15%.

Special assessments may be made against other governmental entities, the only exception to this is that the Cook County Forest Preserve District may not be assessed. If you have any questions, please contact me.

131212_1 EMH. Jr./gyg

9. Map Showing Private Streets


Community Street Map
Village of Winnetka
Landmark Legend
Schools
Chicago Institute of Music
Crow Island School
Hadley School for the Blind
Hubbard Woods School
New Trier Township High School
North Shore Country Day School
Sacred Heart School
Saints Faith Hope and Charity
Samuel Greeley School
Skokie School
Washburne Junior High School
Municipal and Public Use Buildings
Village Hall
Police and Fire Department
Municipal Yards
Hubbard Woods Train Station
Winnetka Train Station
Indian Hill Train Station
Winnetka Post Office
Winnetka/Northfield Chamber of Commerce
Winnetka Historical Society
Winnetka Northfield Public Library
Winnetka Community House
Water and Electric Plant
Village of Glencoe
Lake Michigan
Village of Northfield
Unincorporated Cook County
Village of Wilmette
Village of Kenilworth
Map Legend
Village Boundary
Roads
Private Roads
Village Service Area
Public Parking Lot
Water
Park and Golf Course
Important Walkway
School
Railroad
Green Bay Trail
Data Source: Village of Winnetka
Village of Winnetka
Cook County, Illinois
GIS consortium
1:13,206
0
1,000
2,000
4,000
Feet
Published by: Village of Winnetka