



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: Dec. 11, 2023  
Department: Utilities  
Agenda Section: Regular  
Public hearing: No  
Date of public hearing: N/A

#### PRESENTER/INFORMATION CONTACT

Utilities Director K. Marie Strandwitz, PE  
Water and Sewer Advisory Committee

#### ITEM TO BE CONSIDERED

**Subject:** Recommendations on reimbursing certain residential swimming pool owners for backflow device installation

#### Attachments:

Water and Sewer Advisory Committee meeting minutes summary and supporting information on subject

#### Summary:

At its October 2023 meeting the Water and Sewer Advisory Committee discussed recommendations for reimbursement to customers who were asked to install a reduced pressure zone backflow assembly on their existing in-ground swimming pool. The history of this situation is well documented in the Water and Sewer Advisory Committee and the Board of Commissioners meeting minutes beginning in May 2023. Essentially, the town staff, following established town code, sent letters in early 2023 to several customers having existing in-ground swimming pools and asked them to install a reduced pressure zone backflow assembly to meet such code, which has been in place since 2008.

In town code and generally across the state and nation, the installation of backflow devices at the request of a water purveyor due to known or potential contamination is paid for by the customer. The customer privately owns and maintains such devices. Installation can be over \$2000, and the installation is organized between the customer and their selected plumber. A plumbing trade permit is required for the installation and a test by a certified backflow tester is performed after installation demonstrating proper operation. Town staff inspects the final installation for compliance with its requirements. The reduced pressure zone is entered into the town's management system and reminders are sent for customers to test the assembly annually, per code.

Customers receiving the compliance letter presented to the town manager and board their displeasure with the requirement and asked for relief. The town board motioned for the Water and Sewer Advisory Committee and staff to present a less invasive and costly option, and to recommend changing the code to the selected option, if favorable. The board has signaled the desirability to allow an air gap as an alternate option for backflow protection for the subject customer group. The air gap is an allowable industry method and relies solely on the customer to follow and maintain a proper physical separation of the potable water system when filling a tank or vessel that could have harmful consequences if its contents are back-flowed or back-siphoned into the public water supply.

Since 2008, the town has specified a reduced pressure zone assembly for certain types of facilities with known or potential severe contamination hazards as the reduced pressure zone assembly is a 1) certified assembly by

industry standards, 2) is easily accessible by town staff and testers, 3) can be tested by certified testers as operable, and 4) requires annual testing to ensure its proper operation to protect the water supply. Swimming pools, simply defined, require a reduced pressure zone assembly in current code.

Customer compliance prior to pausing enforcement:

- A few customers voluntarily complied with the requirement to install a reduced pressure zone assembly by obtaining a plumbing permit, having a plumbing company install the assemblies on their water services and submitting testing results to the town.
- One customer had her plumbing company apply for a permit after the board motioned to cease the effort while another solution was vetted, after the town sent physical letters noting this, and putting comments in the permit system on unissued permits to pause. Their plumber installed the assembly without an issued permit. The board motion and letters/notations to pause installations were in May 2023.
- Other customers had applied for permits and some were not issued. Some were issued, but never completed.

The town manager in several meetings suggested those that complied should be reimbursed by the town if the code was relaxed. Some board members agreed. The board subsequently requested that Water and Sewer Advisory Committee discuss their recommendation and terms for reimbursement, which they did in October 2023. Of the seven active members on the Water and Sewer Advisory Committee (one vacancy exists), the chair and one member were not present, leaving five members. The vice chair, as an impacted customer, was advised by town legal counsel to recuse herself during the discussion. This left four members to discuss this situation.

The Water and Sewer Advisory Committee was evenly split in support and opposition of reimbursement amongst the four present members. See the attached information for further detail. If the Board of Commissioners were to proceed with reimbursement, the advisory committee would recommend that reimbursement should be applicable only to:

- those with existing in-ground swimming pools not directly connected to the potable water supply for auto-filling who received the compliance letters of February and March 2023.
- those of the above who applied for and received a trade/building permit through the county.
- the installation and initial testing cost (not necessarily for maintenance testing, removal, restoration, or other ancillary costs).
- those that fully apply for the (check-issued) reimbursement within 60-days of notification of eligibility and requirements, and who produce detailed documentation of cost.

**Financial impacts:**

According to the county permit system whereby the permit application must state the cost of the work, the financial impact the town would reimburse owners, if the above recommendations are adopted, would be approximately \$17,000. The actual cost would be dependent on the applicants, their eligibility, and detailed receipts provided.

**Staff recommendation and comments:**

The code modifications are presented under separate cover. The code will allow an air gap, which is effectively a cost-free solution. To further simplify the process, air gap agreements and other devices previously considered related to testing, monitoring, or inspections such as the hose bibb vacuum breaker will NOT be required. Staff will provide educational outreach to customers using an air gap about how to properly maintain one. The code revisions also clarify an air gap option for other bodies of water that are filled using the town's potable water

supply such as spas, manmade ponds, and fountains. Staff should retain the right of entry as with any facility connected to our system to investigate under suspicion of an unprotected actual cross connection.

On a holistic basis, please consider that codes or policies are modified that may be more relaxed after someone has followed the current code or policy. In those situations, reimbursements are not provided or discussed (e.g., sidewalks, signage). Also consider that the installation of the devices is required based on the actual *or potential* of contamination. The town has evidence that backflow does occur through water meters under certain circumstances. Lastly, such reimbursement for this matter may set a precedent for others to come forward on other related matters of concern that could compromise desired town policy and programs and require much staff and board time.

**Action requested:**

Consider whether to allow the town to pay certain customers for installation of backflow assemblies due to the code requiring such being modified for a less invasive and costly solution. If payment is voted upon, state the conditions and timeframe for payment.