



**AGENDA
VILLAGE OF ROSELLE
SPECIAL MEETING
VILLAGE BOARD COMMITTEE OF THE WHOLE
November 5, 2018**

Meeting Chaired by Mayor Andy Maglio

1. Roll Call

2. Approval of Prepared Agenda

3. Citizen Comments/Questions

Residents who wish to address the Board, please come to the podium, state your name and address, and limit your comments to three minutes.

4. FY 2019 Proposed Budget Presentation

Documents:

[FY 2019 PROPOSED BUDGET PRESENTATION.PDF](#)

5. Annexation Policy Review

Documents:

[ANNEXATION POLICY REVIEW.PDF](#)

6. Executive Session

- A. Personnel - appointment, employment, and performance of the Village Administrator
- B. Executive Session Minutes
- C. Collective Bargaining
- D. Litigation
- E. Real Property
- F. Security Procedures
- G. Risk Management

7. Citizen Comments/Questions

Residents who wish to address the Board, please come to the podium, state your name and address, and limit your comments to three minutes.

8. Other Business

9. Adjourn

In compliance with the Americans with Disabilities Act, any person with a disability requiring a reasonable accommodation to participate in the meeting should contact Jason Bielawski, ADA Compliance Officer, 8:30 a.m. to 5:00 p.m. Monday through Friday, telephone: 630-671-2810, email jbielawski@roselle.il.us.

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AGENDA ITEM # 4

**AGENDA ITEM EXECUTIVE SUMMARY
Committee of the Whole Meeting
November 5, 2018**

Item Title: FY 2019 Proposed Budget Presentation

Staff Contact: Jeffrey D. O'Dell, Village Administrator

COMMITTEE OF THE WHOLE ACTION

Consider staff's recommendation on the FY 2019 Proposed Budget.

Executive Summary:

The management team will present the FY 2019 Proposed Budget. This will be the first of three scheduled budget review meetings.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? N/A

Attachments:



AGENDA ITEM # 5

AGENDA ITEM EXECUTIVE SUMMARY Committee of the Whole Meeting November 5, 2018

Item Title: **Annexation Policy Review**

Staff Contact: Jeffrey D. O'Dell, Village Administrator

COMMITTEE OF THE WHOLE ACTION

Review the Village of Roselle's existing annexation policy, discuss Section 18.9 of the Village Code, and consider alternatives for amending the existing annexation policy.

Executive Summary:

Per the direction of the Village Board at its October 8, 2018 meeting, I along with other staff members have:

- (1) Met with individual Trustees and consulted with the Village Attorney to complete further analysis of the Village's current annexation policy,
- (2) Evaluated the sidewalk payment obligation requirement included in a pre-annexation agreement for unincorporated property owners who are not contiguous to the Village of Roselle seeking water or sewer utilities,
- (3) Reviewed Section 18.9 of the Village Code to determine if there are inconsistencies with the current annexation policy, and
- (4) Developed two options for amending the Village's existing annexation policy.

The Village Board's original objective was to review its prior annexation policy in an effort to ensure there were no inconsistencies between its ordinances and policies or inequities created between unincorporated property owners and our own residents. Staff's recent efforts to further evaluate and develop alternatives to the Village's new annexation policy has not eliminated the potential for these continued inconsistencies and inequities. While the two options for consideration address concerns raised by the unincorporated property owners, they have not eliminated these inconsistencies or inequities. Therefore, I would recommend the Village Board first revisit Section 18.9 of the Village Code (Sidewalk to be Constructed when Building Built) before making any decision on alternatives to the existing annexation policy.

Current Annexation Policy

- Unincorporated property owners who are not contiguous to the Village of Roselle seeking water and/or sewer utilities from the Village must enter into a 20 year pre-annexation agreement.
- The petitioner is responsible for paying all pre-annexation permit fees, an escrow fee, and all costs related to connection to the Village's water and/or sewer utility. The pre-annexation permit fee is \$100, the escrow fee is \$500, and the connection fees for tap on and recapture are dependent on the county the property owner resides in and lineal feet of property frontage. For example, the tap on fee for sewer connection is \$1,500 in DuPage County and \$750 in Cook County. The escrow fee covers any attorney, public hearing, or recording costs.
- If there are no public sidewalk on contiguous public right of way, the petitioner, at the time of approval of the pre-annexation agreement shall pay the Village, in cash, an amount equal to 110% of the Village Engineer's estimate of costs for the construction of a public sidewalk for all public right of way contiguous to the property.
- A property owner can pay the cost of the sidewalk obligation without interest over a 5 to 10 year period, the longer period if the property owner owns a corner lot.
- Property owners paying cash have the ability to receive a refund, without interest, if they decide to disconnect the property when the 20 year pre-annexation agreement expires with the following conditions, (a) they must still be the owner of the property, (b) the property has not been annexed, (c) they are disconnecting from Village utility services, and (d) if the property owner sells the property during the 20 year period, the sidewalk dollars remain with the Village.
- Once the property becomes contiguous to the corporate limits of the Village of Roselle, the Village, at its sole discretion, may thereafter enact an ordinance annexing the property to the Village.

Option 1

- Unincorporated property owners who are not contiguous to the Village of Roselle seeking water and/or sewer utilities from the Village must enter into a 20 year pre-annexation agreement.
- Property owner pays all applicable permit, escrow, and connection fees as provided for in current annexation policy.
- Property owner pays the Village the estimated cost established by the Village to install a sidewalk today.
- A restrictive covenant is placed on the property that runs with the land, binding the Village of Roselle to the condition that the cost of the sidewalk obligation has already been met by the property owner.
- Upon annexation, the property owner pays no additional costs required to install the sidewalk, i.e. cost increase due to inflation. The Village of Roselle assumes all costs above the original estimate required to install the sidewalk

should the cost to install the sidewalk be more upon annexation and is responsible for installing the sidewalk once the property is annexed.

- The Village of Roselle continues to allow the property owner to pay for its sidewalk obligation over a 5 or 10 year period, the longer period if the property owner owns a corner lot.

The Village Attorney has opined that Option 1 is lawful and can be structured into a pre-annexation agreement and restrictive covenant.

Option 2

- Unincorporated property owners who are not contiguous to the Village of Roselle seeking water and/or sewer utilities from the Village must enter into a 5 year pre-annexation agreement.
- Property owner pays all applicable permit, escrow, and connection fees as provided for in current annexation policy.
- Property owner is required to pay and install a sidewalk within 6 months of annexation.

The Village Attorney has opined that Option 2 is lawful and can be structured into a pre-annexation agreement.

Staff asked the Village Attorney to provide any additional legal opinion comments as a result of this annexation policy evaluation and development of two alternatives. His comments are as follows:

- The Village's current annexation policy is fully consistent with the law although it presents practical challenges with regards to the actual disconnection of a property owner from the Village's sewer utility.
- The current policy, and Options 1 and 2, are inconsistent with Section 18.9 of the Village Code and will require an amendment before a final policy is determined.
- The Village may require the term of a pre-annexation agreement to be less than 20 years.
- The Village may offer property owners alternative options for a pre-annexation agreement and probably not violate the equity principle. However, a single option provides greater legal protection to the Village.
- If the Village Board approves a new annexation policy with one or two options, then all future agreements must reflect one of these options as the equity and uniformity requirement is important to the courts.
- The proposed options may require amendments of existing pre-annexation agreements but only under the most current active policy signed by people who have previously entered into an agreement so they may take advantage of more favorable terms represented in Options 1 and 2, i.e. applications of policy to similarly situated persons must be equitable. This should not apply to prior annexation agreements where all legal triggers have occurred requiring installation unless the Village Board elects to relieve persons of that obligation that are annexed and currently obligated by contract to install sidewalks.

- The Village should adopt a process granting property owners the ability to ask for a hearing should they be subject to disconnection for failing to secure a new pre-annexation agreement.

Other Staff Comments

With regards to Option 1, will the property owner be responsible for all other land improvements required to install the sidewalk? Recently approved pre-annexation agreements require the property owner to be responsible for all other public improvements necessary to construct a public sidewalk.

With regards to Option 1, the Village Attorney has opined that the restrictive covenant should only be applicable to current owners and not a subsequent purchaser as developers building on these lots would be relieved of the cost of a sidewalk obligation that other developers in the Village would have to pay. If developers have different cost obligations for similar situations, there is a substantial likelihood that the policy will violate the court's equity principal.

With regards to Option 1, what if, as a result of its fiscal condition at the time of annexation, the Village decides not to allocate tax payer dollars to install the sidewalk or other land improvements needed to install the sidewalk. Should the property owners receive a refund?

With regards to Option 2, if the required sidewalk is not installed within 6 months of annexation, the property owner should be responsible for all costs the Village incurs to initiate legal action to enforce its annexation agreement, including placing a lien on the property.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? As noted on the attached spreadsheet, there are 14 unincorporated property owners with pre-annexation agreements that have expired, 6 unincorporated property owners that have signed new pre-annexation agreements, and 2 that have petitions for new pre-annexation agreements pending final decision by the Village Board on its current policy.

Attachments:

Spreadsheet with Inventory of Expired Pre-annexation Agreements

Single Family Residence Pre-Annexation Fee Schedule

Village of Roselle Annexation Policy – Recent History Review

Address	Ordinance #	Current Owner is Original Signer?	Current Connections	Sidewalks
SIDEWALKS OWED				
6N565 Glendale	1993-2363	Yes	Water & Sewer	<ul style="list-style-type: none"> • Original - upon annexation • 294 lf (\$12,127.50 corner)
23W727 Turner Avenue	1993-2285	No	Sewer	<ul style="list-style-type: none"> • Original - upon annexation • 120.12 lf (\$4,954.95)
132 E Nerge	1993-2271	No	Sewer	<ul style="list-style-type: none"> • Original - upon annexation • 204 lf (\$8,415)
23W572 Turner Avenue	1992-2249	No	Sewer	<ul style="list-style-type: none"> • Original - upon annexation • 100 lf (\$4,125)
23W686 Turner Avenue	1992-2247	No	Sewer	<ul style="list-style-type: none"> • Original - upon annexation • 120 lf (\$4,950)
23W610 Turner Avenue	1992-2243	Yes	Sewer	<ul style="list-style-type: none"> • Original –upon annexation • 100 lf (\$4,125)
23W706 Turner Avenue	1992-2219	No	Sewer	<ul style="list-style-type: none"> • Original –upon annexation • 120 lf (\$4,950)
6N721 Harvey	1983-1142	No	Sewer	<ul style="list-style-type: none"> • Original – no requirements • 114.83 lf (\$4,736.74)
23W667 Turner Avenue	1992-2245	Yes	Sewer	<ul style="list-style-type: none"> • Original – upon annexation, corner side were to be installed by 1997 • 289.99 lf (\$11,962.09)
23W743 Turner Avenue	1992-2158	No	Sewer	<ul style="list-style-type: none"> • Original – installed by 1995 • 120.12 lf (\$4,954.95)
23W577 Turner Avenue	1992-2156	No	Sewer	<ul style="list-style-type: none"> • Original –installed by 1995 • 100 lf (\$4,125)
23W560 Turner Avenue	1992-2155	Yes	Sewer	<ul style="list-style-type: none"> • Original – installed by 1995 • 100 lf (\$4,125)
23W765 Bryn Mawr Avenue	1990-1956	No	Sewer	<ul style="list-style-type: none"> • Original –installed by 1993 • 120 lf (\$4,950)
23W565 Turner Avenue	1992-1702	No	Sewer	<ul style="list-style-type: none"> • Original –installed by 1993 • 100 lf (\$4,125)
7N040 Harvey*	1986-1504	No	Water	<ul style="list-style-type: none"> • Original – upon annexation • 315 lf (\$12,993.75) corner
*Property owner is in the process of disconnecting from the Village's water system				
WATER OWED				
23W580 Bryn Mawr Avenue	1990-1958	No	Sewer	<ul style="list-style-type: none"> • Original – connect to water • Water connection (available) • Sidewalks existing
23W450 Bryn Mawr Avenue	1989-1787	No	Sewer	<ul style="list-style-type: none"> • Original – connect to water • Water connection (available) • Sidewalks existing

TO BE ANNEXED				
23W710 Maple Avenue	1992-2240	No	Water & Sewer	<ul style="list-style-type: none"> • Original - Sidewalks not required
PETITION RECEIVED				
22W328 Irving Park Road	1996-2532	No	Water	<ul style="list-style-type: none"> • Original – no specification of when • 110 lf (\$4,537.50)
22W203 Irving Park Road	1988-1773	No	Water	<ul style="list-style-type: none"> • Original – upon annexation • 100 lf (\$4,125)
RENEWED ALREADY				
23W584 Turner Avenue	1990-1957		Sewer	Approved 3/26/18, on 5-year sidewalk payment plan
23W684 Walnut	1992-2234		Sewer	Approved 3/26/18, on 5-year sidewalk payment plan
7N031 Hill Avenue	1988-1766		Sewer	Approved 4/23/18, on 5-year sidewalk payment plan
23W611 Bryn Mawr Avenue	1998-2639		Water & Sewer	Approved 4/23/18, on 5-year sidewalk payment plan
22W181 Irving Park Road	1986-1501		Water	Approved on 5/14/18, on sidewalk payment plan
22W340 Irving Park Road	1996-2532		Water	Approved on 5/14/18, on sidewalk payment plan

SINGLE-FAMILY RESIDENCE PRE-ANNEXATION FEES

Unincorporated Address

DUE UPON APPLICATION SUBMITTAL

Application	\$ 100.00
Escrow (partially refundable to cover clerk & attorney's fees)	\$ 500.00

DUE UPON UTILITY CONNECTION

Water (if applicable):

Installation	Private (Your Contractor)
Recapture	\$ varies from none to several thousand
Tap-On (1.0 inch)	\$ 850.00
Water Meter (5/8 by 3/4)	\$ 400.00
Building Permit	\$ 50.00

Sewer (if applicable):

Installation	Private (Your Contractor)
Recapture	\$ varies from none to several thousand
Tap-On	\$ 1,500.00 (DuPage) \$ 750.00 (Cook)
Building Permit	\$ 50.00
Bond (refundable)	\$1,000.00 (if parkway) \$4,000.00 (if cutting street)

Village of Roselle Annexation Policy – Recent History Review

August 8, 2016: The Village Board adopted its 2016-2018 Strategic Plan, which included an initiative to analyze existing annexation policies and practices and to improve them where necessary. Since 1980, the Village Board has approved over 200 annexation agreements. These agreements allow property owners in unincorporated areas near the Village of Roselle to access the Village's sewer and water utilities, and ultimately annex into the Village.

August 22, 2016: The Village Board adopted a new Comprehensive Plan that outlines a specific goal to have the Village of Roselle reach its full growth potential. The Comprehensive Plan includes a chapter on annexation opportunities, outlining an inventory of potential gains in acreage and in population for the Village. This Comprehensive Plan adopted in 2016 is intended to be used as a guide for policy and development in the Village for the next decade.

November 23, 2016: Village of Roselle officials met with Bloomingdale Township officials to clarify the Village's Annexation Policy as it relates to sidewalk installations in unincorporated properties with annexation agreements with the Village. It was determined that it is no longer possible for the Village to install sidewalks on the properties until they are officially annexed into the Village.

February 13, 2017: The Village Board placed a moratorium on the processing of new annexation requests while directing staff to conduct an audit on existing agreements to ensure all contractual requirements are being met. A subcommittee of trustees and staff was charged with conducting the Annexation Policy analysis.

September 25, 2017: The Annexation Policy Subcommittee report to the Village Board identified deficiencies in the current annexation process and inconsistencies in terms and conditions for the agreements. The subcommittee's audit identified existing agreements as being compliant, non-compliant, or expired, with a vast majority of the agreements (nearly 90 percent) in compliance. Seeing long-term value in the continued practice of making annexation agreements with owners of properties that are not yet contiguous to the Village (and therefore not eligible for full annexation), the subcommittee recommended lifting the moratorium on processing new annexation agreements and pursuing those agreements that were either expired or had outstanding obligations to bring them into compliance. The subcommittee also recommended consistent enforcement of its policy of requiring the installation of sidewalks for those properties annexed into the Village. Because of non-compliance issues related to this specific requirement in the past, and the current inability to install sidewalks on the properties until they are officially annexed into the Village, the subcommittee recommended including the pre-payment of sidewalks into a specific sidewalk fund as part of new annexation agreements.

January 2018: Letters were sent to unincorporated property owners with expired annexation agreements or outstanding contractual obligations to the Village requesting action to sign new agreements or bring their existing agreements into compliance.

May 10, 2018: Several unincorporated property owners with expired annexation agreements met with the Mayor, the Village Attorney, and staff regarding their concerns about the Village Board's updated Annexation Policy. Among discussions was the new contractual obligation requiring the pre-payment of sidewalks.

June 11, 2018: Several unincorporated property owners with expired annexation agreements spoke at the Village Board meeting under the Citizen Comments/Questions item in the agenda regarding their concerns with the Village's Annexation Policy.

June 15, 2018: The Mayor sent follow up letters to unincorporated property owners with expired annexation agreements reviewing the sidewalk requirements in the Village's updated Annexation Policy, and providing opportunities to minimize the financial impact on affected property owners by allowing them to make interest-free payments over five years.

July 17, 2018: The Village Attorney sent letters to unincorporated property owners with expired annexation agreements requesting them to sign new annexation agreements in order to legally qualify for the continuation of Village services, including water and/or sanitary sewer connections, or to proceed with disconnection from the Village's utilities within 30 days.

July 26, 2018: The Mayor, Village Attorney, and staff met with representatives from Bloomingdale Township, DuPage County, and State Representative Christine Winger's office concerning sewer and water services provided by the Village of Roselle to unincorporated property owners and the annexation agreements required for those services. The unincorporated properties are represented by and receive a majority of their government services from these taxing bodies.

September 7, 2018: The Village Attorney sent follow-up letters to unincorporated property owners with expired agreements with updates from the meeting with representatives from Bloomingdale Township, DuPage County, and State Representative Christine Winger's office. Additional clarifications about pre-payments for sidewalks were made, and a concession was made to allow affected property owners with corner lots to make interest-free payments over 10 years. The property owners were requested to renew pre-annexation agreements within 14 days or to disconnect from Village's utility services.

September 24, 2018: The Village Board requested that the Annexation Policy be brought back for discussion at a future Village Board meeting. Of the 23 notices originally sent in January 2018, six of the property owners have signed new agreements with the Village or have arranged to become compliant with their existing agreements.

October 8, 2018: The Village Board assigned staff to complete further analysis of the Village's Annexation Policy and to work with the Village Attorney to evaluate alternatives to provide the Village Board with additional information for further consideration.