

Winnetka Village Council
REGULAR MEETING
Village Hall
510 Green Bay Road
Tuesday, February 4, 2014
7:00 p.m.

Emails regarding any agenda item are welcomed. Please email contactcouncil@winnetka.org, and your email will be relayed to the Council members. Emails for the Tuesday Council meeting must be received by Monday at 4 p.m. Any email may be subject to disclosure under the Freedom of Information Act.

AGENDA

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Quorum
 - a) February 11, 2014 Study Session
 - b) February 18, 2014 Regular Meeting
 - c) March 4, 2014 Regular Meeting
- 4) Approval of Agenda
- 5) Consent Agenda
 - a) Approval of Village Council Minutes
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 - ii) January 21, 2014 Regular Meeting6
 - b) Approval of Warrant List dated 2/4/2014.....12
 - c) Ordinance M-2-2014: Property Tax Abatement, Series 2014 GO Bonds – Adoption13
 - d) Purchase of Police Patrol Vehicle.....16
 - e) NWMC Suburban Purchasing Cooperative: Street Sweeper Replacement.....19
- 6) Stormwater Report: None.
- 7) Ordinances and Resolutions
 - a) Ordinance MC-2-2014: Adding Code Chapter 13.16 and Establishing a Stormwater Utility – Introduction27
 - b) Ordinance MC-3-2014: Adding Code Chapter 4.23 – Natural Gas Use Tax – Introduction.....60
- 8) Public Comment
- 9) Old Business: None.
- 10) New Business: None.

- 11) Appointments
- 12) Reports
- 13) Executive Session
- 14) Adjournment

NOTICE

All agenda materials are available at villageofwinnetka.org (Government > Council Information > Agenda Packets & Minutes); the Reference Desk at the Winnetka Library; or in the Manager's Office at Village Hall (2nd floor).

Broadcasts of the Village Council meetings are televised on Channel 10 and AT&T Uverse Channel 99 every night at 7 PM. Webcasts of the meeting may also be viewed on the Internet via a link on the Village's web site: <http://winn-media.com/videos/>

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator – Megan Pierce, at 510 Green Bay Road, Winnetka, Illinois 60093, 847-716-3543; T.D.D. 847-501-6041.

MINUTES
WINNETKA VILLAGE COUNCIL STUDY SESSION

January 14, 2014

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, January 14, 2014 at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Arthur Braun, Jack Buck, Patrick Corrigan, Richard Kates and Stuart McCrary. Absent: Trustee Joe Adams. Also in attendance: Village Manager Robert Bahan, Assistant to the Village Manager Megan Pierce, Village Attorney Katherine Janega, Public Works Director Steve Saunders, Director of Community Development Mike D’Onofrio and approximately 17 persons in the audience.
- 2) Willow Road Stormwater Tunnel Engineering – Request for Proposals. Mr. Saunders reviewed details of the proposed Willow Road Tunnel Project (Tunnel Project), which would consist of a new 8-foot diameter storm sewer beneath Willow Road to convey stormwater from a drainage area on the west side of Winnetka towards lake Michigan. He explained that the Tunnel Project would combine stormwater improvements for five drainage areas into a single project for an estimated cost of \$34.5 million. The five drainage areas encompass about 2,500 households over approximately 1,200 acres.

Mr. Saunders said the preliminary engineering and feasibility study have been completed and the next steps are to develop detailed engineering plans, permit applications and construction bidding documents. The search process for a Tunnel Project engineering firm began in July, 2013, and culminated in November when qualified proposals were received from MWH Global and a team led by Christopher B. Burke Engineering, Ltd. (CBBEL). Village staff reviewed the proposals, interviewed the two project teams, and investigated references. Upon completion of this due diligence, Village staff recommends contracting with MWH Global, based upon: (i) the fees proposed; (ii) the team’s clear project plan and scope; (iii) opportunities for project review by the Village; (iv) environmental permitting expertise; (v) clear and consistent team organization; and (vi) substantial local tunnel experience.

Mr. Saunders stressed that although not chosen for the Tunnel Project engineering, the other team is a highly qualified one, and the fact that they were not chosen is not an indictment of CBBEL’s past work, dedication, or experience. He explained that it is critical for a project of this magnitude and complexity to have the right team in place, and the response from MWH was exceptional, leaving no question that they are the right firm to design the Tunnel Project.

Mr. Saunders noted that it is healthy for the community to have a strenuous debate about proceeding with the Tunnel Project; however, some of the questions to be deliberated, such as quality of the water routed to the Lake and green infrastructure components, cannot be answered at this time, as the level of plan detail is not in place yet. Discussion should take place when there are details and actual data to discuss. He noted that the contract will be structured to include opportunities for community discussion before committing the Village to significant expense in the event the Village decides not to proceed with the Tunnel Project.

The Trustees concurred that a design engineering contract is the next logical step for the Willow Road Tunnel Project, and they commended the Village team for its careful analysis. All were in agreement that MWH has superb qualifications.

Ann Wilder, 1096 Spruce Street. Ms. Wilder, reading from a written statement, asked the Council to delay awarding the design engineering contract until a comprehensive grey and green infrastructure program has been considered, including restoring wetlands and native prairies.

Matthew Wendt, 607 Willow Road. Mr. Wendt asked if potential risks could lead to cost overruns on the Tunnel Project, and who would pay those potential overruns. Mr. Saunders explained that a list of risk factors and mitigating strategies will be put in place as early as possible, and responsibility will be negotiated and developed as the project progresses.

Matthew Schmidt, 720 Pine Street. Mr. Schmidt expressed concern that if Winnetka approves a project that is minimally environmentally sustainable, other communities around the Lake will feel they have the right to do so as well.

Trustee Kates commented that the Council has exercised its fiduciary responsibilities and will go through checkpoints as the process unfolds to ensure that the Lake will not be polluted.

After another brief discussion, the Council directed Staff to negotiate a contract for design engineering of the Willow Road Tunnel Project with MWH Global.

- 3) Progress Report: Urban Land Institute Recommendations. Manager Bahan said at the request of Trustee Kates, he had distributed to the Council a summation of last fall's budget discussions, as a refresher for tonight's meeting. He reviewed Village plans to-date for implementing the Urban Land Institute (ULI) Technical Assistance Panel (TAP) recommendations. Action items include: (i) review of fire sprinkler requirements and liquor licensing processes; (ii) economic development staffing; and (iii) business district physical improvements.

The Council discussed the need for revitalization of the commercial districts, including simplifying the liquor control regulations, developing a branding and marketing strategy for the Village, and using contractual staffing for economic development.

Mr. D'Onofrio updated the Council on the Business Community Development Commission's (BCDC) progress with recommendations for enhancing the business climate in Winnetka. He said the BCDC held meetings twice per month in late 2013 in order to expedite its task, and the Commission anticipates finalizing its recommendations on commercial parking regulations and building height restrictions at its next meeting. The Council can expect to discuss those recommendations at its February Study Session, and to hear the BCDC's recommendations on the retail overlay district at its March Study Session.

In the Council discussion, concern was expressed that the BCDC is focusing primarily on residential parking, which is only a piece of the overall parking issue. It was recommended that the Commission examine the many prior parking studies done by the Village.

Mr. D'Onofrio said Staff is contemplating changing some of the time limits in the Lincoln Avenue parking lot, which is an internal process.

Manager Bahan added that ULI will continue meeting with the Village to check the status of progress on the TAP recommendations.

4) Public Comment.

Glenn Weaver, 574 Lincoln Avenue. Mr. Weaver commended the Council for its consideration of the ULI recommendations, and added that he feels Winnetka is not business-friendly. He said the sprinkler regulations are excessive and costly.

Bill Krucks, 920 Sunset Road. Mr. Krucks praised the Council for reaching consensus to proceed with the design engineering of the Willow Road Stormwater Tunnel, and he asked Village staff to inspect the Skokie ditch, which drains 178 acres of Indian Hill Country Club directly into his neighborhood, and is in deteriorated condition.

5) Executive Session. Trustee McCrary moved to adjourn into Executive Session to review the sale or lease of property, and discuss minutes legally closed under the Open Meetings Act, pursuant to Sections 2(c)(6) and 2(c)(21) of the Illinois Open Meetings Act. Trustee Braun seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Adams.

President Greable announced that the Council would not return to the open meeting after Executive Session. The Council retired to Executive Session at 8:55 p.m.

6) Adjournment. Trustee Braun, seconded by Trustee McCrary, moved to adjourn the meeting directly at the end of Executive Session. By voice vote, the motion carried. The meeting adjourned at 9:15 p.m.

Recording Secretary

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
January 21, 2014**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, January 21, 2014, at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:02 p.m. Present: Trustees Joe Adams, Arthur Braun, Jack Buck, Patrick Corrigan, Richard Kates, and Stuart McCrary. Absent: None. Also present: Village Manager Robert Bahan, Assistant to the Village Manager Megan Pierce, Finance Director Ed McKee, Village Attorney Katherine Janega, Public Works Director Steve Saunders, Assistant Director of Community Development Brian Norkus, and approximately 17 persons in the audience.
- 2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) February 4, 2014 Regular Meeting. All of the Council members present, with the exception of Trustee Adams, indicated that they expected to attend.
 - b) February 11, 2014 Study Session. All of the Council members present indicated that they expected to attend.
 - c) February 18, 2014 Regular Meeting. All of the Council members present, with the exception of Trustee McCrary, indicated that they expected to attend.
- 4) Approval of the Agenda. Trustee Corrigan requested that item 5(c) be removed from the Consent Agenda for discussion under Item 9(a), Old Business. Trustee McCrary, seconded by Trustee Braun, moved to approve the Agenda, as amended. By roll call vote the motion carried. Ayes: Trustees Adams, Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: None.
- 5) Consent Agenda
 - a) Village Council Minutes.
 - i) January 7, 2014 Regular Meeting.
 - b) Warrant List. Approving the Warrant List dated January 16, 2014.
 - c) Ordinance M-1-2014: 565 Lincoln Avenue, Special Use Permit for CONLON: A Real Estate Company – Adoption. This item was removed from the Consent Agenda and discussed under Item 9(a), Old Business.
 - d) Resolution R-2-2014: Approval and Release of Executive Session Minutes – Adoption. A Resolution approving the minutes of executive session meetings; determining which minutes still require confidentiality; and authorizing the destruction of audio recordings of executive sessions held on or before July 21, 2012.
 - e) Annual Outdoor Seating Permits and Sidewalk Restaurant Liquor Licenses. Approval of the annual Outdoor Seating Permits and Sidewalk Restaurant Liquor Licenses for 2014.

- f) Parkway Tree Trimming, Removal and Maintenance Contract Extension. An extension of the 2013 tree trimming and maintenance contract with Nels Johnson Tree Experts at the unit rates for 2014.

Trustee Braun, seconded by Trustee Adams, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: None.

- 6) Stormwater Update. No report.

- 7) Ordinances and Resolutions.

- a) Ordinance M-2-2014: Property Tax Abatement, Series 2014 GO Bonds – Introduction.

Mr. McKee explained that in order to secure the lowest interest rates for its stormwater financing bonds, the Village pledged its full faith and credit, backed by property taxes. However, the bonds are being paid off using funds from the proposed stormwater utility. Mr. McKee said the Subject Ordinance abates the 2013 property taxes levied in December for the Series 2014 General Obligation Stormwater Improvement Bonds, which closed on January 7, 2014.

Answering questions from the Council, Mr. McKee said the proceeds from the bond sales are currently invested in short-term securities, and the Village is spending the proceeds on stormwater projects as they become ready. These projects include the Winnetka Avenue Pump Station improvements, the second phase of the Northeast Winnetka project, the Northwest Winnetka project, and engineering for the Willow Road Tunnel.

Trustee Buck, seconded by Trustee Braun, moved to introduce Ordinance M-2-2014. By voice vote, the motion carried.

- b) Resolution R-1-2014: Preliminary Approval of the Proposed Consolidation of 988 and 992 Oak Street – Adoption. Mr. Norkus reviewed this request for the consolidation of two 50-foot wide lots into a single 100-foot wide lot in order to construct an addition to the existing residence at 992 Oak Street. He explained that approval of the consolidation will result in a nonconforming side yard setback. This variation was approved by the Zoning Board of Appeals (ZBA), as it falls under their purview. A variation request to exceed the gross floor area maximum (GFA) was withdrawn and the construction plans were modified after the ZBA recommended denial of the excess GFA request.

Mr. Norkus said the Plan Commission unanimously voted to recommend approval of the consolidation, subject to a condition that the plat of consolidation will contain a restrictive covenant requiring that if the home on the Subject Property is ever demolished, the parcel will revert to the original configuration of two 50-foot wide lots. This action would prevent the scale of any potential new home constructed on the consolidated lot from changing the character of the neighborhood. A limitation on further improvements to the existing home and a prohibition on increasing impermeable surface on the lot were also recommended.

There being no questions from the Council, Trustee Kates, seconded by Trustee Adams, moved to adopt Resolution R-1-2014. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: None.

8) Public Comment.

Debbie Ross, 921 Tower Road. Ms. Ross requested information on the Village's IKE Grant award and asked if the Village has applied for any grants similar to one recently awarded to the Village of Kenilworth for a permeable paver project.

Mr. Saunders explained that although one of the Village's IKE grant partners dropped out of the process last fall, necessitating a change in scope, the project is moving forward with the hope of developing a green infrastructure program that can be repeated in Winnetka and the other municipalities. He said another grant to reconstruct a Village parking lot with permeable pavers has been applied for; the award should be announced this summer.

Manager Bahan added that the Village has also submitted a number of projects for consideration in connection with a Metropolitan Water Reclamation District (MWRD) grant. The MWRD has informed the Village that the Northwest Winnetka Project is on their award list, and pending legislative approval of the funds, the Village hopes to receive 50% of the project cost in 2014.

Peter Jacobs, 596 Provident. Mr. Jacobs asked if permeable pavers would be a part of the Tunnel Project, and when the stormwater utility fee calculator would be made available on the Village's stormwater website.

Mr. Saunders explained that all Best Management Practices would be considered for the Tunnel Project, and he said the fee calculator should be available on the Village's stormwater website in about a week.

Vickie Apatoff, 730 Ardsley. Ms. Apatoff asked why the Village has not sought a professional opinion on more environmentally friendly ways to stop or reduce flooding. She claimed that 20% of runoff pollutants would be dumped into the lake as a result of the Tunnel Project, and she asked for a second opinion on the Tunnel Project.

Trustee Kates assured the audience that the Council is dealing with facts from studies performed by its stormwater consultants and will ensure that the Lake is not harmed before moving forward with the Tunnel Project.

9) Old Business. None.

- a) Ordinance M-1-2014: 565 Lincoln Avenue, Special Use Permit for CONLON: A Real Estate Company – Adoption. Trustee Corrigan said approving a real estate office use is contrary to the spirit of the ULI recommendation to allow service uses in Winnetka's commercial districts, and he also questioned the parking impact. He noted that a real estate office brings people into the business districts two times: once when they move into the Village, and once when they move out. He added that other service uses such as salons, fitness studios, and medical or financial offices draw more people on a regular basis and these consumers may be inclined to shop in the vicinity.

In a brief discussion, most Trustees were in favor of granting the permit, as they felt the evening programs will bring people to the Village, and the parking restrictions are satisfactory.

Debbie Ross, 921 Tower Road. Ms. Ross said she did not see a need for more real estate offices or nail salons in the Village, as she does not believe they contribute to the vitality of the downtowns.

Trustee Kates, seconded by Trustee McCrary, moved to adopt Ordinance M-1-2014. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Buck, Kates and McCrary. Nays: Trustee Corrigan. Absent: None.

10) New Business.

- a) Willow Road Tunnel Project Engineering Contract. Mr. Saunders reiterated the need for a robust public debate about whether the Tunnel Project should move forward, but noted that questions such as how the Lake will be affected, and how much green infrastructure will be used, cannot be answered at this preliminary stage. The detailed design engineering needs to take place before enough information will be available to engage in an informed discussion. He added that the contract does not lock the Village into the entire engineering expenditure.

Mr. Saunders explained that pursuant to Council direction at the January 14th Study Session, Staff has negotiated a contract based on the scope of work and fee estimate contained in MWH's proposal, in a not-to-exceed amount of \$2,023,818. The contract contains intermediate decision and review points to allow for phased engineering of the project. After reviewing each of the decision points, he introduced MWH Global Project Manager and Vice President Joe Johnson.

Mr. Johnson reviewed the objectives of the detailed design and permitting project: (i) achieve flood risk reduction goals; (ii) protect Winnetka's beaches and the Lake; (iii) avoid excessive disruption during construction; and (iv) fit within established budget constraints. He provided background on the major issues to be resolved, including permit acquisition and water quality planning, and he explained that stormwater Best Management Practices (BMPs) will be part of the overall solution. He noted that public acceptance of the project is crucial, and therefore MWH wants to hear and understand the community's concerns.

After the Council asked questions and discussed specifics of the design engineering project with Mr. Johnson, President Greable called for public comment.

Ann Wilder, 1096 Spruce Street. Ms. Wilder read from a prepared statement suggesting that the costs of the project are rising, and that money could be saved by eliminating the portion of the contract dealing with consensus-building in the community.

Debbie Ross, 921 Tower Road. Ms. Ross said testing once during a storm does not give an accurate pollution count. Testing needs to be done throughout a storm event to get an accurate pollution load.

Mr. Johnson agreed, although the relative nature of the first flush is established. He explained that until the regulatory requirements are known, MWH does not wish to suggest a specific sampling program.

Mary Tritely, 330 Willow Road. Ms. Tritely asked if consideration of BMPs could reduce the need for the size and scale of the pipe under consideration.

Mr. Johnson explained that one of the contract's specific deliverables is an analysis of how BMPs could affect the size of the pipe, as well as the rate and flow, but that it is unlikely green infrastructure could manage the total water runoff from a 100-year storm.

Peter Jacobs, 596 Provident Avenue. Mr. Jacobs said the likelihood of a 100-year storm is very small and he is in favor of taking his chances with that possibility. He asked if pavers will be incorporated into the Tunnel Project, and suggested that residents may need to be part of the process of filtering stormwater. He also proposed implementing an ordinance requiring new construction in the Village to meet BMPs.

Mr. Johnson said although the primary goal is to alleviate flooding, MWH intends to examine a high level of green infrastructure use, and there are grant programs available for such use of BMPs. He noted that a 100-year storm event is a high standard, but the area has seen storms of that magnitude in recent years.

Trustee McCrary pointed out that each year the probability that an event will happen rises, and since there have been four severe storms in the last 11 years, the Council set the flood protection at the 100-year level.

Trustee Braun, seconded by Trustee Kates, moved to award a contract to MWH Americas, Inc. for engineering services for the Willow Road Stormwater Tunnel and Area Drainage Improvements, in an amount not to exceed \$2,023,818. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: None.

11) Appointments.

- a) President Greable announced the re-appointment of Meg Benson to another full term on the Board of Fire & Police Commissioners, effective immediately. Trustee Braun, seconded by Trustee McCrary, moved to approve the appointment. By voice vote, the motion carried.
- b) President Greable announced the appointment of Jackson Polston as student representative to the Environmental & Forestry Commission, effective immediately. Trustee Braun, seconded by Trustee McCrary, moved to approve the appointment. By voice vote, the motion carried.
- c) President Greable announced the re-appointment of Joni Johnson to another full term as Chair of the Zoning Board of Appeals, effective immediately. Trustee Adams, seconded by Trustee Braun, moved to approve the appointment. By voice vote, the motion carried.
- d) President Greable announced the re-appointment of Carl Lane to another full term on the Zoning Board of Appeals, effective immediately. Trustee Adams, seconded by Trustee McCrary, moved to approve the appointment. By voice vote, the motion carried.
- e) President Greable announced the re-appointment of Scott Myers to another full term on the Zoning Board of Appeals, effective immediately. Trustee Adams, seconded by Trustee McCrary, moved to approve the appointment. By voice vote, the motion carried.

12) Reports.

- a) Village President. President Greable said on January 1st, he appointed Trustee Braun to serve as the liaison to the Business Community Development Commission. Trustee Corrigan will now serve as the liaison for the Chamber and the Historical Society. He announced that the NWMC Legislative Brunch is on Saturday, January 25, and encouraged Trustees to attend.

b) Trustees.

i) Trustee McCrary reported that the EFC is working on Styrofoam recycling, and the Village and EFC are having discussions with the manufacturer of #6 styrofoam about recycling collections.

c) Attorney. No report.

d) Manager. No report.

13) Executive Session. Trustee Kates moved to adjourn into Executive Session to discuss Personnel Matters, and Pending and Probable Litigation, pursuant to Sections 2(c)(1) and 2(c)(11) of the Illinois Open Meetings Act. Trustee Braun seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: None. The Council adjourned into Executive Session at 8:52 p.m.

Trustee Greable announced that the Council would not reconvene into the open meeting after Executive Session. The Council retired to Executive Session at 8:52 p.m.

14) Adjournment. Trustee Braun, seconded by Trustee Adams, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 9:56 p.m.

Recording Secretary



Agenda Item Executive Summary

Title: Warrant List

Presenter: Robert M. Bahan, Village Manager

Agenda Date: 02/04/2014

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input checked="" type="checkbox"/>	Informational Only

Item History:

None.

Executive Summary:

Warrant List dated 02/04/2014 was emailed to each Village Council member.

Recommendation / Suggested Action:

Consider approving Warrant List dated 02/04/2014

Attachments:

None.



Agenda Item Executive Summary

Title: Ordinance M-2-2014: Property Tax Abatement, Series 2014 GO Bonds- Adopt

Presenter: Ed McKee, Finance Director

Agenda Date: 02/04/2014

Consent: YES NO

<input checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

On December 3, 2013, the Council adopted Ordinance M-16-2013, which issued the Series 2014 General Obligation Stormwater Improvement Bond in the amount of \$7.5 million.

Ordinance M-2-2014 was introduced on January 21, 2014 to abate the property taxes for the bonds that closed on January 7, 2014.

Executive Summary:

The Village has issued general obligation debt for various purposes, with each bond ordinance levying property tax to pay the debt service for each year the bonds are outstanding. It has been the practice of the Village to abate the tax levy for certain outstanding debt if that was the intent of the Council originally issuing the bonds.

It was the intent of the Council to abate the property tax levy related to both the Series 2013 and Series 2014 GO Stormwater Improvement Bonds, and to collect the monies necessary to repay these two obligations from a stormwater utility fee that will become effective July 1, 2014.

Ordinance M-23-2013, adopted on December 3, 2013, abated the 2013 property tax levy for the Series 2013. Because the Village did not close on the 2014 bonds until January 7, 2014, the abatement was postponed until this time. Ordinance M-2-2014 abates the \$324,010.56 tax levy for 2013 related to the Series 2014 GO Stormwater Improvement Bonds. There are adequate reserves on hand to allow for this abatement.

Recommendation / Suggested Action:

Adopt Ordinance M-2-2014, abating the 2013 property taxes levied for payment of debt service to be paid in 2014 on the Series 2014 GO Bonds.

Attachments:

1) Ordinance M-2-2014: Property Tax Abatement, Series 2014 GO Bonds

**AN ORDINANCE
ABATING THE TAX HERETOFORE LEVIED
FOR THE YEAR 2013
TO PAY THE PRINCIPAL OF AND INTEREST ON
\$7,500,000 GENERAL OBLIGATION BONDS, SERIES 2014,
OF THE VILLAGE OF WINNETKA, COOK COUNTY, ILLINOIS**

WHEREAS, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to tax; and

WHEREAS, the Council of the Village of Winnetka, Cook County, Illinois (the “Village Council”), by Ordinance Number M-16-2013, adopted on the 3rd day of December, 2013 (the “Ordinance”), did provide for the issue of \$7,500,000 General Obligation Bonds, Series 2014 (the “Bonds”), for the financing of certain improvements to the stormwater system of the Village and for the levy and collection of a direct annual tax sufficient to pay the principal of and interest on the Bonds; and

WHEREAS, the Village has deposited sufficient funds in the appropriate fund pursuant to the Ordinance, for the purpose of paying the principal of and interest on the Bonds up to and including December 15, 2014; and

WHEREAS, it is necessary and in the best interests of the Village that the tax heretofore levied for the year 2013 to pay the principal of and interest on the Bonds be abated.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Winnetka, as follows:

SECTION 1: Abatement of Tax. The tax heretofore levied for the year 2013 of Three Hundred Twenty-Four Thousand and Ten Dollars and Fifty-Six Cents (\$324,010.56) in Ordinance Number M-16-2013 to pay the principal of and interest on \$7,500,000 General Obligation Bonds, Series 2014, of the Village of Winnetka, Cook County, Illinois, is hereby abated in its entirety.

SECTION 2: Filing of Ordinance. Forthwith upon the adoption of this Ordinance, the Village Clerk shall file a certified copy hereof with the County Clerk of the County of Cook, Illinois, and it shall be the duty of said County Clerk to abate said tax levied for the year 2013 in accordance with the provisions hereof.

SECTION 3: Home Rule. This Ordinance is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

[Remainder of this page intentionally left blank.]

SECTION 4: Effective Date. This Ordinance shall be in full force and effect from and its passage, approval, and posting as provided by law.

PASSED this 4th day of February, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this 4th day of February, 2014.

Signed:

Village President

Countersigned:

Village Clerk

[Seal]

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this ____ day of
_____, 2014.

Introduced: January 21, 2014

Passed and Approved:



Agenda Item Executive Summary

Title: Purchase of Police Patrol Vehicle

Presenter: Patrick Kreis, Chief of Police

Agenda Date: 02/04/2014

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

The Police Department is equipped with a fleet of vehicles manufactured by both Chrysler / Dodge and Ford Motor Companies. The vehicles purchased for patrol use are typically designed with special police package options to increase their suitability and reliability. The typical lifespan of these vehicles is 85,000 police duty miles.

Executive Summary:

The Department maintains a mixed-fleet of marked patrol vehicles rather than purchase all of one type of vehicle. A mixed-fleet enables more flexibility and safeguards against manufacturing disruptions and recalls.

For this replacement, the Department is seeking to purchase a 2014 Dodge Charger Police Sedan. This latest version is equipped with all wheel drive capability and other features, making it particularly well suited as a police patrol vehicle. The all wheel drive feature will improve handling in inclement weather and alleviate the need to seasonally install special snow tires, which is the current practice on these vehicles.

The new vehicle will replace a 2008 Dodge Charger Police Sedan with 91,000 miles.

The Dodge Charger Police Sedan is available through the Suburban Purchasing Cooperative specified to the needs of the Department for \$25,318.00. This amount is within the current year's budget.

Recommendation / Suggested Action:

Consider approving purchase of a 2014 Dodge Charger Police Sedan for \$25,318.00.

Attachments:

- 1) Purchase Request Memorandum
- 2) Northwest Municipal Conference, Suburban Purchasing Agreement Award Letter

WINNETKA POLICE DEPARTMENT

MEMORANDUM

January 21, 2014

To: Chief Patrick Kreis #400

From: Sgt. Karl Larson #407

Subject: Purchase of 2014 Dodge Charger Police Sedan

It is my recommendation to purchase a 2014 Dodge Charger AWD Police Sedan to replace a 2008 Dodge Charger Police Sedan with 91,000 miles currently in use with our fleet. The vehicle can be purchased from Napleton Fleet Group through the Suburban Purchasing Cooperative Contract. The following is a cost and option break down:

Base vehicle contract price including factory destination charge and delivery to the village	\$22,180.00
V8 Engine with AWD Package	\$2,318.00
Front Overhead Reading/Map light	\$45.00
Park Sense Rear Park Assist System	\$267.00
Heated Exterior Mirrors	\$53.00
Fleet Key-Alike (plus extra fobs)	\$125.00
Deactivate Rear Door handles	\$22.00
Black Left Spot Lamp	\$178.00
Municipal Plates	\$130.00
Total	<hr/> \$25,318.00


Sgt. Karl Larson #407



*A Joint Purchasing Program
For Local Government Agencies*

July 24, 2013

Napleton Fleet Group
Ms. Kristen N. Hrones
Manager
1 E. Oak Hill Drive, Suite 100
Westmont, IL 60559

Dear Ms. Hrones,

This letter is notify you that the Suburban Purchasing Cooperative (SPC) Governing Board has awarded Napleton Fleet Group the second of three (3) possible one-year contract extensions on the 2014 Dodge Charger 4 Door RWD Sedan Police Vehicle from November 16, 2013 through November 15, 2014, along with a price increase of \$868 from \$21,736.00 to \$22,604.00.

With acceptance of this contract extension, Napleton Fleet Group, Westmont, IL agrees to all terms and conditions set forth in the specifications contained within the original Request for Proposal to which you responded. The SPC reserves the right to extend this contract for up to one (1) additional one-year term upon mutual agreement of the both the vendor and the SPC on a negotiated basis.

Napleton Fleet Group, Westmont, IL will handle all billing. Each vehicle purchased will be assessed a \$100.00 administrative fee per vehicle which shall be paid directly by the vendor to the SPC on a quarterly basis.

The SPC looks forward to another productive year working with Napleton Fleet Group. Please sign and date this agreement below, retaining copies for your files and returning the original to my attention.

Sincerely,

Ellen Dayan
Northwest Municipal Conference
Program Manager for Purchasing

07.24.13

Name: Ellen Dayan Date
Northwest Municipal Conference

Name: Kristen N. Hrones Date
Napleton Fleet Group

*DuPage Mayors & Managers Conference
1220 Oak Brook Road
Oak Brook, IL 60523
Suzette Quintell
Phone: (630) 571-0480
Fax: (630) 571-0484*

*Northwest Municipal Conference
1616 East Golf Road
Des Plaines, IL 60016
Ellen Dayan
Phone: (847) 296-9200
Fax: (847) 296-9207*

*South Suburban Mayors And Managers Association
1904 West 174th Street
East Hazel Crest, IL 60429
Ed Paesel
Phone: (708) 206-1155
Fax: (708) 206-1133*

*Will County Governmental League
3180 Theodore Street, Suite 101
Joliet, IL 60435
Cherie Belom
Phone: (815) 722-7280
Fax: (815) 722-0528*



Agenda Item Executive Summary

Title: NWMC Suburban Purchasing Cooperative: Street Sweeper Replacement

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

Agenda Date: 02/04/2014

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

2014 Budget Capital Item

Executive Summary:

The FY2014 budget contains \$180,000 in account 10.30.01-625 for the replacement of unit PW-37, a 2005 Elgin Pelican street sweeper. From time to time, the Village participates in the Northwest Municipal Conference Joint Purchasing Program for equipment replacement, which leverages joint municipal purchasing power to the benefit of smaller units of local government.

Northwest Municipal Conference Suburban Purchasing Cooperative Contract #118 provides for the purchase of a replacement street sweeper that meets the Village's needs. The contract calls for a base price for a 74 HP unit of \$156,853. Based on past experience, staff has concerns about the sufficiency of a 74 HP unit to sweep heavy leaf loads in the Sheridan Road ravines, and to access our disposal location on top of the closed landfill when fully loaded. The upgrade to a 99 HP unit, at a cost of \$11,083, is strongly recommended. Also recommended are additional upgrades as shown on the attached price quotation. The Village's current unit, as well as an aged backup sweeper, will be taken out of service for disposal by trade-in when the new unit is in service.

The equipment price as specified, with trade in allowance, results in a purchase prices of \$163,206.

Recommendation / Suggested Action:

Consider awarding a purchase order to Standard Equipment, of Chicago, IL in the amount of \$163,206 for the purchase of a 2014 Elgin Pelican P Three-Wheel Rear-Steer Sweeper under the Northwest Municipal Conference Suburban Purchasing Cooperative Contract #118.

Attachments:

Standard Equipment Quotation



Village of Winnetka
 510 Green Bay Road
 Winnetka, Illinois 60093

December 12, 2013

Dear Phil,

Standard Equipment is pleased to quote you on the following Standard Equipment Stock 2014 Elgin Pelican NP 99 HP Tier 3 diesel engine, dual gutter broom with the equipment listed below. This unit is subject to prior sale.

2014 Elgin Pelican NP 74 HP dual gutter broom street sweeper:	\$156,853.00
99 Horse Power Upgrade Tier 4 I Upcharge	\$11,083
Auto Lube	\$5,828
Hydraulic Level Temperature Shutdown	\$380
Lower Conveyor Washout (Included with Conveyor Stall Alarm)	\$615
Lifeline hopper lining	\$3,819
Lighting Package #5 (One LED Strobe W/ Guard)	\$725
Lighting Package #14 (Rear LED Arrow Stick)	\$2,142
Greaseable Dirt Shoes	\$55
Dual Limb Guards	\$2,091
AM/FM Radio CD with Spot Lights	\$539
Right Hand Tilt with Tilt Indicator	\$2,250
Air Ride Right Hand Seat	\$924
Premium Radiator and Hoses	\$255
Engine Pre-Cleaner	\$395
Spare Tire and Guide Wheel	\$841
AC / Heat (Included)	\$ 0
LED Stop, Turn, Tail Lights (Included)	\$ 0
Pelican NP Parts Book (Included)	\$ 0
Pelican NP Service Manual (Included)	\$ 0
John Deere Parts Book (Included)	\$ 0
John Deere Tech Manual (Included)	<u>\$ 0</u>
Total NWMC purchase	\$188,795.00
<u>Customer added lighting</u>	
Strobes Mounted in Battery Box (Customer Requested)	\$1,094
Rear Mounted Flood Light (Customer Requested)	\$411
Front Mounted Strobes (Customer Requested)	<u>\$756</u>
Total purchase price	\$191,056.00
Stock unit discount	\$ -3,456.00
Purchase price before trade	\$187,600.00
-Optional-2005 Pelican Trade Value:	-\$21,500.00
-Optional-1995 Pelican Trade Value:	<u>-\$3,000.00</u>
Total After Trade:	\$163,100.00

Please note that this quote is good for 60 days from the above date and is subject to change after that.

Delivery will be approximately 10 to 20 days after receipt of order.

NWMC Purchasing Contract Number # 118

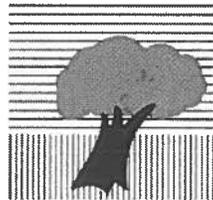
We look forward to doing business with the Village of Winnetka and if you have any questions please feel free to contact me at (312) 241-4449.

Respectfully,
Standard Equipment Company
Steve Szymczak

FY 2014



**Joint Purchasing
Program**



*DuPAGE
MAYORS AND MANAGERS
CONFERENCE*



*NORTHWEST MUNICIPAL
CONFERENCE*



**WILL COUNTY
GOVERNMENTAL LEAGUE**

ABOUT THE SPC

The Suburban Purchasing Cooperative is a joint purchasing program sponsored by the Northwest Municipal Conference (NWMC), DuPage Mayors & Managers Conference (DMMC) South Suburban Mayors and Managers Association (SSMMA), and Will County Governmental League (WCGL). Together the SPC represents 137 municipalities and townships in the northeastern Illinois.

The following entities are eligible to participate in the SPC joint purchasing programs: Municipalities, Townships, Counties, Park Districts, Libraries, School Districts and Non-Profit Organizations.

The SPC exemplifies the benefits of intergovernmental cooperation on a regional basis. The goal of the SPC is to combine the resources and purchasing power of governments and not-for-profit entities to jointly negotiate advantageous contract terms on a line of high quality products at the lowest possible price.

Economies of scale in terms of pricing and staff resources are the prime objectives of the SPC Joint Purchasing Program. By purchasing through the SPC, participants not only save money but time as well. Acting as an extension of the purchaser's staff, SPC staff works diligently in order to avoid the needless duplication of effort through in-house coordination of several functions involved in the procurement process.

According to 30ILCS 525/2 from CH. 85, pr. 1602 Sec. 2 (a) Any governmental unit may purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive bids as provided in Section 4 of this Act. (Source: P.A. 87-960.)

Since 2007, the SPC Program is centrally operated by the Northwest Municipal Conference with shared program oversight by the SPC Governing Board and SPC Technical Review Committee.

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STREET SWEEPER

Product Information - Contract #118

Three-Wheeled Sweeper Rear Steer with Front Dump

The SPC Governing Board has issued the contract to Standard Equipment for the Elgin Pelican P Three Wheel Rear Steer Sweeper at a contract price of **\$156,853.00**.

Ordering Information

Standard Equipment
2033 West Walnut Street
Chicago, IL 60612
P: 312-706-9675 M: 312-208-6376 F: 312-829-1919
Contact Person: Tom Markel, Sales Manager
tmarkel@standardequipment.com

The Contract runs through December 31, 2014 and may be extended for two additional one-year terms upon mutual agreement of both the vendor and the SPC on a negotiated basis.



Agenda Item Executive Summary

Title: MC-2-2014 - Adding Code Chapter 13.16 and Establishing a Stormwater Utility

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 02/04/2014

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

May 14, 2013 Study Session
October 1, 2013 Council Meeting, Agenda pp. 35 - 62

Executive Summary:

At the May 14, 2013 Study Session, and again at the October 1, 2013, Council meeting, the Council received stormwater utility implementation reports from Municipal & Financial Services Group (MFSG), which had prepared a Stormwater Utility Feasibility Study for the Village. MFSG then provided Implementation Assistance, including the development of tax-exempt property information packets, creation of an online stormwater bill estimator to allow residents to estimate the stormwater fee for their particular parcel, and a sample stormwater utility ordinance.

In reporting to the Council, MFSG identified and made recommendations on ten key policy issues. The Council discussed those ten policy issues in detail on October 1st, accepted eight of MFSG's ten recommendations, and deferred action on the remaining two issues, which pertain to credits and incentives.

Based on that policy discussion, Ordinance MC-2-2014 amends the Village Code by adding new Chapter 13.16, to establish and implement a stormwater utility and provide for a stormwater utility charge that spreads the utility's costs among property owners based on the amount of impervious surface. The amount of impervious surface is based on an Equivalent Runoff Unit (ERU) of 3,400 square feet. The stormwater utility fee will be a monthly charge that will go into effect on July 1, 2014 and will be billed along with the water bill. Chapter 13.16 has also been crafted for consistency with Village Code Chapters 13.04, 13.08 and 13.12, which govern the Village's water, electric and sanitary sewer utilities.

The attached Agenda Report discusses the ten policy issues considered by the Village Council on October 1st, and explains where and how each policy issue is addressed in the Ordinance. The policy discussion is followed by a section-by-section explanation of MC-2-2014 and how new Chapter 13.16 relates to the Village Code's Water, Electric and Sewer provisions. The final section of the Agenda Report outlines the next steps in establishing the new utility and stormwater charge, including resolving policy issues, adopting the ordinance, setting rates, and issuing sample bills.

Recommendation / Suggested Action:

Consider a motion to introduce Ordinance MC-2-2014, titled "An Ordinance Adding a New Chapter 13.16 to Title 13 and Making Related Amendments to the Winnetka Village Code to Establish a Stormwater Utility."

Attachments:

Agenda Report
Ordinance MC-2-2014
Attachment 1 – MFSG Table of Policy Issues
Attachment 2 – Minutes of October 1, 2013, Council Meeting
Attachment 3 – MFSG Sample Credit Provisions

AGENDA REPORT

SUBJECT: Ordinance MC-2-2014 – Adding a New Chapter 13.16 to Title 13 and Making Related Amendments to the Winnetka Village Code to Establish a Stormwater Utility

PREPARED BY: Katherine S. Janega, Village Attorney

REFERENCE: May 14, 2013 Study Session
October 1, 2013 Council Meeting, Agenda pp. 35 - 62

DATE: January 29, 2014

Introduction

At the May 14, 2013 Study Session, and again at the October 1, 2013, Council meeting, the Council received stormwater utility implementation reports from Municipal & Financial Services Group (MFSG), which had prepared a Stormwater Utility Feasibility Study for the Village. MFSG then provided Implementation Assistance, including the development of tax-exempt property information packets, creation of an online stormwater bill estimator to allow residents to estimate the stormwater fee for their particular parcel, and a sample stormwater utility ordinance.

In reporting to the Council, MFSG identified ten key policy issues that need to be addressed in order to establish a stormwater utility. (See Attachment 1, MFSG Table of Policy Issues) The Council discussed those ten policy issues in detail on October 1st, accepted eight of MFSG's ten recommendations, and deferred action on the remaining two issues, which pertain to credits and incentives. (See Attachment 2, October 1, 2013, Minutes)

Ordinance MC-2-2014 amends the Village Code by adding new Chapter 13.16, to establish and implement a stormwater utility. Chapter 13.16 is based in part on the MFSG sample ordinance, as well as on a review of similar ordinances in other Illinois communities. More importantly, Chapter 13.16 has also been crafted so that it is consistent with Village Code Chapters 13.04, 13.08 and 13.12, which govern the Village's water, electric and sanitary sewer utilities.

This Agenda Report provides a dual analysis of Ordinance MC-2-2014. First, it lists the ten policy issues considered by the Village Council at the October 1st Council meeting, and explains where and how each policy issue is addressed in the Ordinance. The policy discussion is followed by a table containing a section-by-section explanation of the Ordinance, and how it relates to the Water, Electric and Sewer provisions in the Village Code. The final section of this Agenda Report outlines the next steps to be taken in implementing the Stormwater Utility.

Policy Issues

This section addresses the policy issues discussed at the October 1st Council meeting, with cross-references to (i) related sections of new Chapter 13.16, (ii) corresponding pages of Ordinance MC-2-2014, and (iii) the references materials listed at the end of this Agenda Report.

1. **Impervious area.** The method for assessing stormwater fees is based on the extent of impervious area on any given property, as impervious areas contribute directly to runoff. The Council therefore considered what types of impervious areas should be included in calculating the amount of impervious surface on any given property and accepted MFSG's recommendation to capture all impervious features. That policy directive is reflected in the definitions of "Equivalent Runoff Unit (ERU)" and "Impervious Area," as well as in new Section 13.16.070, which bases the utility fee on ERUs, and the Section 13.16.120, which describes how the impervious area database is developed. (Ordinance, pp. 3, 5, and 7)

2. **Semi-pervious area.** The Council also considered whether features such as areas with un-compacted gravel, dirt, stone, or similar material should be treated as partially impervious and included in calculating the ERUs for the master billing file. Because the Village's GIS system does not calculate these features, MFSG did not recommend measuring semi-impermeability, given the uncertainty of the data available and the additional layer of administrative complexity that it would add to determining ERUs. It is therefore not addressed in Ordinance MC-2-2014.

3. **Billing for multi-family and commercial properties.** Because multi-family and commercial properties have meters for either electric, water, or both services together, the Council considered how the Village should bill for those properties. The Council accepted MFSG's recommendation to include the stormwater charge on water bills.

Billing procedures are addressed in new Code Section 13.16.080. Subsection A provides for stormwater charges to be included on customers' utility bills. Multi-family and commercial properties are addressed in Subsection B, which provides for joint and several liability for payment among the owners, occupants and customer of record. (Ordinance, pp. 5-6) Staff will be closely re-examining this section prior to adoption to assure that it adequately covers multi-family and commercial properties.

4. **Billing for parcels with no utility service.** There are properties in the Village with impervious area that are not linked to water and/or electric service accounts, and the Council agreed with MFSG's recommendation to generate separate stormwater bills for such parcels. Paragraph 2 of Subsection 13.16.080 addresses this circumstance. (Ordinance, p. 5)

5. **Impervious area for private roads.** In discussing the allocation of impervious area, the Council considered how impervious area on private roads should be allocated. The Council agreed with MFSG that the amount of road area within a parcel's boundaries should be included in calculating the ERUs. Ordinance MC-2-2014 therefore does not exclude private streets from the definition of Impervious Area or from the impervious area database, and it does not include private roads among the exemptions for streets. (See Issue 7, below.)

6. Impervious area allocation for multifamily and commercial properties with individual water service. Some of these properties are on the same parcel but have multiple water meters. The Council accepted MFSG’s recommendation to divide the impervious area allocation equally for multi-family and commercial properties that have multiple water service meters. This is partially addressed by Section 13.16.080 (see Issue 3, above) and will be implemented through the Rate Resolution, which will flesh out the details on all rates.

7. Exemptions. MFSG reported to the Council that most stormwater fees apply to all property types, except for public roads and rights-of-way, and recommended that only public roads and rights-of-way be exempt from the Village’s stormwater fee. The Council agreed. That policy determination is reflected in subsection A of new Section 13.16.130, which exempts dedicated public rights-of-ways, such as roadways, sidewalks and alleys, from the stormwater fee. (Ordinance, p. 7)

8. Parcels with minimal or no impervious area. The Council considered whether areas within the Village that are vacant or that have minimal impervious area should be subject to the stormwater fee, and accepted MFSG’s recommendation that only parcels with an impervious area over 170 square feet (1/10th ERU) be billed. Subsection A of new Section 13.16.070 provides for measurement in 1/10th increments of the ERU. (Ordinance, p. 5)

9. Stormwater fee credits. A stormwater fee credit is a reduction in the fee charged to a qualifying property in return for on-site stormwater management that may reduce the Village’s stormwater expenditures. MFSG recommended that the Village continue to explore offering credits, in two instances:

- i. A credit of up to 25% for non-residential parcels that provide on-site stormwater management that: (i) exceeds the current Village standards; (ii) provides stormwater detention that reduces the peak runoff rate; and (iii) provides stormwater retention that reduces the total quantity of runoff from the site.
- ii. A credit of up to 50% for any parcel that directly discharges outside the Village system.

MFSG’s October 1st report provided detailed information on credit programs in seven Illinois municipalities that impose a fee based on impervious surface, as recommended by MFSG and reflected in MC-2-2014. The analysis included the credit and incentive program in the City of Rock Island, which had been challenged in court and upheld as a fee. None of the other stormwater fees in the analysis have been challenged.

MFSG’s suggested credit provision can be found in Attachment 3. Because there has been no final policy direction on the issue of credits, Ordinance MC-2-2014 does not include a credit provision. However, it should be noted that new Section 13.16.130 contains an exemption provision that would authorize (but not mandate) the Village to enter into agreements in unique situations where an institutional user provides “significant stormwater management assistance” through providing additional stormwater detention, donating land or making a capital contribution. (Ordinance, p. 7)

It should also be noted that the issue of credits is relevant to addressing the assertion, raised in both public comment and letters to the Council, that the proposed stormwater utility fee is a tax. The same argument was made, without success, in the City of Rock Island case. (*Church of Peace v. City of Rock Island*, 357 Ill.App.3d 471, 828 N.E.2d 1282, 293 Ill.Dec. 784 (3rd Dist. 2005).

10. Incentives. Incentives are one-time reimbursements/rebates for the installation of features that reduce runoff and can result in stormwater credits. Typical programs provide incentives for such features as rain barrels, rain gardens, permeable pavement, etc., to encourage participation in stormwater management. Rain gardens and permeable pavement have been found to provide the additional benefit of improving the quality of runoff, as the ground and permeable pavement also filter the stormwater.

As recommended by MFSG, and as is done in the typical incentive program, the Village controls the program in three ways: (i) by defining the features or activities that are eligible for incentives, (ii) by capping the amount of the individual incentives, and (iii) by budgeting a maximum amount that would be available for incentives in any given year, so that once incentive funds are spent, no further incentives would be allowed in that budget year. Because incentives are incorporated into the budget, the incentive decision can be made each year, based on Village-specific data as to extent of participation, effectiveness, and impact on the stormwater utility budget.

As with the issue of credits, the Council deferred a final decision on incentives, to allow additional information to be gathered. Therefore, the Ordinance MC-2-2014 does not include an incentives provision. As noted above, in the discussion of credits, MFSG’s draft Code provision can be found in Attachment 3 to this Agenda Report.

Section-by-Section Analysis of Ordinance MC-2-2014

The following analysis goes through each section of Ordinance MC-2-2014. In the first column, numbers preceded by the word “Section” refer to the Section numbers in the Ordinance. The indented numbers preceded by the section symbol (§) refer to sections in the Winnetka Village Code (WVC).

Section	Description
Preamble	The preamble contains recitals that serve both as the Council’s legislative history and as a demonstration of the Village’s intent to operate the stormwater system as a fee for service utility rather than as a tax-financed general municipal service.
Section 1	Incorporates the recitals in the preamble as the Council’s findings.
Section 2	Adds Chapter 13.16, “Municipal Stormwater Utility,” to the Winnetka Village Code

Section	Description
<p>§ 13.16.010</p>	<p>Legislative finding, policy and purpose. Section 13.16.010 then restates the Council’s intent as part of the Village Code, in statements of legislative findings, the policy that underpins the creation of the utility, and a statement of the purpose of the stormwater utility.</p>
<p>§ 13.16.020</p>	<p>Definitions. The definitions address the components of the stormwater system and define the utility itself. The definitions also distinguish between developed and undeveloped land, and between land that uses the stormwater system and land that discharges directly to a natural outlet. The two most significant defined terms are “Equivalent Runoff Unit (ERU),” which is set at 3,400 square feet of impervious area, and “Impervious Area,” which provides examples of impervious surfaces.</p>
<p>§13.16.030 and §13.16.040</p>	<p>These two sections establish the stormwater utility, define its scope, and provide for the utility to be operated by the Public Works Department.</p>
<p>§ 13.16.050 and §13.16.060 §13.16.050 §13.16.060 §13.16.060 (cont’d)</p>	<p>These two provisions are drawn from Chapters 13.04 (Water) and 13.08 (Electricity).</p> <p>Section 13.16.050 authorizes the Village Manager to establish rules and regulations for the stormwater utility. Its counterparts for the water and electric utilities can be found in Village Code Sections 13.04.020 and 13.08.020, respectively.</p> <p>Section 13.16.060 provides for users of the stormwater system to be charged rates, fees and charges, as of July 1, 2014. The rates, fees and charges are to be established by Village Council resolution, following the same two-step process of introduction and adoption that is followed for water and electric fees. The corresponding provisions for the water and electric utilities are in Village Code Sections 13.04.040(A) and 13.08.040(A).</p>
<p>§ 13.16.070</p>	<p>This section defines the stormwater fee and its basis in impervious surface, as measured in ERUs, rounded to the 10th of an ERU. This section also establishes two components of the stormwater utility fee: the Base Fee for debt services, and a separate fee or fees for operational expenses. Section 13.16.070 also clearly limits the Base Fee for 2014 to one-half of the debt service costs, since it will be in effect only for the second half of the year.</p> <p>The ERU is used to determine the Base Fee, which is the amount to be charged per month per ERU in order to produce the amount of principal and interest that will be due and payable in the fiscal year for which the Base Fee is calculated. This allows the stormwater rate resolution to be adopted annually, in conjunction with the other rate resolutions. The</p>

Section	Description
§ 13.16.070 (cont'd)	amount of annual debt service for the Series 2013 and 2014 bonds is set by the ordinances that authorized the bonds, so the amount to be included in the Base Fee can be easily identified.
§ 13.16.080	Billing and collection procedures. This section establishes the billing and collection procedures, allows the stormwater bills to be issued with the other utility bills, and provides for issuance of bills for parcels not linked to a utility account. It also prescribes how payments will be applied to the user's account.
§ 13.16.090	Effect of nonpayment. This section is based on Sections 13.04.060, 13.08.060 and 13.12.010(B) and (C), which pertain to the water, electric and sewer utilities.
§ 13.16.100	Adjustments to stormwater fee. This section establishes the procedure for requesting an adjustment to the stormwater fee, based on an incorrect classification of the property, errors in square footage, mathematical errors, or errors in identifying the owner.
§ 13.16.110	Stormwater utility fund. This section requires all revenues for the stormwater utility to be deposited in the stormwater fund and provides for the Finance Director to maintain and report on the utility's financial records.
§ 13.16.120	Impervious area database. This section describes the database used in determining the number of ERUs on any given parcel.
§ 13.16.130	Exemptions. This section allows for the Village to enter into agreements to exempt certain institutional users from all or part of the stormwater charges in return for their providing "significant stormwater management assistance" to the Village, through providing additional stormwater detention, donating land, or making capital contributions. The provision unequivocally reserves the Village Council's "sole and exclusive right and discretion" to determine when to enter into such agreements.
§ 13.16.140	Stormwater service connections. This provision establishes the process whereby individual property owners may be allowed to connect to the Village's stormwater system. It is based on Section 13.04.100 of the Code, which pertains to water connections.
§ 13.16.150 and § 13.16.160	These two provisions prohibit interference with the Village's stormwater system, establish liability for damage to the stormwater system, and reserve the Village's rights to recover costs of repairs. Section 13.16.160 is based directly on Section 13.04.105.

Section	Description
Section 3	Amends WVC Chapter 1.04, “General Provisions.”
§ 1.04.140(A)	This amendment inserts a reference to stormwater in the definition of delinquent accounts in WVC § 1.04.140 of the Village Code’s general provisions
Section 4	Amends WVC Chapter 2.48, “Finance Department.”
§2.48.010 to §2.48.050	<p>This section contains non-substantive and substantive amendments to Chapter 2.48.</p> <p>Non-substantive amendments: The non-substantive amendments restructure the chapter, which is currently a single section, by assigning separate section numbers to what are now subsections. This restructuring mirrors the other chapters in Title 2 and facilitates searches, as only section numbers are listed in the table of contents.</p> <p>Substantive Amendments: The two substantive amendments insert the word “stormwater” in paragraphs 6 and 8 of what is now Section 2.48.050.</p>
Section 5	Amends WVC Chapter 2.64, “Department of Public Works.”
§2.64.010 to §2.64.040	<p>This section contains non-substantive and substantive amendments to Chapter 2.48.</p> <p>Non-substantive amendments: The chapter has been restructured in the same manner as Chapter 2.48.</p> <p>Substantive amendment: The only substantive amendment is in the addition of a new paragraph 6 in what is now Section 2.64.040, to place the operation and maintenance of the stormwater utility system in the Department of Public Works.</p>
Section 6	Boilerplate: Refers to the Village’s exercise of its home rule powers.
Section 7	Boilerplate: States that the Ordinance is to be effective immediately.

Implementation Steps

Following introduction of Ordinance MC-2-2014, several more steps will be necessary to fully implement the Village’s Stormwater Utility. Some of those steps hinge on Council policy decisions, while others are purely administrative.

1. Resolve policy issues. The key policy issue that remains is whether to provide for any credits or incentives in the Village’s stormwater management program. This issue should be resolved before Ordinance MC-2-2014 is adopted, as it may warrant amendments. To assist the Council in that discussion, staff will compile all relevant information from prior agenda packets

for a comprehensive discussion at the next study session. In addition, to assure that Staff has been fully responsive to the Council, Staff requests that the Council identify what additional information it would like to see.

2. Adopt Ordinance MC-2-2014. Assuming that the policy issues have been resolved, Ordinance MC-2-2014 will be placed on the Council’s February 18, 2014, for amendment as necessary to reflect the Council’s latest discussions, and for final adoption.

3. Adopt Rate Resolution. The first rate resolution for the Stormwater Utility will set the long-term framework for the stormwater fees and will formally flesh out the calculation of ERUs, the revenue requirement for 2014, the details of the total number of ERUs, and how the actual charges will be determined.

As with Chapter 13.16, the Rate Resolution will be patterned after the rate resolutions for the Village’s other utilities. In addition, like the other rate resolutions, the Stormwater Rate Resolution will be introduced at one meeting and adopted at the next.

The Rate Resolution cannot be acted on until Ordinance MC-2-2014 has been adopted. However, to assure that the Rate Resolution is fully consistent with the Council’s policy directives, Staff suggests presenting a preliminary draft of the Rate Resolution for Council review and consideration at the next study session. It can then be placed on the Council’s February 18th agenda for introduction, and on the March 4th agenda for adoption.

4. Administrative Implementation. Following the Council’s final legislative acts, Staff would proceed with implementing the impervious area database and doing whatever programming is necessary so that sample bills could be sent to customers well in advance of the July 1, 2014, when the stormwater charges would go into effect.

Attachments:

Ordinance MC-2-2014

Attachment 1 – MFSG Table of Policy Issues

Attachment 2 – Minutes of October 1, 2013, Council Meeting

Attachment 3 – MFSG Sample Credit Provisions

Recommendation:

- 1) Consider a motion to introduce Ordinance MC-2-2014, titled “An Ordinance Adding a New Chapter 13.16 to Title 13 and Making Related Amendments to the Winnetka Village Code to Establish a Stormwater Utility.”

**AN ORDINANCE
ADDING A NEW CHAPTER 13.16 TO TITLE 13
AND MAKING RELATED AMENDMENTS
TO THE WINNETKA VILLAGE CODE
TO ESTABLISH A STORMWATER UTILITY**

WHEREAS, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the Village owns and operates a system of storm sewers, drains, pipes, pump stations and outlets that collects stormwater that drains from properties located within the corporate limits of the Village and transports that stormwater for delivery into open watercourses (“Stormwater System”); and

WHEREAS, the principal watercourses that drain stormwater runoff from the Village are the Skokie River and Lake Michigan; and

WHEREAS, in response to a series of storms that inundated numerous areas of the Village, the Village has embarked on the development and implementation of a stormwater management plan that provides for a series of capital improvements, upgrades and additions to the Stormwater System throughout the Village (“Stormwater Projects”); and

WHEREAS, the Winnetka Village Council (“Village Council”) finds and determines that, due to the high cost of some of the Stormwater Projects and the long life of stormwater facilities once they are in place, it is in the best interests of the Village and its residents that the cost of the Stormwater Projects be spread over a long period of time, so that, to the extent reasonably possible, the Stormwater Projects are paid for as the improvements are used and current users of the Stormwater System do not pay for the use of the Stormwater System by future users; and

WHEREAS, the Village Council finds and determines that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the Stormwater Projects and for the operation and maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that all land in the Village contributes to stormwater runoff and either uses or benefits from the maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that it is in the best interests of the health, safety and general welfare of the Village and its residents that the Stormwater System be operated as a municipal utility that is funded through user fees rather than property taxes; and

WHEREAS, the Village Council finds and determines that owning and operating the Stormwater System, and financing the operation, maintenance and improvement of the

Stormwater System through user fees, are matters pertaining to the government and affairs of the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Winnetka, as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 13 of the Winnetka Village Code, “Municipal Utility Services,” is hereby amended by adding a new Chapter 13.16, which shall be titled “Stormwater Utility System” and shall provide as follows:

Chapter 13.16 Stormwater Utility System

Sections:

- 13.16.010** Legislative findings, policy and purpose.
- 13.16.020** Definitions.
- 13.16.030** Stormwater utility established.
- 13.16.040** Scope of responsibility of stormwater utility.
- 13.16.050** Rules and regulations.
- 13.16.060** Charges for stormwater utility service.
- 13.16.070** Stormwater utility fee.
- 13.16.080** Billing and collection procedures.
- 13.16.090** Effect of nonpayment of bill.
- 13.16.100** Requests for adjustment of the stormwater utility fee.
- 13.16.110** Stormwater utility fund.
- 13.16.120** Impervious area database.
- 13.16.130** Exemptions from stormwater utility fee.
- 13.16.140** Stormwater service connections.
- 13.16.150** Interference with stormwater system.
- 13.16.160** Responsibility for damage to stormwater system.

Section 13.16.010 Legislative findings; policy and purpose.

A. Legislative findings. The Village Council finds:

1. that all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system;

2. that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village of Winnetka stormwater system; and

3. that it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village of Winnetka stormwater system be operated as a municipal utility that is funded through user fees.

B. Statement of policy.

1. It is the policy of the Village of Winnetka to provide a dedicated funding source for the construction, maintenance, operation and improvement of stormwater facilities in the Village, so that the Village is able to proactively manage stormwater for the benefit of all residents and owners of real property within the Village.

2. It is the policy of the Village of Winnetka that, except as provided in this chapter, the owner or owners of any real property in the Village that uses or benefits from the Village's stormwater system be charged a stormwater utility fee, whether or not the owner or parcel is exempt from taxation.

C. Purpose. The purpose of this chapter is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Winnetka from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this chapter to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

Section 13.16.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Developed Land means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

Direct Discharge means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

Equivalent Runoff Unit (ERU) means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand four hundred (3,400) square feet of impervious area or any fraction thereof.

Impervious Area means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

NPDES or National Pollutant Discharge Elimination System means the national permitting program implemented under the Clean Water Act.

Parcel means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

Stormwater Service Connection means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Winnetka stormwater system.

Stormwater System, or Village of Winnetka Stormwater System, means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

Stormwater Utility means the Village of Winnetka stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

Undeveloped Parcel means a parcel of land that remains in its natural state with no impervious area.

User means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

Section 13.16.030 Stormwater utility established.

A. Stormwater Utility. The Village hereby establishes a stormwater utility to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater system, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

Section 13.16.040 Scope of responsibility of stormwater utility.

A. The stormwater utility shall be responsible for the operation, maintenance, management and improvement of the stormwater system owned by the Village in accordance with all applicable permits, licenses and regulations, including all activities required by the NPDES Stormwater Permit.

B. The Village of Winnetka stormwater utility shall be operated by the Department of Public Works established in Chapter 2.64 of this code.

Section 13.16.050 Rules and regulations.

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

Section 13.16.060 Charges for stormwater utility service.

A. Establishing Rates and Fees. Effective July 1, 2014, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for stormwater utility service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

Section 13.16.070 Stormwater utility fee.

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The stormwater utility fee for all parcels in the Village shall be based on the measured number of ERUs on the parcel, rounded to the nearest 10th of an ERU. Parcels with an impervious area of 170 square feet or less shall not be subject to the stormwater utility fee.

B. Fee Resolution. The stormwater utility fee shall be set by resolution as provided in section 13.16.060 of this Chapter

C. Fee components. The stormwater utility fee shall consist of the sum of the following:

1. Base Fee. The base fee shall be the amount to be charged each month per ERU in order to produce the amount of principal and interest on any outstanding stormwater utility system debt that is due and payable during the fiscal year for which the Base Fee is calculated. Notwithstanding the foregoing, the Base Fee for 2014 shall be that portion of principal and interest on outstanding stormwater utility system debt that will become due and payable in the second half of the 2014 Fiscal Year.

2. Such other rates, fees and charges that the Village Council determines are necessary to recover all costs related to operating, maintaining and improving the stormwater system utility.

Section 13.16.080 Billing and collection procedures.

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department may include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater utility fee. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

Section 13.16.090 Effect of nonpayment of bill.

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of five percent shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

Section 13.16.100 Requests for adjustment of the stormwater utility fee.

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Village Manager or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and
4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Village Manger shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee. The Village Manager's decision on a request for correction of the fee shall be final.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Village Manager to make a determination on the request for correction

of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

Section 13.16.110 Stormwater utility fund.

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility enterprise fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Council.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

Section 13.16.120 Impervious area database.

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

Section 13.16.130 Exemptions from stormwater utility fee.

A. Public Rights-of-Way. Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

B. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village Council reserves the sole and exclusive right and discretion to enter into agreements with such owners to provide for such contributions to the Village's stormwater system, and to grant an exemption to such owners from all or part of the stormwater utility fee in exchange for such contribution.

Section 13.16.140 Stormwater service connections.

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works

Department and shall be performed in accordance with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

Section 13.16.150 Interference with stormwater system.

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

Section 13.16.160 Responsibility for damage to stormwater system.

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

SECTION 3: Subsection A of Section 1.04.140, “Delinquent accounts,” of Chapter 1.04, “General Provisions,” of Title 1 of the Winnetka Village Code, “General Provisions,” is hereby amended to provide as follows:

A. Delinquent Account Defined. For purposes of this section, any account that is not current and for which the person owing the account has not entered into and remained in compliance with an enforceable payment plan pursuant to subsection C of this section, shall be considered to be a delinquent account. Such accounts shall include, but not be limited to, accounts with unpaid stormwater, water and electric fees, accounts with unpaid fees for false alarms, accounts with unpaid parking tickets, accounts with unpaid license or permit fees, and accounts with unpaid late fees or collection charges.

SECTION 4: Chapter 2.48, “Finance Department,” of Title 2 of the Winnetka Village Code, “Administration and Personnel,” is hereby amended in its entirety to provide as follows:

Chapter 2.48 FINANCE DEPARTMENT

Sections:

- 2.48.010 Creation of Finance Department.**
- 2.48.020 Finance Director.**
- 2.48.030 Bond.**
- 2.48.040 Compensation.**
- 2.48.050 Powers and Duties.**
- 2.48.060 Purchasing Agent.**
- 2.48.070 Requisitions for Supplies, Services and Materials.**
- 2.48.080 Approval of Village Bills.**
- 2.48.090 Local Tax Administrator.**

Section 2.48.010 Creation of Finance Department.

~~—A. Creation.~~ There is created the Finance Department, an administrative department of the Village. The Finance Department shall consist of a Finance Director and such other officers and employees as may be provided from time to time by the Council.

Section 2.48.020 Finance Director.

~~—B. Finance Director.~~ There is created the office of Finance Director, an administrative office of the Village. The Finance Director shall be appointed by the Village Manager.

Section 2.48.030 Bond.

~~—C. Bond.~~ Before entering upon the duties of the office of Finance Director, the Finance Director shall execute and file with the Village Clerk a bond with security to be approved by the Council. The bond shall be payable to the Village in the penal sum directed by resolution of the Council, and shall be conditioned upon the faithful

performance of the duties of the office of Finance Director, according to law and the ordinances of the Village. The premiums for such bond shall be paid by the Village.

Section 2.48.040 Compensation.

~~D. Compensation.~~ The compensation of the Finance Director shall be fixed by the Village Council, upon the recommendation of the Village Manager.

Section 2.48.050 Powers and Duties.

~~E. Powers and Duties.~~ The Finance Director shall be subject to the control and direction of the Village Manager and shall be head of the Finance Department. Subject to the approval of the Village Manager, the Finance Director shall have both control over all of the property and employees of the Finance Department and the power to appoint and remove such employees as may be required for the efficient operation of the Department. In addition to the duties required by state law, the Finance Director shall have the following duties, functions and responsibilities:

1. To assist the Budget Officer in the preparation of the annual budgets, and to prepare tax levy and tax abatement ordinances;
2. To supervise all expenditures of the Village and to maintain accurate records of such expenditures;
3. To keep the financial records of the Village;
4. To oversee all purchases made by the Village and to develop and recommend procedures for such purchases;
5. To prepare financial reports and statements;
6. To issue bills and collect fees for water, electric, sewer, refuse, stormwater and other services rendered by the Village;
7. To invest Village funds with the approval of the Treasurer;
8. To collect, and to maintain accurate records of, the following: all special assessments; all cash deposits required by the Village, including deposits for electric, sewer, ~~and~~ water and stormwater service; all fees for licenses and permits issued by the Village; and all payments of fines and fees, as provided in this code;
9. To collect late fees and to recover costs related to the collection of any unpaid or delinquent fees, fines, deposits or other payments due and owing to the Village;
10. To retain deposits and excess payments that may otherwise be subject to refunds, for the sole purpose of applying the retained amount to pay all or part of a delinquent account owed by the person making the deposit;
11. To develop and implement procedures to detect, prevent, and mitigate the impact of identity theft in accordance with section 4.04.020 of this Code and applicable federal laws, rules and regulations; and
12. To perform such other services as may be required by the Village Manager.

Section 2.48.060 Purchasing Agent.

~~F. Purchasing Agent.~~ The Finance Director shall be ex officio Purchasing Agent for the Village, and shall purchase all supplies, services and materials for use in all departments of the Village, pursuant to the written purchasing policy developed by the Village Manager as provided in this code.

Section 2.48.070 Requisitions for Supplies, Services and Materials

~~G. Requisitions for Supplies, Services and Materials.~~ Upon the receipt of a requisition made by the proper officer of any Village department in conformity with the purchasing policy for the purchase of any supplies, services or materials for use in that department, the Purchasing Agent shall issue a purchaser order, which shall be numbered and approved in accordance with the purchasing policy.

Section 2.48.080 Approval of Village Bills.

~~H. Approval of Village Bills.~~ All bills rendered against the Village will be certified as correct by the Finance Director and approved for payment by the Village Manager before being submitted to the Treasurer and the Council.

(Ord. MC-228-99 § 1 (part), 1999: prior code § 3.05)

Section 2.48.090 Local Tax Administrator.

~~I. Local Tax Administrator.~~ The Finance Director shall be ex-officio Local Tax Administrator for the Village, and shall be responsible for administering and collecting all locally imposed and administered taxes, as provided in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code.

(MC-7-2008 § 2, Amended, 11/6/2008; MC-9-2000, Amended, 01/02/2001, Paragraph I added, Local Tax Administrator)

SECTION 5: Chapter 2.64, "Department of Public Works," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

**Chapter 2.64
DEPARTMENT OF PUBLIC WORKS**

Sections:

- 2.64.010 Creation of Department of Public Works.**
- 2.64.020 Director of Public Works.**
- 2.64.030 Compensation.**
- 2.64.040 Powers and Duties.**

Section 2.64.010 Creation of Department of Public Works.

~~—A. Creation.~~ There is created the Department of Public Works, an administrative department of the Village. The Department of Public Works shall consist of a Director of Public Works and such other officers and employees as may be provided from time to time by the Council.

Section 2.64.020 Director of Public Works.

~~—B. Director of Public Works.~~ There is created the office of Director of Public Works, an administrative office of the Village. The Director of Public Works shall be appointed by the Village Manager.

Section 2.64.030 Compensation.

~~—C. Compensation.~~ The compensation of the Director of Public Works shall be fixed by the Village Manager, with the approval of the Council.

Section 2.64.040 Powers and Duties.

~~—D. Powers and Duties.~~ The Director of Public Works shall be subject to the control and direction of the Village Manager and shall be head of the Department of Public Works. Subject to the approval of the Village Manager, the Director of Public Works shall have both control over all of the property and employees of the Department of Public Works and the power to appoint and remove employees as required for the efficient operation of the Department. In addition, the Director of Public Works shall have the following duties, functions and responsibilities:

1. To maintain all public streets, alleys, roads, bridges, culverts, sidewalks and other structures pertaining to such public streets, alleys, roads, bridges, culverts, sidewalks and other structures in the Village;
2. To operate and maintain all public sewers and drains in the Village;
3. To maintain and protect trees located in the public streets and upon other public property;
4. To maintain all buildings, grounds and equipment belonging to the Village, except that which is expressly delegated to the supervision of other officers and departments;
5. To operate the municipal waste system in accordance with the provisions of Chapter 8.16 of this code.

6. To operate and maintain the stormwater utility system in accordance with the provisions of Chapter 13.16 of this code.

(Ord. MC-228-99 § 1 (part), 1999; Ord. MC-192-97 § 3, 1997; prior code § 3.09)

SECTION 6: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 7: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this ____ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2014.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____ 2014.

Introduced:

Passed and Approved:

ATTACHMENT 1

MFSG TABLE OF POLICY ISSUES

October 1, 2013 Packet, Page 37

Policy Issue	Recommendation
What impervious area features should be included in the development of the master account billing file?	All impervious area features should be captured within the master account billing file.
Should semi-pervious area features be addressed in the Village stormwater billing file?	Semi-pervious features should not be included in the master account billing file.
How should the Village bill stormwater fees for multi-family and commercial properties?	Stormwater fees for all parcels in the Village should be included on the water utility bill.
How should the Village bill properties that do not currently receive a utility bill?	A separate stormwater bill should be established for parcels without utility service.
How should private road impervious area be allocated among parcels within the Village?	Private road impervious area should be allocated based on the amount of impervious area falling within the parcel boundaries.
How should the Village handle the allocation of impervious area for multi-family residential and commercial properties with multiple water service meters?	The Village should equally allocate impervious area for purposes of developing the stormwater bill for those parcels that receive individual water utility bills.
Should the Village exempt any parcels from the stormwater fee?	Only public roads and right-of-ways should be exempt from the stormwater as these properties serve as a key component of the stormwater system.
Should parcels with minimal or no impervious area be assessed a stormwater fee?	Only parcels with impervious area of greater than 170 square feet (a tenth of an ERU rounded down) should be assessed a stormwater fee.
Should the Village offer stormwater fee credits?	The Village should offer a limited credit program for non-residential on-site stormwater management and any parcel that discharges outside the Village system.
Should the Village offer stormwater incentives?	Stormwater incentives should be offered on a first come first served basis beginning in Fiscal Year 2015.

In most cases the actual numbers of parcels that are impact by each policy issue very are limited. The outlined credit program is the one policy issue which potentially has the most significant impact on the amount of the stormwater fee.

Recommendation:

Review MFSG’s report and recommendations and provide policy direction on each of the identified issues.

Attachments:

1. MFSG Policy Issue Report

ATTACHMENT 2

VILLAGE COUNCIL MINUTES

October 1, 2013

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
October 1, 2013**

(Approved: October 15, 2013)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Council Chambers on Tuesday, October 1, 2013, at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Arthur Braun, Jack Buck, Richard Kates, and Stuart McCrary. Absent: Trustees Joe Adams and Patrick Corrigan. Also present: Village Manager Robert Bahan, Assistant to the Village Manager Megan Pierce, Village Attorney Katherine Janega, Finance Director Ed McKee, Director of Public Works Steve Saunders, Director of Community Development Mike D’Onofrio, Assistant Planner Ann Klaassen, Cub Scout Den 7 from Crow Island School, and approximately 25 persons in the audience.
- 2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) October 8, 2013 Study Session. All of the Council members present indicated that they expected to attend.
 - b) October 10, 2013 Budget Meeting. All of the Council members present indicated that they expected to attend.
 - c) October 14, 2013 Budget Meeting. All of the Council members present indicated that they expected to attend.
 - d) October 15, 2013 Regular Meeting. All of the Council members present indicated that they expected to attend.
 - e) October 30, 2013 Budget Meeting. All of the Council members present indicated that they expected to attend.
- 4) Approval of the Agenda. President Greable welcomed the members of Cub Scout Den 7 who were in attendance, after which Trustee Braun, seconded by Trustee Buck, moved to approve the Agenda. By roll call vote the motion carried. Ayes: Trustees Braun, Buck, Kates and McCrary. Nays: None. Absent: Trustees Adams and Corrigan.
- 5) Consent Agenda
 - a) Village Council Minutes.
 - i) September 10, 2013 Study Session.
 - ii) September 17, 2013 Regular Meeting.
 - b) Warrant Lists Nos. 1815 and 1816. Approving Warrant List No. 1815 in the amount of \$2,808,817.94, and Warrant List No. 1816 in the amount of \$471,476.31.
 - c) State Bid – Salt Purchase. Approval of the purchase of rock salt through the State of Illinois Cooperative purchasing program for \$51.69 per ton.

- d) Ordinance M-13-2013: 672 Maple Street Zoning Variation – Adoption. An Ordinance granting zoning variations to allow the replacement of the nonconforming screened porch and detached garage on the Subject Property.
- e) Resolution R-29-2013: Second Amendment to New Cingular Cell Site Agreement at 410 Green Bay Road – Adoption. A Resolution approving the second amendment to the 1996 license agreement with New Cingular Wireless PCS, for the use of the Public Safety Building monopole.

Trustee Braun, seconded by Trustee Buck, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Braun, Buck, Kates and McCrary. Nays: None. Absent: Trustees Adams and Corrigan.

- 6) 2013 Winnetka Preservation Awards. Landmark Preservation Commission (LPC) Chair Louise Holland introduced her fellow Commissioners, Susan Curry, Beth Ann Papoutsis and Anne Grubb. She explained that the Preservation Awards program honors construction projects in the Village that preserve the character of the Village’s housing stock. This year’s winners are all rehabilitation projects that were sympathetic to each home’s original design and honored the building styles and materials.

Chair Holland presented the awards to: Tom and Georgie Geraghty, 661 Blackthorn; John and Tory Raith, 577 Cherry; and Mark and Melissa Iserloth, 823 Humboldt. Ms. Holland encouraged all Winnetkans who are engaged in a home rehabilitation to apply for a Preservation Award.

Trustee Kates congratulated the homeowners on their efforts to preserve their homes.

- 7) Stormwater Update.
 - a) Stormwater Utility Implementation. President Greable explained that in May, the Village Council formally endorsed a Stormwater Improvement Program at an estimated cost of \$41.4 million, proposed to be funded with a combination of General Fund reserves and bonds, to be repaid with a stormwater utility fee. The Village has engaged Municipal & Financial Services Group (MFSG) to assist with policies and procedures related to the stormwater utility. MFSG has prepared a report identifying the major policy issues that are unresolved and require guidance from the Village Council.

Village Engineer Steve Saunders said implementation of the stormwater utility requires a number of policy decisions from the Council, which have been laid out on page 37 of the agenda packet. He introduced MFSG’s David Hyder, to review the report and discuss the open issues with the Council.

Mr. Hyder gave a presentation explaining the outstanding policy questions that need to be resolved, along with MFSG’s recommendations.

- 1. **Impervious area.** Method for assessing stormwater fees.
Policy issue: What impervious area features should be included for billing?
Recommendation: Capture all impervious features.
- 2. **Semi-pervious area.** Inclusion of areas comprised of uncompacted stone, dirt or similar material.
Policy issue: Should semi-pervious features be addressed in stormwater billing file?
Recommendation: Not recommended, given the uncertainty of the data available.

3. **Billing for multi-family and commercial properties.** Multi-family and commercial properties have meters for either electric, water, or both services together.
Policy issue: How should the Village bill for these properties?
Recommendation: Place stormwater fee for all Village parcels on the water bill.
4. **Billing for parcels with no utility service.** There are properties in the Village with impervious area that do not have water and/or electric service.
Policy issue: How should the Village bill these properties?
Recommendation: Generate separate stormwater bills for such parcels.
5. **Impervious area for private roads.** Allocation among parcels within the Village.
Policy issue: How should impervious area be allocated on private roads?
Recommendation: Allocate based on the amount of road area within each parcel's boundaries.
6. **Impervious area allocation for multifamily and commercial properties with individual water service.** Some of these properties are on the same parcel but have multiple water meters.
Policy issue: How should allocation be handled for these properties?
Recommendation: Divide impervious area allocation equally for multi-family and commercial properties that have multiple water service meters.
7. **Exemptions.** Most utilities include all property types, except public roads and rights-of-way.
Policy issue: Should any properties be exempt from the stormwater fee?
Recommendation: Exempt only public roads and rights-of-way.
8. **Parcels with minimal or no impervious area.** Limited areas within the Village that have little amount or are vacant.
Policy issue: Should these parcels be assessed a stormwater fee?
Recommendation: Assess only parcels with impervious area over 170 square feet (1/10 ERU).
9. **Stormwater fee credits.** A reduction in the fee charged to a qualifying property in return for on-site stormwater management that may reduce the Village's stormwater expenditures.
Policy issues: Should the Village offer stormwater fee credits?
Recommendation: Offer credits to: (i) non-residential parcels that provide on-site stormwater management exceeding the current Village standards, with a maximum credit of 25%; and (ii) any parcel that directly discharges outside the Village system, with a maximum credit of 50%.

10. **Incentives.** These are one-time reimbursements/rebates for the installation of stormwater credits such as rain barrels, rain gardens, permeable pavement, etc., to encourage participation in stormwater management.

Policy Issue: Should the Village offer stormwater incentives?

Recommendation: Offer an incentives program for parcel owners on a first-come, first-served basis, beginning in 2015.

Responding to a question about private roads, Mr. Saunders explained that private roads are not considered stormwater conveyances like public streets are, because private roads lack curbs and gutters, and are not maintained like public streets.

In answer to questions from the Council, Mr. Saunders recalled that at the last discussion on the issue of credits and incentives, the Council requested more information about how the mechanisms fit into a stormwater utility vs. a tax, and also how other stormwater utilities address the issue. He noted that credits encourage practices that reduce impacts on the stormwater system, and incentives foster behavior that is beneficial for stormwater quality.

Bob Footlik, speaking for his mother Sylvia Footlik at 1548 Tower Road: Mr. Footlik said believes the Northwest Winnetka stormwater project will exacerbate flooding in his mother's neighborhood.

Mr. Saunders said concerns of the Northwest Winnetka neighbors were heard at the last Stormwater Town Hall meeting, and that Christopher B. Burke Engineering, Ltd. (CBBEL) has been asked to reconfirm their hydraulic modeling. In addition, a meeting will be held with these neighbors to respond to their concerns, and no construction is scheduled to start in the area before spring of 2014.

Marc Hecht, 1096 Spruce Street: Mr. Hecht had questions about the credit and incentive aspects: i) clarify what a direct discharge to the lake is; ii) define "first-come, first-serve" and clarify whether there is dollar cap to an incentive program; and iii) how will the Village determine that detention ponds are actually working?

Mr. Hyder explained that direct discharge to the lake can be either a natural process or accomplished with pipes and an engineer would determine if 100% of the runoff drains to the lake; "first-come, first-served" means exactly what it says, and a dollar cap is proposed for any incentive program.

With regard to retention ponds, Mr. Saunders explained that the Village would confirm the calculated volume of detention, check the grading and water flow, and perform final inspections to measure that the restrictor pipe is in place correctly. He noted that credits are provided for volumes above the requirement on the building permit.

Martin Hirsch, 1578 Hazel Lane: Mr. Hirsch thought the incentives will be a loss leader for the Village and he added that the activities would be difficult for the Village to verify.

Geoff Higgins, 329 Woodland Avenue: Mr. Higgins asked if an incentive would be awarded to a property where the water goes into the gardens and not into the stormwater system.

Mr. Saunders answered in the affirmative, in the event that the Village offers an incentive program that includes rain gardens that are designed to absorb water.

Penny Lanphier, 250 Birch Street: Ms. Lanphier asked the Council if a final decision was being made tonight or if there would be more opportunity for public discussion.

Manager Bahan explained that Village Staff needs Council direction to proceed with the utility database so sample calculations could be provided to residents. Final approval of the utility will come before the Council at a future date, at which time there will be further opportunity for public discussion.

It was suggested that private road associations receive the utility bill for their roads and divide it among their members.

Mr. Saunders said that method would involve a more complicated computation, but that as long as it's a one-time only project and the Village does not get involved in a disagreement with a private road association, it should be possible.

The Council discussed the other open policy issues, finding consensus in all but the issues of credits and incentives. They agreed to proceed as recommended by MFSG on policy questions 1 through 8, and to tweak some components later, if necessary.

The Council discussed the credit and incentive options with Messrs. Hyder and Saunders, directing staff to defer these issues so staff could gather additional information. The fee calculator will be based on the other eight policy questions.

8) Ordinances and Resolutions.

a) Ordinance MC-6-2013: Adding Code Chapter 4.23 – Natural Gas Tax – Adoption.

Finance Director Ed McKee explained that a drop-off in natural gas revenues in the last few years, in conjunction with findings from a revenue audit performed Azavar, led to consideration of eliminating a tax differential that exists between the Village's natural gas users. Azavar recommended implementing a natural gas use tax for customers of out-of-state natural gas suppliers, so these users pay taxes similar to those paid by customers that use local suppliers.

Council discussion centered on the fee Azavar would collect as part of their contract with the Village for performing the audit and locating missing revenue. They did not feel the natural gas tax is something new that was uncovered, and should not be subject to Azavar's fee.

Mr. McKee said he would discuss the contract with the Village Attorney, do some additional research and bring the issue back to the Council.

9) Public Comment and Questions.

Mimi Turney, 854 Boal Parkway: Ms. Turney spoke on behalf of the 16 homeowners on Boal, who unanimously oppose the stormwater project for Northwest Winnetka as they believe it will increase flooding in their neighborhood.

Matthew Wendt, 607 Willow Road: Mr. Wendt urged the Council to ensure that building the tunnel will not further pollute the lake, as he believes beaches will be degraded by the stormwater outfall. He said a referendum is needed and commented that the Village has proposed minimal green infrastructure to mitigate stormwater pollution. He suggested using the post office land along with other Village open spaces to store stormwater.

Jim Haft, 850 Heather Lane: Mr. Haft spoke on behalf of the homeowners associations of Heather, Hickory and Hazel Lanes, who are all opposed to the Northwest Winnetka Project as they believe it will harm the natural habitat of the area; he also suggested minimal use of salt on the roads in winter.

Marc Hecht, 1096 Spruce Street: Mr. Hecht asked when President Greable's speeches from the Stormwater Town Hall meetings will be posted on the Village website, and he protested the format that Council agenda packets are placed on the website so that pages cannot be extracted.

Manager Bahan said Village Staff is in the process of compiling all of the information from the Stormwater Town Hall meetings for posting to the web and that information is being coordinated according to the Village President's direction.

Bob Gibson, 1550 Hazel Lane: Mr. Gibson asked the Council to re-evaluate the Northwest Winnetka Project.

Mr. Saunders reiterated that the Village has heard the concerns of neighbors in Northwest Winnetka, and will meet with them and look into their concerns to ensure that problems do not worsen in their area as a result of the Project. He explained that the purpose of tonight's meeting was to get guidance from the Council to be able to move forward with the stormwater utility calculator for residents.

Trustee Kates acknowledged that stormwater pollution to the lake was a concern raised at both Stormwater Town Hall meetings, and he suggested the Council examine the issue of coal tar sealant, which has been outlawed in several communities.

Trustee Braun said the Council takes residents' concerns very seriously and he encouraged the community to provide feedback. Regarding the issue of the tunnel polluting the lake, he asked for facts, not opinion, to be brought before the Council for its consideration. He noted that the Stormwater Implementation Plan has been two years in the making, and was undertaken after residents came to the Council after the July 2011 storm demanding a solution to flooding.

10) Old Business. None.

11) New Business. None.

12) Appointments.

- a) Trustee McCrary, seconded by Trustee Braun, moved to appoint Chuck Dowding as the Chair of the Environmental & Forestry Commission, effective immediately. By voice vote, the motion carried.
- b) Trustee Braun, seconded by Trustee McCrary, moved to re-appoint Lawson Whitesides to the Environmental & Forestry Commission, effective immediately. By voice vote, the motion carried.

13) Reports.

a) Village President. No report.

b) Trustees.

i) Trustee McCrary reported that at the Fire Pension Board last week, it was revealed that the return on investments over the last six months, one year, five years, and ten years was above the actuarial assumptions.

c) Attorney. No report.

d) Manager. No report.

14) Executive Session. None.

15) Adjournment. Trustee Braun, seconded by Trustee Buck, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 9:15 p.m.

Recording Secretary

ATTACHMENT 3

MFSG Draft Stormwater Utility Fee Credit Provision

Section xx.8. Stormwater utility fee credits.

The Village Council desires to encourage and recognizes the benefits of on-site stormwater management by individual property owners. As a result parcels shall be eligible to receive a stormwater utility fee credit based upon the requirements of the Village Stormwater Credit and Incentive Manual. Any credit allowed against the stormwater utility fee is conditioned upon continuing compliance with the Village Stormwater Credit and Incentive Manual.



Agenda Item Executive Summary

Title: MC-3-2014 - Adding Code Chapter 4.23 - Natural Gas Use Tax (Introduction)

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 02/04/2014

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

- March 18, 2003 The Village Council adopted Ordinance MC-4-2003, establishing a 5% tax on gross receipts received by the regulated natural gas utility that serves Winnetka.
- October 1, 2013 The Village Council considered an ordinance that would establish a 5% natural gas use tax, for those who purchased natural gas from other providers in the unregulated, open market. No action was taken, due to a contract issue with the company that had been auditing select Village revenues and suggested the ordinance.

Executive Summary:

When the Village imposed the statutorily authorized 5% natural gas tax in 2003, most natural gas customers in the Village purchased their gas from the local utility, which was regulated by the State. The tax was based on the utility's gross receipts and generated annual revenues of around \$500,000 when it was first implemented. The Village has noticed a decline in natural gas tax revenues over the last few years, with the total amount for the fiscal year ending 3/31/2013 being only \$295,395. While some of this decline is due to lower natural gas prices, the company auditing tax revenues attributed the decline to an increase in out-of-state gas purchases; the out-of-state companies are part of interstate commerce and thus not subject to taxation by the Village.

Ordinance MC-3-2014 exercises the Village's home rule powers and adds Chapter 4.23 to the Village Code, to establish a new gas use tax at the rate of \$0.05 per therm. Based on a model ordinance that has been implemented in other communities, Chapter 4.23 has been structured to correspond to the Village's Code structure. To avoid the possibility of double taxation, Section 4.23.020(D) limits the tax to those who are not paying the gross receipts tax under Chapter 4.22. The same section also clearly states the tax does not apply to any person, business or activity that is legally tax-exempt.

Section 4.23.040 provides for the new tax to be collected by the gas utility that pays the gross receipts tax, since it also issues bills to local customers of out-of-state gas providers, and sets out the terms for a contract to do so. Pending contact with the local utility's attorneys, the effective date of the tax has been left blank. (The October draft left a two-month implementation window.) Finally, Section 4.23.060 addresses the effect of Village's Taxpayers Rights and Responsibilities Ordinance.

Recommendation / Suggested Action:

Consider a motion to introduce Ordinance MC-3-2014, titled "An Ordinance Amending Title 4 of the Winnetka Village Code to Establish a Tax on the Use of Natural Gas in the Village of Winnetka."

Attachments:

MC-3-2014 "An Ordinance Amending Title 4 of the Winnetka Village Code to Establish a Tax on the Use of Natural Gas in the Village of Winnetka"

**AN ORDINANCE
AMENDING TITLE 4 OF THE WINNETKA VILLAGE CODE
TO ESTABLISH A TAX ON THE USE OF NATURAL GAS
IN THE VILLAGE OF WINNETKA**

WHEREAS, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare, and the power to tax; and

WHEREAS, on March 18, 2003, pursuant to Section 8-11-2 of the Illinois Municipal Code, 65 ILCS 5/8-11-2, the Council of the Village of Winnetka (“Village Council”) passed Ordinance MC-4-2003, which added Chapter 4.22 to the Winnetka Village Code, titled “Gas Distribution Occupation Tax,” to authorize a 5% tax on the gross receipts received by persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Winnetka; and

WHEREAS, the Gas Distribution Occupation Tax applies to persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the Village, but not for resale; and

WHEREAS, revenues from the Gas Distribution Occupation Tax have been in decline due to an increase in gas purchases from businesses that distribute, supply, furnish or sell gas from outside the Village, which are not subject to Gas Distribution Occupation Tax; and

WHEREAS, in furtherance of its home rule powers, the Village Council finds and determines that it is necessary and desirable for the Village Council to amend the Village Code regarding taxation by creating a municipal gas use tax; and

WHEREAS, this Ordinance has been placed on the Village Council’s agenda and made available for public inspection at Village Hall and on the Village’s web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Winnetka, as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 4 of the Winnetka Village Code, “Revenue and Finance,” is hereby amended by adding a new Chapter 4.23, which shall be titled “Gas Use Tax,” and shall provide as follows:

[Remainder of this page intentionally left blank.]

Chapter 4.23

Municipal Gas Use Tax

Sections:

- 4.23.010 Definitions.**
- 4.23.020 Use tax.**
- 4.23.030 Effective date of tax.**
- 4.23.040 Collection of tax by public utility.**
- 4.23.050 Taxpayer's books and records.**
- 4.23.060 Effect of Local Taxpayers' Rights and Responsibilities Ordinance.**

Section 4.23.010 Definitions.

As used in this Chapter, the following terms, words and phrases shall have the meaning given in this section:

“Person” means any individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation or political subdivision of this state, or a receiver, trustee, conservator or other representative appointed by order of any court.

“Public Utility” means a public utility as defined in Section 3-105 of the Public Utilities Act.

“Public Utilities Act” means the Public Utilities Act as amended, from time to time (220 ILCS 5/1-101 *et seq.*).

“Retail Purchaser” means any Person who purchases gas in a Sale at Retail.

“Sale at Retail” means any sale of gas by a gas retailer to a Person for use or consumption, and not for resale. For this purpose, the term “retailer” means any Person engaged in the business of distributing, supplying, furnishing or selling gas.

“Use Tax” means the tax established pursuant to this Chapter and imposed on Retail Purchasers who purchase gas for use or consumption within the corporate limits of the Village.

Section 4.23.020 Use tax.

A. Use tax imposed. Except as otherwise provided by this Chapter, a tax is imposed on the privilege of using or consuming gas in the Village that is purchased in a Sale at Retail at the rate of five cents (\$0.05) per therm.

B. Applicability of use tax. The ultimate incidence of and liability for payment of the tax is on the Retail Purchaser, and nothing in this Chapter shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.

C. Payment of use tax.

1. The Retail Purchaser shall pay the tax, measured by therms of gas delivered to the Retail Purchaser's premises, to the Public Utility designated to collect the tax pursuant to Section 4.23.040 of this Chapter on or before the payment due date of the Public Utility's bill first reflecting the tax, or directly to the Village Treasurer on or before the fifteenth day of the second month following the month in which the gas is delivered to the Retail Purchaser if no Public Utility has been designated to collect the tax pursuant to Section 4.23.040 or if the gas is delivered by a person other than a Public Utility so designated.

2. A Person who purchases gas for resale and therefore does not pay the tax imposed by this Chapter with respect to the use or consumption of the gas, but who later uses or consumes part or all of the gas, shall pay the tax directly to the Village Treasurer on or before the fifteenth day of the second month following the month in which the gas is used or consumed.

D. Limitation of use tax.

1. Nothing in this Chapter shall be construed to impose a tax upon any person, business or activity which, under the constitutions of the United States or State of Illinois, may not be made the subject of taxation by the Village.

2. To prevent multiple taxation, the use of gas in the Village by a Retail Purchaser shall be exempt from the tax imposed by this Chapter if the gross receipts from the Sale at Retail of such gas to the Retail Purchaser are properly subject to a tax imposed upon the seller of such gas pursuant to the Village's gas distribution occupation tax, as provided in Chapter 4.22 of this Code.

Section 4.23.030 Effective date of tax.

The use tax shall apply to gas for which the delivery to the Retail Purchaser is billed by a Public Utility on or after _____, 2014.

Section 4.23.040 Collection of tax by Public Utility.

A. Contract with Public Utility. The Village Manager and Village Finance Director are each authorized to enter into a contract for collection of the tax imposed by this Chapter with any Public Utility providing gas service in the Village.

B. Content of contract. The contract shall include and substantially conform with the following provisions:

1. the Public Utility will collect the tax from Retail Purchasers as an independent contractor;

2. the Public Utility will remit collected taxes to the Village Treasurer no more often than once each month;

3. the Public Utility will be entitled to withhold from tax collections a service fee equal to three per cent (3%) of the amounts collected and timely remitted to the Village Treasurer;

4. the Public Utility shall not be responsible to the Village for any tax not actually collected from a Retail Purchaser; and
5. such additional terms as the parties may agree upon.

Section 4.23.050 Taxpayer's books and records.

Every taxpayer shall keep accurate books and records, including original source documents and books of entry, denoting the activities or transactions that gave rise, or may have given rise to any tax liability or exemption under this Chapter. All such books and records shall, at all times during business hours, be subject to and available for inspection by the Village.

Section 4.22.060 Effect of Local Taxpayers' Rights and Responsibilities Ordinance.

The tax imposed by this Chapter is a locally imposed and administered tax as defined in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code, which provides for the collection, enforcement and administration of locally imposed and administered taxes and establishes uniform rights and responsibilities of the taxpayers subject to those taxes. To the extent that the provisions of this Chapter conflict with Chapter 4.44, the provisions of Chapter 4.44 shall prevail.

SECTION 3: All ordinances or parts of ordinances thereof in conflict with this Ordinance are hereby repealed to the extent of any such conflict.

SECTION 4: Any Section or provision of this Ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

[Remainder of this page intentionally left blank.]

SECTION 5: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 6: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2014.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ___ day of _____, 2014.

Introduced:
Passed and Approved: