



AGENDA ITEM # 9A

**AGENDA ITEM EXECUTIVE SUMMARY
Village Board Meeting
September 13, 2021**

Item Title: Klein Sewer Recapture

Staff Contact: Caron Bricks, AICP, Village Planner

VILLAGE BOARD ACTION

Pass an Ordinance Establishing Terms, Charges, and Conditions for Recapture of a Sewer Main Extension on Sycamore Avenue (Klein Sewer Recapture).

Executive Summary:

At the September 28, 2020 meeting, the Village Board discussed Brock Klein’s request for a recapture for extension of both water and sewer utilities to his property at 120 Sycamore Avenue. One major concern for the sewer extension was the fact that the main was not extended by a neighbor as the Village typically requires. Therefore, Mr. Klein had to extend the sewer an additional 100 feet, increasing the cost. The Board directed staff to include language in the recapture ordinance that reimburses Mr. Klein directly for the additional 100 feet of sewer main. The remaining total cost is then divided as normal for a recapture.

The attached ordinance creates a recapture for the sewer main extension. The total cost for the extension was \$18,500 or \$110.96/linear foot. Per the direction received regarding the first 100 feet, \$11,096.77 will be directly reimbursed to Mr. Klein. The ordinance then divides the remaining cost to extend the utility (\$7,403.23) between three property owners: 120 Sycamore (Brock Klein’s property), 7N405 Sycamore and 7N421 Sycamore.

Per the discussion from the September meeting, the Village will own the sewer recapture. Thus, the Village will pay Brock Klein \$16,032.25 from the water/sewer extension fund. Mr. Klein will still pay \$2,467.74. The property owners of 7N405 & 7N421 Sycamore would each owe \$2,467.74 upon annexation and connection to the sewer system (subject to the interest clause in the attached ordinance).

Implications:

Is this item budgeted? The Water/Sewer Extension funds has over \$119,000 to cover the cost of the reimbursement.

Any other implications to be considered?

Attachments:

Ordinance

ORDINANCE 2021-
AN ORDINANCE ESTABLISHING TERMS, CHARGES, AND CONDITIONS FOR
RECAPTURE OF A SEWER MAIN EXTENSION ON SYCAMORE AVENUE

Klein Sewer Recapture

WHEREAS, property on Sycamore Avenue in Roselle, Illinois is subject to an annexation agreement approved by Ordinance 2017-3934 hereinafter (2017-3934) which required its owner Brock Klein, hereinafter the (“Owner”) to connect to Village sanitary sewer as a condition of annexation and,

WHEREAS, the Owner extended the sewer per 2017-3934 to his property; and,

WHEREAS, the engineering and construction of the extension to the Village of Roselle sanitary sewer system (hereinafter “Improvements”) per 2017-3934 is depicted on the Klein Sewer Recapture Area Map that is attached hereto and incorporated herein as if fully set forth as Exhibit A; and,

WHEREAS, the Village of Roselle (hereinafter “Village”) agreed to adopt a recapture ordinance to allow the Owner to recapture the benefits received by other properties upon connection; and,

WHEREAS, the Improvements, which include the Owner’s property, were made at a total cost to the Owner of eighteen thousand five hundred dollars and no cents (\$18,500.00); and,

WHEREAS, the Village Engineer and Village Board has determined that 100’ of the Improvements made by the Owner should not be his financial responsibility; and,

WHEREAS, the Village has elected reimburse for the cost to the Owner of the 100’ of Improvements determined to be eleven thousand and ninety-six dollars and seventy-seven cents (\$11,096.77); and,

WHEREAS, the Village Engineer has determined the equitable share of the cost of the Improvements, less the above mentioned 100’, shall be paid by the property owners receiving benefits from the improvements upon pulling a permit for connection to the improvements. Those properties subject to this recapture are set forth in Exhibit B; and,

WHEREAS, the Village Engineer has determined certain properties abutting Sycamore Avenue may benefit from the Improvements if connected to those

Improvements, which properties are identified in Exhibit B, which is attached hereto and incorporated herein as if fully set forth; and,

WHEREAS, the Village is authorized to adopt an ordinance recapturing the cost of said Improvements pursuant to the Illinois Municipal Code (65 ILCS 5/9-5-1).

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Trustees of the Village of Roselle, an Illinois municipal corporation located in DuPage and Cook Counties, Illinois, as follows:

SECTION 1: The foregoing recitals are incorporated herein as findings, substantive provisions, and covenants as fully set forth.

SECTION 2: The Corporate authorities of the Village accept and adopt the Village Engineer's approval of the Improvements, as described in the recitals, which and which are hereby accepted as part of the sanitary sewer system of the Village of Roselle.

SECTION 3: That the Village Engineer's determination of which properties abutting Sycamore Avenue will benefit from the Improvements, and those properties permanent index numbers, and common addresses are depicted in Exhibit A, which is attached hereto and incorporated herein as if fully set forth.

SECTION 4: That the actual costs of all the Improvements, as determined and approved by the Village Engineer, are eighteen thousand five hundred dollars and zero cents (\$18,500.00). The Corporate Authorities of the Village find that 100' of the Improvements should not have been the Owner's financial responsibility and therefore eleven thousand and ninety-six dollars and seventy-seven cents (\$11,096.77) of the eighteen thousand five hundred dollars and zero cents (\$18,500.00) will be directly reimbursed to the Owner. The Corporate Authorities find that two thirds of the actual costs are reasonable recapture fees based on the Village Engineer's computation and due to the fact that the Owner will not recapture his costs of the improvements for his own Property.

SECTION 5: That the sum owed by two (2) parcels receiving benefits, upon connection from the Improvements, has been determined by equally splitting the total cost less the reimbursement for 100' of Improvement as described in Section 4 between the three (3) benefitting properties and deriving from that split the total lineal front foot cost for each benefited property, of two thousand four hundred and sixty-seven dollars and

seventy-four cents (\$2,467.74) which shall be paid by each benefiting property upon pulling a permit to connect to the Improvements. This amount, as well as the permanent index numbers and the common addresses of the benefitted properties are depicted on the Klein Sewer Recapture Spreadsheet that is attached hereto and incorporated herein as if fully set forth as Exhibit B. The Corporate Authorities of the Village find that the per front footage computation is reasonable based on the Village Engineers determination.

SECTION 6: Upon adoption of this ordinance the Village shall pay the Owner the total sum of sixteen thousand and thirty-two dollars and twenty-five cents (\$16,032.25) representing the full value of the combined recapture payments and the 100' of Improvements determined to not have been the Owner's financial responsibility. In order to secure such payment, the owner shall fully release any and all rights to any recapture payments from the benefitted properties for the Improvements and assigning such recapture payments to the Village. The Owners signature on this ordinance, and receipt of such payment, shall be fully adequate consideration for such release and assignment. All recapture payments made per this ordinance shall be made to the Village and shall be the exclusive property of the Village.

SECTION 7: The amount of the recapture costs, shown in Exhibit B to be paid by the owners of property receiving benefits from the Improvements upon connection, shall remain in full force and effect until February 28, 2022. Commencing on March 1, 2022, and on March 1 of each calendar year thereafter ("anniversary date"), for each year intervening between March 1, 2022 and the date of payment, the amount of the payments for the recapture costs shall increase by three percent (3%) simple interest until March 1, 2027. No additional interest increases shall be imposed after March 1, 2027, at which time the final, fixed recapture costs to be paid for each of the benefitted properties shall be two thousand eight hundred and thirty-seven dollars and ninety cents (\$2,837.90) per benefitted property.

SECTION 8: The owners of properties legally described in Exhibit C that receive benefits from the Improvements upon connection, may make payment of the recapture fees per the options outlined in Exhibits B and D, which are attached hereto and incorporated herein as if fully set forth.

SECTION 9: That upon connection, the recapture fees, outlined in Exhibit B, shall be paid to the Village of Roselle in conformance with this Ordinance.

SECTION 10: Upon passage, approval, and publication of this Ordinance as required by law, as well as upon execution of this Ordinance by Brock Klein, the Clerk of the Village shall record this Ordinance, together with all exhibits, in the Office of the Recorder of the County of DuPage against the properties receiving benefits from the Improvements.

SECTION 11: This Ordinance shall be binding upon the property owners, their heirs, beneficiaries, successors, contractor purchasers, and assigns.

SECTION 12: If any part or portion of this Ordinance is declared invalid by a court of competent jurisdiction, such partial invalidity shall not affect the remainder of this Ordinance. If any part of portion of this Ordinance is declared invalid, then the Village shall undertake reasonable legislative steps to correct such invalidity.

SECTION 13: All ordinances and parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

SECTION 14: This Ordinance shall be in full force and effect from and after its passage, approval, publication in pamphlet form as provided by law, and execution of this Ordinance by Brock Klein and the Mayor of the Village.

AYES:

NAYS:

ABSENT:

PASSED and APPROVED this 13th day of September, 2021.

PUBLISHED in pamphlet form this 13th day of September, 2021.

[SIGNATURES ON NEXT PAGE]

VILLAGE OF ROSELLE:

ATTEST:

David Pileski
Mayor, Village of Roselle, Illinois

Patricia E. Burns
Clerk, Village of Roselle, Illinois

Brock Klein

Date: _____

STATE OF ILLINOIS)
) SS

COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the state aforesaid, do hereby certify that Brock Klein, personally known to me to be the same person whose name is subscribed to this instrument, appeared before me this day in person and acknowledged that they signed and delivered this instrument as their own free and voluntary act for the uses and purposes herein set forth.

Given under my hand and Notarial Seal this ___ day of _____, 2021.

Notary Public

EXHIBIT A: Recapture Area Map

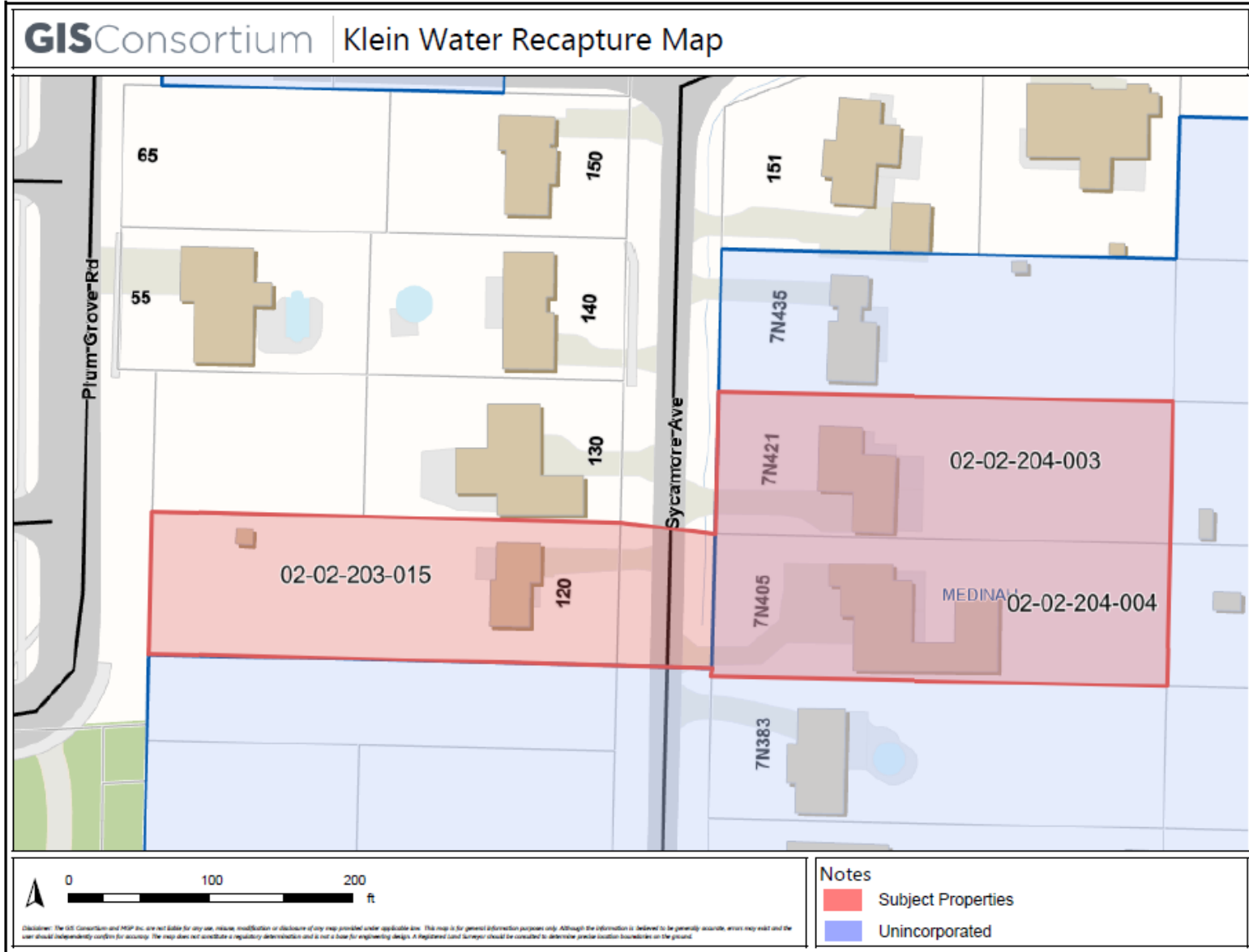


EXHIBIT B: Klein Water Recapture Spreadsheet

Address	PIN	Total Cost
120 Sycamore Avenue	02-02-203-015	\$2,467.74 PAID
7N421 Sycamore Avenue	02-02-204-003	\$2,467.74
7N405 Sycamore Avenue	02-02-204-004	\$2,467.74

* Commencing March 1, 2022, the recapture fee increases every March 1 by three percent (3%) simple interest until March 1, 2027. See Section 6 of the Ordinance or Section C(2) of Exhibit D that follows for more information.

EXHIBIT C: Legal Descriptions

120 Sycamore Avenue:

LOT 46 IN BRANGAR'S MEDINAH WOODS, BEING A SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER AND OF THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER LYING NORTH OF THE CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD, OF SECTION 2, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 11, 1952 AS DOCUMENT 653897, IN DUPAGE COUNTY, ILLINOIS.

7N421 Sycamore Avenue:

LOT 56 IN BRANIGAR'S MEDINAH WOODS, BEING A SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER LYING NORTH OF THE CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD IN SECTION 2, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 11, 1952 AS DOCUMENT 653897, IN DUPAGE COUNTY, ILLINOIS.

7N405 Sycamore Avenue:

LOT 57 IN BRANIGAR'S MEDINAH WOODS, BEING A SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER LYING NORTH OF THE CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD IN SECTION 2, TOWNSHIP 40 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 11, 1952 AS DOCUMENT 653897, IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT D: Terms, Charges & Conditions for Repayment of the Klein Sewer Recapture

I. Direct Recapture Costs for Improvements to Village's Sewer System

\$7,403.23

II. Participation & Payment Options

A. Payment Before March 1, 2022

1. Requires a lump sum payment, or a payment per Subsection II(E) below, of the recapture costs on or before February 28, 2022.

B. Connection before March 1, 2022

1. Requires a lump sum payment, or a payment per Subsection II(E) below of the recapture costs on or before February 28, 2022.
2. Owners of properties subject to the Klein Sewer Recapture that are outside the Village's corporate limits must request and receive approval from the Corporate Authorities, at their sole discretion, for annexation or pre-annexation, whichever applies.
3. Owners must meet obligations and/or pay any other pertinent fees imposed by the Village, which are applicable to or required by Village Ordinances or Resolutions, including but not limited to, those obligations and fees required by an annexation or pre-annexation agreement. (Examples of other pertinent fees include annexation, license, permit, inspection, recording, tap-on, and water meter fees. Examples of obligations include constructing a public sidewalk).

C. Payment On/After March 1, 2022

1. Requires a lump sum payment, or a payment per Subsection II(F) below, of the recapture costs as outlined in II(C)(2) below.
2. Commencing on March 1, 2022 and on every March 1 of each calendar year thereafter, for each year intervening between March 1, 2022 and the date of payment, the amount of the payments for the

recapture costs shall increase by three percent (3%) simple interest until March 1, 2027. No additional interest increases shall be imposed after March 1, 2027, at which time the final, fixed recapture costs per benefitting property shall be seven thousand two thousand eight hundred and thirty-seven dollars and ninety cents (\$2,837.90).

D. Connection On/After March 1, 2022

1. Requires a lump sum payment, or a payment per Subsection II(F) below, of the recapture costs as outlined in Subsection II(C)(2) above.
2. Owners of properties subject to the Klein Sewer Recapture that are outside the Village's corporate limits must request and received approval from the Corporate Authorities, at their sole discretion, for annexation or pre-annexation, whichever applies.
3. Owners must meet obligations and/or pay any other pertinent fees imposed by the Village, which are applicable to or required by Village Ordinances or Resolutions, including but not limited to, those obligations and fees required by an annexation or pre-annexation agreement. (Examples of other pertinent fees include annexation, license, permit, inspection, recording, tap-on, and water meter fees. Examples of obligations include constructing a public sidewalk).

E. Extended Recapture before March 1, 2022

1. Requires a payment of no less than ten percent (10%) of the recapture costs on or before February 28, 2022 as well as a one-hundred-dollar (\$100) processing fee.
2. The remaining ninety percent (90%) balance must be paid in monthly or semi-annual installments for a period not to exceed five (5) years at an interest rate of five percent (5%) on the day of execution of the installment note discussed in Subsection II(E)(3) below.
3. The owner(s) of the property subject to the Klein Sewer Recapture must execute an installment note with a judgement clause requiring full payment of any remaining balance upon sale of the property. The

Clerk of the Village will record the installment note in the office of the Recorder of the County of DuPage at the expense of the owner(s).

F. Extended Recapture On/After March 1, 2022

1. Requires a payment of no less than ten percent (10%) of the recapture costs per Subsection II(C)(2) as well as a one-hundred-dollar (\$100) processing fee.
2. The remaining ninety percent (90%) balance must be paid in monthly or semi-annual installments for a period not to exceed five (5) years at an interest rate of five percent (5%) on the day of execution of the installment note discussed in Subsection II(F)(3) below.
3. The owner(s) of the property subject to the Klein Sewer Recapture must execute an installment note with a judgement clause requiring full payment of any remaining balance upon sale of the property. The Clerk of the Village will record the installment note in the office of the Recorder of the County of DuPage at the expense of the owner(s).