

**CITY OF INDEPENDENCE
STREETS & SIDEWALKS COMMITTEE
MEETING MINUTES
APRIL 7, 2020 AT 4:00 P.M.
VIRTUAL MEETING**

Present: Chairman Dale Veverka
Vice Mayor Dave Grendel
Councilperson Tom Narduzzi

Also Present: Mayor Gregory P. Kurtz
Councilperson Kathleen Kapusta
Councilperson James Trakas
Councilperson Kenn Synek
Councilperson Chris Walchanowicz
Finance Director Vern Blaze
City Engineer Don Ramm
Service Director Leon Karas
Ed Chrzanowski, QCI
Kathleen Colan, KC Media

Mayor Kurtz said so I guess traditionally the Chairman would start the meeting; and then my thought would be I would interact with Leon as he speaks and then Don as he speaks. If anyone has any additional comments, we will just see how interactive we can be. Do you want to do that?

Several people said it sounds good to me.

Mayor Kurtz said okay Dale, it's your show.

Chairman Dale Veverka called the meeting to order at 4:08 p.m.

Chairman Veverka said I would just like to welcome everybody to this very different Streets & Sidewalks meeting. We can move on to the agenda, and that puts us to our Service Director Leon Karas.

Service Director Karas said I just wanted to run through a few things that have happened over the last month or so. So, we have been dealing with this culvert situation. On top of that we had the flooding that occurred back on March 28th and March 29th. On that day we had a six man crew come in to clear the debris on the roadway and culvert inlets. We had crews on Stone

Road, Tulip Trail, Hillside Road and Chestnut Road, Rockside, Brookside, Old Brecksville Road, Fuhrmeyer, Schaaf, Commerce Park Oval, Old Rockside Road and Pebble Creek. There was a lot of debris that filled in those streets, and we were able to get those cleaned out.

While we were on Valley Woods, there were two headwalls that were blocked, one at the top of Valley Woods in the cul-de-sac coming in from Seven Hills, and one (inaudible). There was the whole catch basin through his backyard. There was a lot of debris that kind of washed down from the high point over to the low point. We at least exposed all of those catch basins and made sure they were clear. I think there's some more work that's going to need to be done back there.

On Stone Road, there was a culvert pipe that failed, and we knew it failed about a month or so ago; and we were cameraing it to see if there was something we could do. Before we figured out what we could do, we had this rain; and on Stone Road there's a lot of washout just west of Tulip Trail. We have some (inaudible), but I think there's a corrugated metal pipe that failed. I think it will have to be eventually replaced because we are having problems there.

Then there are catch basins along Stone Road that we cleaned out as well, and then on Beverly there was a headwall that we cleaned out a lot of debris.

Those are the issues that came up that we dealt with on the streets.

There were several residents who had flooded basements. A lot of those we had talked to and spoken with, and a lot of them the water receded. I only think a couple of them thought they had sewage, but didn't really see any evidence of sewage; not that it didn't happen, but a lot of the water already receded by the time we got to them. We are doing some investigation with Joe Potoma and Don over in Engineering, and Clark and try to come up with a plan. I think we can go through and check to see if there are any issues and try to camera the storm lines, trying to locate a lot of the storm lines and storm laterals. That is what we dealt with for the flooding situation, as well as some flooding down at Hemlock Creek, the trail. We did some quick clean-up of the trail on Sunday to make it passable. We just wanted to get that debris out of the trail, and all the gravel on the trail. We wanted to get it cleaned quickly and get a lot of cones up. We made sure it was passable and walkable.

So again with this Covid-19 situation, we have switched our staffing around a little bit to accommodate the social distancing aspect of everything. So, we kept 3 eight hour shifts. We have a 6:00 a.m. to 2:00 p.m. shift. We have an 8:30 a.m. to 4:30 p.m., a standard shift that we normally do. We have a 2:00 p.m. to 10:00 p.m. shift. We have 3 mechanics, and then 9 full-time employees potentially each of the early shift and late shift; and we have the 4 individuals that waste collect. They come in during the regular shift. We didn't want to change the waste collection at all. We have 5 part-timers, and we laid off 3 of the 5 part-timers. One of our part-timers is office staff, and one of our part-timers is a mechanic. We kept them on board. We are also not hiring any summer help.

The other thing is, and we talked about this at the last meeting, is that we still have plans to do crack sealing for the streets that we are going to crack seal for 2020 on the agenda. We

hopefully will be able to get back to the normal routine, doing concrete and sidewalk repairs like we had planned.

Service Director Karas said one thing, and I did get a call today, and this is kind of frustrating. We ordered all those new trucks for snow plow; and they are supposed to be coming in this fall. I got a call from Henderson saying they were shut down. They have a very limited crew in their main production facility because of the Covid situation. So, they said they don't know what is the schedule, but they were hoping that it doesn't really affect too much because they are still far out. We will have to wait and see and try to get that information as soon as we can to see where we are going to be at.

That being said, I haven't heard anything from Freightliner (inaudible). I guess that's kind of where we are at.

Councilperson Narduzzi said just a question Leon for Hemlock Trail. This is like the second time we had major flooding down there, and it's not even been a year yet. Is there anything we can do to prevent it in the future or change that material that seems to wash out? Are there any other options that we can do down there so we don't have this, every time we have a heavy rain it impacts that trail.

Service Director Karas said I mean I think you have (inaudible) on a ravine, and I think this is the first time this trail has had a washout since it's been open. There was some other washout while it was under construction, but that being said, I have had some conversations with Don and Clark about some of the things that we can do to hopefully try to mitigate some of the issues from happening again. We talked about the stone or moving some (inaudible) around, nothing grand or laborious, but just enough. I think Don would be able to answer better. It doesn't seem like we would have to do a lot to kind of divert the water to go to where it needs to go because if you go down there, you can see where sheets of water just came across some areas and runoff that happened and coming out of the other areas that were initially supposed to be diverted. Again, this was a lot of rain that came down fast, and it came down hard. I think once it started pushing some of that stone out, it just made the problem worse. I think Don could probably speak a little bit better to this, but again, we had some conversations, I don't think it will change much, but I think the time and the equipment and just dealing with the material costs. It wouldn't be a huge cost. It looks a lot worse (inaudible). We can change some things around and hopefully prevent this from happening in the future.

Councilperson Narduzzi said I know Sunday was a tough day for you guys, and I know you guys jumped in and helped out a lot of people on Sunday, so congratulations to you. I know it wasn't a very easy day. Don started getting calls at 7:30 in the morning. I know you guys are out doing work all day, so thank you again.

Service Director Karas asked are there any other questions? There were no other questions.

City Engineer Ramm said Chairman Veverka, if I can, one issue, the flooding issues. Last week we were made aware of a culvert failure on the upstream side of Patriot's Way. It is on the west side of West Creek, south of Patriot's Way, that marginal road. The inlet side of the large

diameter corrugated metal pipe was sucked downstream into a (inaudible) structure. So, we have already been in contact with the Regional Sewer District, the Stormwater Department, and we are trying to coordinate efforts to pull the old pipe out of the manhole as well as then to replace the pipe that is missing. So, they are already beginning to help us pull the old pipe out. The pipe will be replaced, similar to how they assisted us with that pipe that collapsed under West Liberty Way sometime last year. So, that is an ongoing, active item that we are pursuing. I just wanted to update everybody on it.

Councilperson Narduzzi asked, Don, is that going to be the City's responsibility?

City Engineer Ramm said you know what the large diameter pipe on the straight, that's a branch of the West Creek; so it's definitely on the Regional Sewer District's regional stormwater system. So, we think and are hopeful that it will be handled with their stormwater funds and not local funds. We have yet to hear back, but that's kind of how we handled it on West Liberty Way.

Councilperson Narduzzi said okay. Then we would be in charge of fixing it, or they would be in charge of fixing it?

City Engineer Ramm said well that's what we have to strategize and figure out how we are going to team up, who is going to take the lead if you will. We chose to take the lead last year because we had Geotech already engaged and immobilized. I am not sure that will be the case. We are hoping to (inaudible) however best and feasible.

Mayor Kurtz said Don, we have to keep our answers brief; and if in fact, after a brief question, if I think that we need to explain more we can; but we will be on here for 4 hours if we don't make things brief. I don't know how we went from Hemlock Trail to that emergency down on Patriot's Way.

So, anything else for Leon?

Vice Mayor Grendel said I just have one issue, it's strictly recurring, but the sidewalks on Tulip Trail are very dangerous. I am surprised we don't have more complaints about them. They are in very poor shape.

Mayor Kurtz said we have a list going around. Actually one of the responsibilities is to identify all the bad sidewalks; and that's one of the items that the Service Department will do some of them. We are going to see about having an outside source for others; but that is on the list of things we need to take care of, the most critical sidewalks.

Vice Mayor Grendel said very good. That is very dangerous. I am surprised because it's not that old of a development, but it's in poor condition.

Mayor Kurtz said we will follow up on that.

Chairman Veverka said so Don do you want to pick up with the agenda.

City Engineer Ramm said real quick, I would like to introduce Ed Chrzanowski, he is on the call here. He's going to be listening in. He is with QCI, and he is going to be helping explain an item down the agenda here shortly; but I just want everyone to be aware he was on with us.

Mr. Chrzanowski said good afternoon everybody.

Mayor Kurtz said why don't you go right to that issue Don.

City Engineer Ramm said okay. This is Item 5 for Part A and Part B, the large infrastructure project out on the extension off Rockside Woods Blvd. and Brecksville Road. So, the project has been moving along. We started out there in March of last year, and have been steadily progressing and working throughout the year through the winter; and the reason that this item is on the agenda is to update Council on some of the costs that have been experienced so far and show you where we are at contractually on the duration as well as the funding.

That spreadsheet there, the one that's covered over, but I want to speak briefly to where we are at, the duration. So, approximately 67% of the project is complete on a contract value basis; and about 54% is complete on a contract time basis. So, you can see where we are doing pretty well in terms of work performed in relation to the contract duration.

An item of concern that I would like to talk about is the amount of the contingency dollars. This project had roughly 8.4% set up in contingency in the spreadsheet there. It's made up of Part A and Part B, (inaudible) \$105,000. So, as the progression of the work, we were able to speak for many of those contingency dollars to date and already tracking to be even more. So, I prepared a slide of some of the images of the work that has been done. We are striving for a completion date for Topgolf of June 30th of 2019; and that was a major driver for the work that had to get performed.

At this point Ed, I have a memo here that explains the bullets of many of the items and issues that arose and where some of those contingency dollars were needed and used to date. Ed has been the Project Manager throughout the project, and he's well informed on every single specific that's been addressed to date.

Mr. Chrzanowski said looking at this list that we have on the second page, Don has identified some of the extra work descriptions that we had. I am going to follow a timeline that we had. Don mentioned the June 30th completion date we had for Topgolf last year. When we started the project in March, Topgolf was adamant that we had that June 30th date because at that time they were depending on being ready for business in August. So, in order to build that road we had to seal the top of the landfill that the road ran over. We did so, and we had to undercut to the roadway, install a cap with a two foot thick material, get that in place so that we complied with the Ohio EPA requirements. Once we did that, we needed to re-stabilize that section to make it structurally sufficient to support the roadway. So, we had to re-work that, and that was one of the first bullet points that we have on some of our extras.

We ended up changing the pavement that we had in that area from being asphalt with concrete curbs to concrete pavement for a few reasons. Number 1, because structurally it would disperse the wheel loadings better for the traffic than just the asphalt. So, we knew that it would help us with the problems that we had with stabilizing the landfill cap. We got through that, we had quite a bit of rain last May so that took that short timeframe and compressed it even further. So, going with the concrete allowed us to be able to get the concrete pavement done in time to meet the June 30th date. I think we were within about 4 days of that. We ran over, but at least that got us to the point of where we pacified Topgolf.

Once we, and that identifies the concrete the pavement as the second bullet there. As we were working through that area we were also having to move material around the landfill site in order to clear the right-of-way roadway. There was material there that was not anticipated in the original design documents that we had moved, and there was a cost for that.

Law Director O'Brien asked can I interrupt? I remember the June 30th date because that was their anticipated opening date; but they obviously didn't open until December because they ran into construction problems on their project. Why were we still trying to meet that artificial date if they had no way of even opening for months upon months?

Mr. Chrzanowski said in May and June they were still emphasizing that they were going to be ready in August; and we had to be ready for them. They also needed the road, not only for being open for business, but they needed to open so that they could handle their deliveries of all of their masts, safety nets, for their building finishes. They needed access for that, and they were telling us that they needed (inaudible) so they could be hiring their staff and training their staff. So, it wasn't until the end of June where they started acknowledging that maybe they wouldn't be hitting the August date, but they were being very tight lipped about it.

Mayor Kurtz said if everybody could be brief in their comments.

Mr. Chrzanowski said moving down my list, once we got that done, we went to Brecksville Road, the southbound lanes; and there we encountered some changes that we were not anticipating. We had a lot of difficulty with the utilities, specifically with the Dominion utilities and AT&T. Even though they were relocated, there were several underground utilities that still remained that we had to work around; and it caused us a lot of problems with trying to get our storm sewers and water mains to fit. The project originally intended to have the roadway that was being widened on southbound Brecksville, have that undercut and stabilized from Rockside Woods South to the south end of the project. We ended up having to undercut the entire length of Brecksville Road from the I-480 bridge all the way to the south limit. These were all items that we had not anticipated. We have been able to pay for them using the contingency funds that we have, and one last item that caused us some extra work also was once Brecksville Road was opened up to traffic again; we then returned to Rockside Woods to work on the slope stabilization and the wetlands. We had to wait until the EPA gave us our permits, started that in the winter. We had to place a bunch of fill at the base of the slope, and then place lightweight aggregate in the area where we removed the slope stabilization. Both of those areas and the existing materials were unsuitable, and we had to undercut quite a bit there in order to get that stabilized so we could proceed with that work.

Those items of work are behind us now so we are hoping that a lot of the unknowns that could not control and could not really understand until we got into them such as the stabilization and the utilities. We are hoping that those are behind us.

As Don mentioned, we are two-thirds of the way done in terms of dollars. We are still on track for substantial completion of September 20th. We are meeting now with the contractor to plan for what we are going to be doing for Brecksville Road and to finish out. They are adamant that they want to get it done by September 20th. When we do resume construction on Brecksville Road, we will be modifying our traffic pattern so that we will have one lane of traffic in each direction as we did in the fall. That we did after meeting with the Independence Police to come up with a safe manner that we started with. The lanes are too small, causing too many hazardous situations.

So, that is the quick look of what we have going on. If you have any questions, we can address those.

Chairman Veverka said thank you. We can move on.

Councilperson Narduzzi said I have one question. So, at what point do you guys realize that we are over the contingency money, and it's time to come to Council and ask for some more money? I can't see the numbers, but it seems to me that we are over those numbers already. Who makes the decision to say hey we have to go to Council now before it's too late and it's already too late.

Mayor Kurtz said they are trying to get part of that right now, and is the reason they are before Council is so that before we run over; we are running on the edge right now.

Mr. Chrzanowski said at this point we haven't used up the contingencies totally; we have money that we spent in them. We still have money available. There are certain items that we know we have to pay for with the contingency, and after we got the pavement work on Brecksville Road done in December, we were able to stop and re-evaluate everything to see where we are with our funds and to see what we need to get finished with the project. We are at that point now; so we have funds available to keep us working. As Don noted earlier, we have over \$3,000,000 left to the contract itself. So, in answer to your question, we haven't run out of money yet; but we foresee that we will. That's why we are addressing this at this point.

Mayor Kurtz asked you are looking at \$300,000 to finish the project?

Mr. Chrzanowski said we believe so, yes.

Mayor Kurtz said so the issue is really \$300,000, and it's two-thirds of that based on the timetable of the contract; and we need to have that approved so that we know we can finish out. We are not playing catch-up later on.

Mr. Chrzanowski said yes.

Mayor Kurtz said the other thing I would like to just, if there are no more questions on that Mr. Chairman; I would like to just take a second and also talk about, we have been in concert with ODOT about the bridge, the I-480 bridge. We are looking at various options of widening the bridge. I did speak to engineers as late as this morning, and as soon as we have some more definitive information with options, the Engineer will ask for another Streets & Sidewalks Committee meeting; but we are asking them to explore the possibility of widening the bridge deck as part of their repair or upgrade or there, we are in the process of approving. So, we will follow up on that.

Councilperson Trakas said Mr. Chairman may I ask a question? I read the presentation, and thanks for that presentation. Some of those points, I think Independence Excavating told us when we approved the contract with Fabrizi would come up; and they did indeed come up. So, I think we knew about some of those. We could have prevented some of those cost overruns from the beginning. At what point and time do we make the decision to go back and try to go back to the people on Rockside Woods Blvd. and put this on them rather than the taxpayers because if we are trying to meet deadlines for a private company, you know that's not the taxpayers fault. This has been way overblown to begin with. We are spending a lot more money than we thought we were going to be spending on it; but at that \$300,000 I would be more comfortable trying to negotiate with, if Topgolf had deadlines, then we should be talking to Topgolf about paying for that and not the taxpayers.

Mayor Kurtz asked Greg are we precluded from looking at some possible means of alternative funding without interfering with our project?

Law Director O'Brien said Mayor if you are talking about an assessment, the horse has left the barn on that one. A new project that benefits the area, we could talk about and use that power there; but not that I can think of off the top of my head.

Mayor Kurtz said okay, so Mr. Chairman the answer to the question is we are requesting that the \$300,000 be on the agenda for next week's meeting so that we can stay ahead of the project; and at the same time we will look at possibly finding alternative methods to reimburse ourselves.

Chairman Veverka said that sounds good.

Councilperson Trakas said that's good. Thank you Mayor.

Mayor Kurtz said thank you Ed.

Mr. Chrzanowski said can I add more one thing. Councilperson Trakas made a comment that Independence Excavating had brought up a lot of these points to be concerned about with Fabrizi. As my role as the Project Manager, I have been responsible to make sure that we were performing every part of the contract document; and that the contracts that were provided were (inaudible). With the items that we have, I am very confident that, regardless of who the contractor was, these items still would have come up; and we would still be having debate. I don't think these would have been construed to be part of the original contract. They were very legitimate.

Mayor Kurtz said thank you Ed.

Chairman Veverka said okay Don.

City Engineer Ramm said okay, I am going to go back to Item 2 on the agenda, and it has to do with the ODOT Highway Safety Program. So, back in the summer of last year, we had a consultant assist us, the GPD Group, assist us to prepare and submit an application to ODOT. This shows you some of the challenges and problems that we were trying to mitigate. The application was well received, although ODOT had some concerns and asked us to revisit some issues there on the bridge. This again deals with the southeast quadrant of I-77 and Rockside Road, the northbound exit ramp to be widened to 2 lanes, left and right; and then of course the eastbound Rockside Road ramp to I-77 northbound would be widened. We feel that these are major traffic impacts in a very positive way. So, we revisited the items that ODOT asked us to do. We resubmitted the application for funding. A couple of weeks ago we received a letter, the Mayor received a letter that we were selected for funding, a \$2,000,000 grant for the project. It's \$3,400,000 in total. So, it's very positive news. We are in a position to issue some RFQ's for the design. The project is slated for fiscal year 2022. It could begin technically as early as July of 2021. I just wanted to report some good news.

Chairman Veverka said good to hear.

Mayor Kurtz said keep going Don, be brief.

City Engineer Ramm said we just wanted to throw this out there. It was preliminary targeted for some improvements for the landscaping and branding. We feel that there's an opportunity that we are going to be spending time and effort and energy to do some infrastructure upgrades that we might want to consider some of these interchange quadrant improvements if the desire is there. It's not a requirement, but I just wanted to throw it out there.

Mayor Kurtz said thank you Don.

City Engineer Ramm said moving on if there's no questions.

The 2020 Crack Seal Program, we took bids last week; and we received two bids; Specialized Construction was low. They were under the engineer's (inaudible). The takeaway is that we would like to prepare a legislation request for next week's meeting to award this contract.

Mayor Kurtz asked the City Engineer is this in addition to the information that the Service Director outlined?

City Engineer Ramm said correct. So, the Service Department tends to spend their time and energies crack sealing the lower streets. These are the streets in this 2020 contract that would deal more with the commercial roads that are more intensive on traffic control. It might be more time sensitive doing these in off peak hours. So, these are target streets that we have identified in this contract for Specialized.

Mayor Kurtz said this may be the appropriate time because we are going to be talking about our maintenance contracts; and what I have asked Don to do is when he talks about these maintenance contracts and accepting bids or renewing bids; I want to know the range of flexibility we have with the bidders. I have asked the Finance Director, and he submitted a projected cash flow modification based on some of the information, I am having constant conference calls with different mayors and elected officials with Senator Brown today. We have Senator Portman later this week, and the mayors are all trying to determine what their loss of revenue is going to be and the percentage. That being said, the strategy that we would like to request Council to support would be approving these contracts, but only if these contractors are willing to look at modifying terms to the extent that we may not spend a lot of the money in these contracts. So, that is the genesis of this flexibility we are looking to achieve with all of our maintenance contracts; and this is the first one Don is going to talk about.

So, when you see the numbers, the raw numbers, those are the numbers of the bids; but what we are asking Council to do is approve these contracts. It will be with the understanding that we may not spend nearly the amount that we are asking for approval based on how things fare out the next 3 to 6 months. Thank you.

City Engineer Ramm said correct Mayor. This contract in particular, and most all contracts have it stipulated that the City will guide and direct the work; so it would certainly be easy enough in the specs the work or some work or all of the work (inaudible) from a financial standpoint.

Finance Director Blaze said I might not have good news on every one of these, but at least this, I see Specialized's bid was \$138,000; and in the 2020 Capital Improvement Plan that Council approved in December, the Crack Seal dollar amount was \$200,000. So, that's one of the few areas where we are coming out ahead at least.

Councilperson Kapusta said Mayor I heard you say that the other mayors have come up with this proposal regarding the cost. Have the contractors been made aware of this yet, or is it too early for that. I mean just in general are they aware?

Mayor Kurtz said the mayors' discussions evolve around the amount of revenue lost that we are anticipating; and so no one has a crystal ball. There are a variety of ranges that different mayors are projecting at this point; and they will be more refined in the next 30 days. So, suffice to say, that what we are trying to do is accept contracts; but with the provision that we may not utilize the contract to the extent we have in the past.

Councilperson Kapusta asked and the bidders will be aware, the companies that have secured the contract will be aware that at the time of signing I would imagine?

Mayor Kurtz said yes, Don is talking to each one of these contracts that we are hoping you approve next week; and they are going to have to build some flexibility into these contracts in terms of, so we are not obligated to spend if we don't see a clear path of revenue.

Councilperson Kapusta said thank you.

Law Director O'Brien said Don mentioned that we do have the provision in the maintenance contracts specifically, unlike other contracts, whereas even though you may appropriate \$200,000; if the City doesn't feel like spending \$200,000 it can spend whatever it wants. These contracts are bid with that understanding.

Having said that, I agree with you, it's good prudence, this has been in there since your first administration when it was put in there; and we have never invoked it. I think it's a good practice to go out there and remind them that this could be the year we invoke it.

Mayor Kurtz said we are doing that, and we are also making sure that these contracts, and some that we are talking about later; we are trying to project a timetable in terms of some of these road projects to make sure if in fact August, September things are turning around, we will still be in a position to do some of these projects. So, we are trying to create a lot of flexibility so the City has the ability to still do some work, depending on our financial condition later this year; and we are not just slamming the door right now.

Thank you Mr. Chairman.

Chairman Veverka said alright, the concrete contract is similar to the crack seal. In other words, we have the sealing, but we provide how much of the work we want to get done, correct?

City Engineer Ramm said right, the general contract right. We identify areas, but kind of the same scenario; we dispatch the work, and tell a contractor where to go. We use the unit prices that are in the bid to pay for that work.

Chairman Veverka said correct.

City Engineer Ramm said so moving along with this item, we are talking about concrete contracts. We are still in the midst of preparing the 2020 concrete contract. We got distracted a little bit here recently with some other items that were more pressing, but that work is ongoing. I did want to dovetail into last year's asphalt contract that typically expired at the end of the calendar year. There was one item on Alternate A which was the paving of Brookside Road from 21 up to Eastview Drive. That alternate was actually awarded, and part of the (inaudible) that was issued to Ronyak Paving last year for 2019. We purposefully chose to hold off that work or have some of it delayed because of what we were experiencing on Upper Brookside and not wanting to repave a road and then get it kind of beat up. So, that amount for Alternate A is still sitting unused in the 2019 contract; and we feel like it's (inaudible) and would like to reconsider resuming the contract here this spring to either perform Alternate A when the time is right and/or consider other work. Alternate B was part of the bid for \$150,000 for Eastview, but it was not part of the initial award; and similarly we have other roads that could use some work and are in the 2020 Capital Plan for this year. They are at the bottom of this slide (inaudible). The contract with Ronyak is showing you what those roads are (inaudible) in our Five-Year Capital Plan for those streets. Just to show you there's some value and definitely consider utilizing Ronyak for the work; but understanding that the climate and the economy the way it is, we are not going to do anything at this time. It's something to consider though.

Mayor Kurtz said Don a couple of things. One, we talked about the possibility of suspending these awards, not awards, suspending the work until later this year and still being able to get it done this fall if in fact the climate turns around and our financial certainty is better projected.

So, the other question I have with respect to Brecksville Road, what is the status of ODOT, and their responsibility for managing Brecksville Road, and the condition of Brecksville Road. What year will they be coming in and redoing the surface?

City Engineer Ramm said so Mayor, it's broke up into different sections. So, Brecksville Road north of Rockside I believe ODOT's participation was \$800,000 or \$900,000 and that was going to be incorporated into our project that we were going to undertake, our streetscape project and water main project. So, that was in the queue and ready when we are ready to pull the trigger on our project north of Rockside. I believe south of Rockside that I think ODOT's capital plan for Brecksville Road has been slated for another 5 or 6 years in terms of a global resurfacing along that corridor based on the pavement condition that they had it scored at.

Mayor Kurtz said okay. Just keep in mind Don, make a note that on Brecksville Road some of these areas closer to the major intersection, I would like to consider doing some concrete in some of the areas where the trucks push out at the intersection. Keep that in mind. We will talk about that internally, and then we will present it in the full scope to the committee later on.

Thank you Mr. Chairman.

Finance Director said just that screen I see with that 2020 Concrete Asphalt Maintenance slide that Don has up. It was just mentioned about that Highland, Midland, Scenicview, Ranchview, Timberlane project. Don, your slide there says that the Capital Plan has \$931,000 allocated for that project; but the version I have that I thought was the version attached to the December legislation that was adopted only has \$550,000 allocated for that project. So, there is a little disconnect there that if the push is going to be on to try to do that project this year; that we have a big gap there to try to work through.

City Engineer Ramm said okay, thanks Vern for pointing it out to me. I will check that.

Chairman Veverka said Don they were already starting down on Lower Brookside today, are they going to pave it all at the same time? That was originally the conversation that we had.

City Engineer Ramm said correct. Yeah that was the thought, and that would be doable but for the fact that we are still doing the concrete paving up there on Upper Brookside. So, I think even now we are still in a holding pattern for the segment from 21 to Eastview.

Chairman Veverka said okay. Thanks Don. That's still going to happen later because it's with the 2019 money, correct?

City Engineer Ramm said correct, and I have reached out to Ronyak Paving; and they are still willing to perform the work under that contract from last year.

Mayor Kurtz said Mr. Chairman, this goes to my comment earlier about some of these may not be done mid-summer; we will monitor our financial situation, but we would still be able to, after Don discussed it with the contractors, we would still be able to make them in the 2020 season but it would be later on in the year.

Chairman Veverka said correct.

Mayor Kurtz said thank you.

Chairman Veverka said we skip down to Number 6 Don.

City Engineer Ramm said this was the spreadsheet to try to be disciplined and try to show you a current forecast for all four major projects that we have ongoing. We have already kind of touched upon Part A and Part B, but this is a snapshot of the rest of the projects. I am not going to belabor this slide too much and go into more detail on a project-by-project basis later on.

Moving on right to the Brookside/Bramley project, and a construction update went out last Friday; and it touched upon some bullet points, some major work that is ongoing as Councilperson Veverka mentioned. As of yesterday and today, we are out there doing some major milling on Brookside, and we were also moving from Phase 1 to Phase 2 of the concrete road portion, the reconstruction of Bramley. So, a lot of work is ongoing there, and the snapshot on the left is specific to this project relative to the financials, the forecast. You can see there we have spoken for about 5.25% of the extra work; and we had allocated 7.4% approximately. So, we are still tracking pretty well on the extra work, contingency money. You can see there 56% complete from the contract dollars; and then the same complete 59% on the contract time. The contract had been scheduled for formal completion in December of this year; but the contractor is pressing to get it advanced and completed at least a couple of months sooner than that. So, the project is doing well.

Chairman Veverka said they were hard at work on that today when I was down there looking at it.

City Engineer Ramm said you can see there's a lot of sidewalks going on; so they are doing a lot of work in both areas now. It's very visible. Part of this work also includes Dania Drive. We had set that up as an alternate; and it was approved in the 2019 bid of this very project. 'So, Dania will also be filled and resurfaced. There will be a lot of base performed. It's curb and gutter replacements. So, when that whole area is completed, it will be a nice holistic improvement there.

Chairman Veverka said they poured 450 foot of sidewalk there.

Finance Director Blaze said Don, question. On the slide that you have shown up there, extra work to date \$284,000 and change, am I to interpret it that the \$284,000 is still accounted for in the \$400,000 contingency or that's above and beyond that?

City Engineer Ramm said no, so that's the amount of the \$400,000 that had been spoken for.

Finance Director Blaze said got it, okay thank you.

City Engineer Ramm said and that equates to the 5.25% of the overall original contract.

Chairman Veverka said okay.

City Engineer Ramm said okay, moving on with Lafayette, this is a snapshot I believe of the Lafayette project; and this is an item that we want to speak to as far as the legislation request. Real quick, the percent complete, 58% from a contractual basis complete on the contract. We are at 86; and as you know, the contractor is out there working hard. He was split forming some curbs that was in the change order that was added last month by City Council to replace all the curb and gutters. So, work is progressing nicely, and there's a lot of activity. I just wanted to bring everybody's attention to some items that had come up along the way that are actively ongoing. We feel that we want to put out there now that we need to look at a (inaudible) change order for \$100,000 to address some items, a significant amount of increased tree removal on the job, some underground work that has come up for storm and sanitary sewers for residential connections that we found crossed that needed to be repaired. The road is getting a lot of heavy construction traffic so there is going to be some potential for additional base repairs needed on the project. As we are putting the sidewalks in and redoing the driveway aprons, we are realizing that we are widening these flares very nice and wide to improve them for the residents, and we are also are finding that we have to chase them back outside the right-of-way more than we had planned and anticipated to make it right and make the elevations work and joint patterns work.

So, we are trying to ask up front when we are seeing that we may be in a position to need some additional funding. We are trying to request \$100,000 at this point and time, even though we still have a good solid month or more of work to be performed. We do think, and I did bring up previously that there was \$100,000 identified in 2020 for this subdivision, thinking that there could be potential for some needs for the project. So, I anticipated last year, and was able to put this in.

One other thing we want you to consider. At the bottom of the memo on the left side, we had nothing in (inaudible) for Daisy Blvd. at the north end to upgrade it. It is kind of a private drive area, and it's been kind of the land of the lost for a while. There are non-uniform lots there. It's the condition from 2009; so the City has patched it over time, and we do use. It has deteriorated and the Alternate bid considered what it would take to improve it. Catts Construction was the low bid. The alternate was \$75,000; however, we feel we can do the project for \$50,000 to upgrade that piece of road and albeit it not, we don't desire to dedicate formally; but we think that under blanket easement the property owners would allow, give us the rights to a blanket easement there. We had occasion to utilize this pavement for trash to be picked up, rubbish, recycling, snowplowing. We also have fire truck access to the back of the hotels. We have a water main easement there. There are power poles, gas lines; so for all intent and purpose, it's very much a utility and a right-of-way corridor. It's rough there, and the request is that we have a change order to pull the trigger on this work, approve it and get a blanket easement for it for a cost of \$50,000.00 while we have the contractors mobilized on site.

Councilperson Narduzzi asked how do we go about doing that without putting a cul-de-sac at the end of that street or is that for Greg O'Brien to answer?

Mayor Kurtz said if I may Mr. Chairman, it's going to be just like some of the other streets that we have like Evergreen and a few others where it's short enough to where our trucks and our safety equipment can still get up and down the street without having to turn around. So, I haven't heard anybody talk about needing a cul-de-sac in that area; but it's just improving the pavement portion for our bigger vehicles.

Law Director O'Brien said Councilperson Narduzzi, in our code it allows for a "T" for the reasons explained by the Mayor.

Chairman Veverka asked Don, what happened to the new development that was supposed to connect there. Wasn't it supposed to connect on the end of Daisy also?

City Engineer Ramm said right where that asphalt drive generally comes in, that was basically the proposed location for the roadway. So, it was still going to tie in as a dedicated road, dedicated portion, an improved portion of Daisy. It was not (inaudible) coming in at that end of the plan on this private drive.

Chairman Veverka said the area that you are going to include, that will then tie into the development roadway?

City Engineer Ramm said it will be just the extension of right wherever you see the curb and gutter. The asphalt roadway would formally stop and just continue back through to the north.

Mayor Kurtz said the question is will the new proposed subdivision road be extended off this new addition? The answer is no.

City Engineer Ramm said correct. The answer is no.

Chairman Veverka said thank you.

Finance Director Blaze said Don you mentioned something about an easement with these homeowners are something because looking on that plat map that you are showing on the screen now, the portion that we are looking at improving appears to both be on the private property sites themselves. Those homeowners wouldn't bear the cost of that almost like a driveway to their driveways.

City Engineer Ramm said I believe the premise, the main reason is because the City has history of utilizing that pavement, accessing it for all of the services that we were performing everywhere else in the City and the subdivision. So, we have contributed to the deterioration of the road; and we do have a lot of utilities. We have an 8 or 12 inch water main that runs all the way north towards those hotels through this land. It is already covered with some easement, and we have other utilities there. So, I feel like there's interest and a history of use of this area.

Mayor Kurtz said Mr. Chairman said the reason, we aren't taking a full blown approach curb and gutter. The strategy is to do a more reduced cost, something that's still stabilized in the long term for heavy vehicle use. It's not going to be a full cut curb and gutter. Is that correct Don?

City Engineer Ramm said well for the \$50,000 improvement we can put the curb and gutter in. It will hold the road, give it some defined edges; and I think that the improved pavement that we will do there, it will last longer from a drainage standpoint and stability. (Inaudible), it will reduce the cost and come down to \$50,000.

Mayor Kurtz said okay.

Finance Director Blaze asked is that \$50,000 included in the \$100,000 that you are asking, or would that be in addition to the \$100,000?

City Engineer Ramm said it would be in addition. So, the memo that was written, the first \$100,000 was for work, extra work in the subdivision project; and the second \$50,000 was for this Daisy alternate. So, \$150,000 total between the two.

Chairman Veverka asked is this similar to what happened at the end of Beverly Drive Don? At the end of Beverly, beyond the cul-de-sac were those 4 private homes that were just kind of tied in at the end of Beverly; and we did the curb and gutter and asphalt paving on that, correct?

City Engineer Ramm said yes, that's ironic. It's exactly, it's the exact same scenario. Those parcels are on the tax maps showing private drives. The highway is going to encumber the cost of that land (inaudible).

Chairman Veverka asked so basically similar?

City Engineer Ramm said yes. So, the request is that this item will be a piece of legislation for next week's Council meeting.

Chairman Veverka asked do we need a motion for that?

Mayor Kurtz said I just think it will all be approved unless there's objection. We are just going to put them on the agenda.

Chairman Veverka said that's fine.

Councilperson Narduzzi said just so Council knows that I would approve going with the curb and gutter and making it part of that street so it looks the same.

Chairman Veverka said that makes sense. That's what we did up on Beverly Drive, and it looked nice.

Councilperson Narduzzi said and Don if you could answer one more question going back to the additional tree work in the Lafayette subdivision, you know I have been questioning my street for months now, we were going to take out all the old trees and replace them with all similar trees, the same caliber or leave some of the old ones there. Has anybody made that decision yet and is that part of that \$100,000?

City Engineer Ramm said Councilperson Narduzzi so a lot of the trees that were removed, so we went way over on the trees because we initially thought we could save a lot of the trees; but when we tried to field locate the sidewalks in the field, we were just impacting roots that we didn't think we were going to be, and so the quantity of the trees ran higher than we anticipated. To your point, right, there are a lot of trees that remain that can already be half done from CEI over the years; and that cost could go for additional tree removal.

Mayor Kurtz said a question Mr. Chairman, I have heard good feedback from the residents in terms of widening the aprons, and the fact that we are pouring a continuous pour; is there money in for the rear yard drainage concerns that people have brought to my attention?

City Engineer Ramm said yes, so there were two alternates that included rear yard drainage; and that work has been performed. All that needs to be done there is some final grading and restoration. That was primarily between the backyards of Laurel and East Ash; and then also the backyard by the CEI easement of Aster.

Mayor Kurtz said okay because those were the areas that people were concerned. The other thing that you brought up and I agree is that those big trees that are hacked out; I would be supportive of replacing those. Do we have money in this contract for landscaping and trees?

City Engineer Ramm said yes, we have tree plantings; but the number was not very significant. We do have pricing for different trees.

Mayor Kurtz asked can we look at that from a total landscape standpoint at some point that we can present it to Council?

City Engineer Ramm said yes, that was our goal to get something uniform throughout the whole subdivision and come back and share that.

Mayor Kurtz said okay, thank you Mr. Chairman.

Chairman Veverka said Don you have to jump back up to Number 6, you skipped from Lower Brookside to Lafayette.

City Engineer Ramm said on 6 I was just trying to reference this slide, but then I circled back project specific. I would prefer to keep moving to Number 8. That's the way the slides were prepared.

Chairman Veverka said that's fine.

City Engineer Ramm said the Upper Brookside, that job is moving along well. If you recall, it was primarily Phase 1 was from Lake Charles then south and then Lake Charles; and then Phase 2 was from the south side of Lake Charles south to Sprague Road. It got started in earnest at the end of January, and the last 2 months have been spent on underground work, storm sewer work; and the project parameters were about 41% complete on the contract dollars, and about 47% complete on time. So, it's tracking pretty well. Contingency wise, we are at, it was 8.4% set up in the job, and we are running at about 5.4% so far. So, we have spoken for about \$126,000 of the \$195,000. So, we are doing pretty well so far. The update that went on March 27th notified the residents that we would start ripping out one side of the roadway, and then start operations for concrete paving. That work was initiated just yesterday.

Chairman Veverka said right. They are up near the crest of the hill already. They have already done section (inaudible) I-77. They are at the crest of the hill going westbound.

City Engineer Ramm said yes. They are doing pretty good. One item that this job pertains to that was the old Kozron property on the interior corner by the highway bend that required some easements because we couldn't fit the grading to the sidewalk, and the sidewalk itself is on a very sharp corner there. So, it necessitated some relief from the property owner for temporary grading easements as well as a permanent sidewalk easement; and this was the property that was recently purchased by Mr. Chairman. We did a fair market value, an analysis of it, and we are going to request legislation to accept those easements for a minor payment.

Mayor Kurtz said I think we should have taken the whole corner, just kidding. I was just making sure everybody is awake.

City Engineer Ramm said it's a pretty easy one, and there's nothing to belabor here.

Moving on, relative to Phase 2, so what we had talked about earlier on was utilizing unit prices of Catts; so this spreadsheet, the next couple spreadsheets, what I tried to do based on bid items for the work for the Phase 2 construction. We arrived at the dollar value which was near the million dollars that we had appropriated, but for some nuances there that could potentially increase the cost, but we wanted you to know that we were going through that exercise and will be in a position soon, if not already, to ask for consideration of a change order or to go out to bid. Now with the virus, not being (inaudible) but we wanted you to be aware that we were investigating it, and in that Phase 2 work we had considered the potential for a boulevard entrance off Lake Charles which would really help with some maintenance of traffic issues for that intersection, one way in and out. We felt by constructing it, we could potentially really help traffic getting in and out of that subdivision during construction of the Phase 2 work. So, it's something that we wanted to run off to see what it would look like and just let you know it's being investigated at this time.

Mayor Kurtz said Mr. Chairman, by way of history, that subdivision originally was designed for a boulevard entrance. It didn't make the final plan approval.

City Engineer Ramm said the estimated cost of this improvement if you happened to rip all that pavement all the way back to the west, and restructure it. There is significant landscape

mounding that would have to be reconfigured, and there's utility work involved. That estimated cost was already incorporated into the change order costs. Now the fact that they hit a lull in the project, we may have an opportunity to just go out and bid, if that is your desire to do that and kind of see just (inaudible).

Mayor Kurtz asked Don, what are you suggesting? What is your recommendation, and I need clarity.

City Engineer Ramm said well the thought process was that Catts has been doing very well on the job, and we would have reaped a big benefit from not having a 30 to 60 day advertising and a work period; but the fact that now you can see everything is coming to a slow down. We may have an opportunity now, time is back on our side and some work between Bohning and Associates and the Engineering Department, we may be able to package up a separate bid for a Phase 2 work. It could induce challenges, the timing of a separate contractor coming in over top of this current contractor once this job wraps up; but we could probably work through some of those dynamics. Our preference of course would be to keep the same guy on the job. They are performing pretty well, but that's not just unfortunately not how (inaudible).

Councilperson Trakas said this certainly is not a change order. This warrants a re-bid; I don't care how long it takes. It is a complete different scope of the project, and you have to re-bid this, particularly with the economy being what is, I think you would get some pretty favorable bids out there. This is well far and away not like you found the wrong type of soil, it is a completely different scope of the project; and it absolutely warrants a re-bid in my opinion.

Chairman Veverka said a re-bid does seem to make sense. I understand the advantage of the company that is already on hand, but due to the possibility of constraints related to the unknown what monies we will have able, that does (inaudible). Dave, what do you think?

Vice Mayor Grendel said well if this was prior to the Coronavirus, I would have kept Catts on it; but now with the changing circumstances and the time is available. I would hate to see, the quality of work has been very good to date; and we have had nothing but good with Catts. I guess it might warrant to have bidding for this because we do have time now on our side; and we have to see the finances now too. I would like to see this one continuous project and everything. So, you hate to see the quality on one side being different than the quality on the other. Catts has given us a good quality of work.

Chairman Veverka asked Tom what do you think?

Councilperson Narduzzi said I would say that it should go back out to bid, and Catts is already out there on the job; we should have a favorable number from them. It should be a win-win for us, but due to the circumstances, I think this has to go out to bid.

Mayor Kurtz said it sounds like that's the recommendation Mr. Chairman, and we will follow that.

City Engineer Ramm said okay.

One real quick comment to make, and I will circle back to Bohning and Associates just to make everybody aware, there may be a need to amend or modify, we did pull the trigger on the \$50,000 design fee for this Phase 2; and I think at the time it was meant to be an extension of the road. So, there may be a need to revisit the plans and just (inaudible) the bid documents for a secondary sub-bid so that I could just wind up getting my foot in the door to (inaudible) for a contract modification. I don't know that to be a fact, I am just wanting to make you aware.

Councilperson Narduzzi asked and is there a total scope Don that goes all the way to Sprague Road? I see the sidewalk coming out of the entrance heading south, but does that continue on?

City Engineer Ramm said so the scope of the work, yes it would continue, we looked at the feasibility of both sides, and we feel like it fits on the east side from Lake Charles south to Sprague. So, right now the plans have been prepared and the spreadsheets and costs based on (inaudible). That would be what we would go to bid with. It would include the concrete curbs, improvements (inaudible).

Chairman Veverka said it sounds like we have an agreement.

City Engineer Ramm said I will circle back with the Engineer, and we will get that moving.

Chairman Veverka said okay, we will move on.

City Engineer Ramm said Number 9 was it had to do the boulevard on Rockside. We wanted to do a little bit of this work (inaudible).

Mayor Kurtz said you know the plans the way they were designed were to have a boulevard in the area by AAA and the new entrance from Rockside Woods North. The thought process, my thought process is since we are going to be looking at this long term; and I still believe the Cloverleaf area is an uncut diamond with a tremendous amount of potential. Having ODOT upgrade that bridge as part of this long term strategy, I think it's important. Then there are several different potential modifications going northbound to the Cloverleaf; so I hope the committee and Council would agree that we at least explore the cost and the options. Then take it all the way to Rockside Road to see what our options are, and what our opportunities relative to potential long term use of that property.

Chairman Veverka said we tried to protect the people on the east side where most of the residents were homeowners; and also we had problems with different setbacks and so on. Getting that all cleaned out. What would be involved Don to get the boulevard, about a 12 foot median?

City Engineer Ramm said we have asked E.L. Robinson since they were designing this project to kind of a see it and prepare a bit of an analysis investigation. I think they would try to mimic and duplicate and replicate those very medians which would be roughly I think 14 feet. That would be the width, and they would probably reduce it to 12 like other places in town. It ranges from 12 and 14. So, I think this document represents it as 14 foot.

Chairman Veverka asked so that would have to push us to the west approximately how far, it would be beyond probably four houses?

City Engineer Ramm said when we were thinking about fitting a median in, we were looking at whether to do it in the dead center of the right-of-way which would be symmetrical, but we also looked at doing it all on the one side, the west side versus all on the east side. So, that was part of a little bit of a study that we were having E.L. Robinson just kind of look at. Along with potential impacts for right-of-way impacts, utility impacts, utility relocation impacts and of course just construction costs; and we hope to be able to be in a position to come back and share that information shortly. There's pros and cons with the center versus the west versus the right.

Mayor Kurtz said Mr. Chairman I don't see a common thread of an even balance. There is some logic to moving it to the west side on that little bit of a turn radius there between the bridge and Rockside. We are just exploring this, and we did reach out to ODOT like I mentioned earlier about the bridge; that would be widened on the west side. So, that would be consistent with the improvement we have already made at the new and proposed intersection of Rockside Woods. So, as we look at this conceptually we will present it back to the committee or back to the Council as a whole once we are able to firm up a long term strategy at least from infrastructure.

Councilperson Trakas said I would just add my two cents. I think that historically the residents there have been really concerned about every action the City has taken; and I would convene a meeting of all the residents before any of this type of thing is discussed. I think they felt very violated by this whole street being taken out and discussions about them being a commercial area. We met with these folks three times in 2017, and the last result was that the people by overwhelming plurality, said they didn't want any new development down there, and now we are adding millions of dollars in new infrastructure. We are talking about a new boulevard. People there really feel left out, and so I truly believe that before we have any type of legitimate discussion on this; bring the people together, you are excellent at doing this. Bring them together, get buy in on whatever we do in that area from the public before the City goes and starts talking about how "improve the area." Some of the people who live there say I don't want the area improved. It was already improved. I love living there. I have lived there for "x" amount of years; and now you guys are pushing me out. I think all these types of discussion absent the public's perception on this and input in it really undermines people feeling they feel part of this community. They feel cut off and truncated from this community.

I really think you have an excellent grasp on this; let's convene the people before we start going down this road again. I think that we would get some very valuable information from the folks who actually live there.

Mayor Kurtz said you are spot on. We intend to do that sooner rather than later; but with this uncertain dynamic we are dealing with we have had to obviously postpone that; but the only thing I am suggesting today is that we are playing some what if in terms of infrastructure and we will definitely, we will have some additional data, at least some visual aids to show people. They already feel the impact in terms of what's taking place with the construction to date; and my goal is to be able to sit with them and have cauliflower ears so that we hear what they are saying, whether it be the people on Kleber, Longano and those are permanent residents and some

of the stakeholders. You are spot on in terms of us having a meeting; but unfortunately I can't tell you when we are able to have that meeting. We are going to continue to do a little bit of work to at least put ourselves in the position that we have some visual aids to show them when the appropriate time.

Councilperson Trakas said that's fair.

Mayor Kurtz said Mr. Chairman, your turn.

Chairman Veverka said we can move on then if there are no further comments related to the boulevard.

City Engineer Ramm said the last item on the agenda is the Hemlock Trail. I requested that this item be added back to the agenda. If Council recalls, back in December of last year the issue unfortunately had circled back where it was the first time Council was hearing of the need for cost overruns and request for a change order. It has been removed from the agenda ever since, and we have been pursuing, Greg O'Brien could speak to some of the dynamics with the engineer of record and some culpability issues on the design, the bid documents. No payment has been made to date yet to J.D. Williamson, our contractor; and we wanted to bring this back before Council to revisit it and see if we could be in a position to make approval in some form or fashion relative to this.

Mayor Kurtz said Mr. Chairman said look, this is a tough situation for the members of Council who were on last year; I fully understand that. I guess I'm asking to not neglect or negate our potential possibility of being reimbursed to a certain extent. On the other hand, I am sensitive to a contractor who did their work based on the approval process and the dynamic and time. I am certainly not requesting that they be paid in full as they request; but we have had ODOT as of this week has also weighed in on the subject. We want to keep good relations with them because of all the other things we have going on; and so all I am suggesting is as a good faith initiative would be to pay them a partial payment on this contract. Then we still have the opportunity to recover a portion or all of it from the engineer if there is deemed to be some liability.

So, I bring this up just to say look if you want to pay \$150,000 or something like that. I think that is a good faith gesture. It maintains our credibility in the contractor world.

Chairman Veverka said let me ask this, Greg O'Brien, what have we got as far as contact with the engineering firm related to those costs.

Law Director O'Brien said Mr. Chairman when we got involved, we sat down with Don, we sat down with the City construction manager. We went through the various documents. We have not retained any engineer experts; but based on those limited discussions and review, we sent a letter to R.E Warner for demand of \$245,000. Now, I am sure you are familiar enough with lawyers; they ask for everything. It's a public meeting, so that's the number. I can provide you more details in an Executive Session.

We have spoken to R.E. Warner's counsel, their attorney. We believe it to be their insurance counsel. They have turned us over to insurance. He was reviewing the information and had scheduled a meeting to meet with R.E. Warner at the end of March to discuss with them and give us a formal response. I believe without too much speculation that because of the Covid pandemic and the stay at home, that did not occur. We will reach out to him again after this meeting. I agree with the Mayor, I was on the phone with ODOT; they are sensitive to J.D. Williamson getting paid. I think it would be a good faith gesture.

At this point Mr. Chairman, let me just say, I don't believe the issue lies with the contractor. Now as you know, and everybody on this call knows, things are fluid with any type of litigation; and things that you don't know preliminarily kind of rear their head unknowingly as you go through. Hopefully, we don't have to file a lawsuit. What was one way today, may not be that way after other documents. We just kind of tipped the iceberg.

So, we believe that, and at this point, the majority of fault lies with R.E. Warner; and agree with the Mayor as this case progresses, perhaps that changes from right now (inaudible).

Chairman Veverka asked Councilperson Narduzzi to weigh in.

Councilperson Narduzzi said I think everybody listening knows how I feel about this whole situation; but I don't think it's right for a contractor not to get paid. I am a contractor myself, and I know that especially in these times. People want to get paid for work they had done. He was told to do it, and he did it. I do question the amount of money spent to do some of these options, but that's just for me to decide.

Greg, does it hurt us at all if this goes to court saying look we gave them half the money down; and the judge might say well you gave them half, why don't you just give them the other half? Is there anything, or is it a good gesture?

Law Director O'Brien said no Tom, there's no downside. There is no waiver, there's no promise. Council would appropriate a certain amount of money, and technically Council would have to approve the other additional money to pay, the fiscal officer would have to pay for it. There's no, for this contractor unfortunately, as with all contractors dealing with the public, there's no justifiable reliance, implied contract unjust enrichment in the public sector. So, no.

Councilperson Kapusta said may I ask a question of you Don. I take it that we have talked with J.D. Williamson Construction, and because this work was duly completed at this cost; they are not inclined to make any modifications in that billing to us?

City Engineer Ramm said correct Councilperson Kapusta. There was some discussion with regard to acceptance of a lesser dollar value; and they felt that everything was above board and approved every step of the way, and work was performed at the agreed upon price. They felt that they were (inaudible) the dollar value that I shared with you today for that work.

Councilperson Kapusta said thank you.

Law Director O'Brien said and Councilperson Kapusta if I could just jump on there, as I mentioned before, and I know that Don is doing a yeoman's best to move a project along and to have him being able to do some of this, albeit subject to Council's approval; but having said that, whatever we pay them as I said to J.D. Williamson through e-mails, they are on very tenuous ground. I was somewhat surprised they wouldn't reduce the amount for partial payment; but we can further discuss that because without Council approval of any additional amount, assuming Council goes forward with a partial payment, and the fiscal officer certifies that there's funds, it's a really extremely impossible case. As I mentioned before, just so I do my job, is in the future if the City gets a reputation for that then projects are going to stop until we get the necessary approvals.

Councilperson Kapusta said thank you.

Chairman Veverka said so Tom what do you suggest? Do you agree with the Mayor's recommendation that we move forward with a partial payment? Is that what you are thinking? Or full?

Councilperson Narduzzi said I think that Council on a whole will support it, and I am not saying that I will. I have issues on specific dollar amounts they charged us to do specific things; and I guess I have to stick to it because I am not comfortable in paying somebody a ridiculous amount of money to perform construction. It is sinful to me. So, I understand where the Mayor is coming from on the big picture; but I just can't go ahead and support it.

Mayor Kurtz said Mr. Chairman, my question is how much would you support understanding that there is a variance in terms of some of these items that you brought to our attention. What would the number be that you are comfortable with, realizing that the variance is still out there and still may be compromised at some point?

Councilperson Narduzzi said I understand the point of giving them half the money, but something is telling me that's going to be step one, and then step two is going to be the other half of the money. So, I guess I can go along with the first half of the money, but I will (inaudible) the second half.

Law Director O'Brien said well Councilperson Narduzzi, let me just be clear, if I was representing the company, I would tell them don't waste money on legal fees because if you attempt to sue for the other half, 99.9% of the time you are going to be unsuccessful. Having said that, you are going to have, ODOT may have a different position. In fact, I didn't share with the Mayor because I know how the Mayor would react; but they would like to get this contractor paid, and if they don't, they are going to take maybe a hard look at future projects with the City of Independence. I told them I wouldn't share it with the Mayor because I don't think it would be well taken, but okay I did.

Vice Mayor Grendel said I would go along with the Mayor, and I think partial payment is in order based on two factors; one is the matter with R.E. Warner because I still think that they share some liability in this; but the other thing is again our relationship with ODOT, and we don't want to be steadfast in our stance on this issue and then hurt us down the road in the far

greater issues. So, I would be in favor as far as from the committee to give them that payment of \$150,000 at this time; and then pursue that matter with R.E. Warner.

Chairman Veverka said that seems to be a reasonable number, and the biggest concern for the engineering fees that were caused by the engineering questions that came up, and they didn't anticipate. The other things Tom had mentioned had to do with the cost of converting to the different poles they installed. So, I think the \$150,000 is probably a reasonable amount to pay.

Finance Director Blaze said question Mr. Chairman.

Chairman Veverka said yes.

Finance Director Blaze said Mayor what is the end goal of doing the partial payment now that hopefully the contractor settles for less than the full \$230,000 that is owed for ODOT or for R.E. Warner is going to get forced to pay; or is it just an acknowledgement that hey we are going to end up having to pay this \$230,000 at some point, and we are just going to try to pay them a little bit now and little bit when our hand is forced?

Mayor Kurtz said a combination of all those different factors. I want to be able to sit with ODOT and know that I was fair. That is issue one. I want to be able to look to the contractor and say look we questioned some of the work that was done here; but in good faith we are going to pay you a portion of what you believe you are entitled to. Thirdly, is that the way I would want to be treated. I wouldn't want to be left in the dark and feel as if no one is paying attention to me. I think R.E. Warner would have to accept the fact that there's some exposure here, and I am hoping that everybody is more reasonable about it, especially with all this uncertainty going on. I think we are being very fair by being able to at least extend an olive branch and let ODOT know that we are fair and reasonable. We are not just cloistered in our own little world.

Chairman Veverka said right.

Mayor Kurtz said if the majority of Council, I would appreciate it if they could just, if we could have legislation along with everything else, ready for next Tuesday. We will look at the \$150,000 and then it doesn't affect us long term if I can face anybody and say I think we have been fair with the hand we were dealt.

Chairman Veverka said yes, that seems reasonable to me.

Councilperson Narduzzi said that's very reasonable for me also because I understand that they were told. They were given the go ahead to perform that work. What I believe is what they performed I believe is overpriced. That is my opinion.

Chairman Veverka said those two parts; they charged for one, and the question of the problem they had because of the engineering issues. There are two pieces to that, but taking the responsibility for the other \$150,000 seems to be (inaudible).

Law Director O'Brien said and Mr. Chairman with the City's permission, the R.E. Warner doesn't really affect them; and that is something they reiterated from day one, but if we have questions regarding the cost of the change order because obviously to a contractor that's where they make a lot of their catch up jobs, let's be fair. Then that is the reason why we are going to tell them, with everybody's permission, we are making a substantial partial payment, but we will look into the rest of the charges after that.

Mayor Kurtz said that's a fair way of explaining it to them if Council is so inclined to approve it.

Chairman Veverka said I agree.

Mayor Kurtz asked is there anything else that we missed, or you want to discuss?

Chairman Veverka said no, I think we are good. Debi, did we have any questions e-mailed from the public?

The Clerk of Council said no we did not have any questions.

Chairman Veverka said so we did offer the opportunity for people to participate, be involved in the meeting?

The Clerk said that is correct.

Chairman Veverka said thank you. In that case, if we have no other topics to be brought forward, can I have a motion to adjourn?

Mayor Kurtz said Mr. Chairman one thing if you could just ask everyone how they thought this meeting went in terms of efficiency, I would appreciate it.

Chairman Veverka said okay, let's start with the Vice Mayor, what did you think?

Vice Mayor Grendel said I like the face-to-face; it's still kind of a new procedure with me, and there are a few distractions at this end too and everything. I got the gist of the meeting. I probably would have participated a little more, but again, to keep the flow of the meeting going too and not disrupt it. It will take a little while to get used to. Hopefully, we won't have to get used to it for too long because I do enjoy the personal interaction when we are all together in one room, but this is better than no meeting at all, that's for sure. I think we worked out a few kinks. Hopefully, it will be smoother for the meeting next Tuesday.

Chairman Veverka asked Tom?

Councilperson Narduzzi said for the first time I ever did this, I thought it went well. Like Dave, I like face-to-face contact; but I guess we are not going to have that for a while. I would ask for the Council meeting, we should discuss what we are going to do about reports. Are we going to have reports? If we are going to have them, it could be a very long process and night. 'So, I

think maybe we should hash all that out before we get to next Tuesday. I think the format, as long as we have a moderator and it moves sufficiently, we should be fine.

Chairman Veverka said thank you. Kathleen?

Councilperson Kapusta said I agree with Tom. I think it went fairly well for the first time around. The only thing I was wondering is it always limited to just these five screens so we can only see five screens, is that what our maximum is?

Mayor Kurtz said I believe we could have more screens, but we have an agenda; so we thought the agenda was important to show. Is that right Kathleen?

Councilperson Kapusta said well we do have the agenda, and I think it's important; but we also have the option to make copies of the agenda and have it on our place because that was sent to us as an e-mail as well. Just like next week for our meeting, we will have our Granicus; we could do that on our iPads. I just value being able to see all the participants; that's my thought.

Chairman Veverka said thank you. Mr. Trakas?

Councilperson Trakas said I do a lot of these, even when there's no Wuhan virus threatening us, and I find them to be valuable. I thought the discussion was good today, and obviously it's better to be with each other for the flow of the meeting. Overall, it went pretty good. I think Debi could be a great moderator for Tuesday coming up on the 14th; and I was very pleased with how things went and appreciate everybody being accommodating. People weren't speaking over each other. One thing it is difficult to hear when you are on speaker, but Don did a particularly good job speaking up. So, congratulations on that.

One thing I always want to make sure is that the people can participate. We did give the public a chance to participate and publicized the meeting. We will see what happens in the Council meeting. The first option is usually to have the public participate; and we will see if anyone chooses to do so. Given the situation we are in, I think this was an effective way to do this.

Chairman Veverka said thank you. Chris?

Councilperson Walchanowicz said I thought it went really well for the first time. It takes some getting used to, but it will work for a short term I hope.

Chairman Veverka said hopefully the short term is the key word. Is Kenn on?

Councilperson Walchanowicz said looks like he's enjoying himself wherever he's at.

Councilperson Synek said I use Zoom a lot. The meeting went reasonably well. The screen share thing that Don has going right now with that agenda takes the screen. If he were to stop sharing his screen then it would be like a Brady Bunch picture where we would get to see everybody's faces, and I would go as far as to say Don's presentation would have been better had he used his laptop as opposed to that camera that shows a bunch of empty chairs in the

conference room there. So, it would have been nice to see a little bit more of Don as he was speaking, but for the first time, this is a fine tool. I use Zoom a lot, and it has really come in handy the past month.

Chairman Veverka said I enjoyed it. I just want to make sure everybody enjoyed my picture.

Mayor Kurtz said your picture was the best one. Mr. Chairman, for next week the thought was you would turn in your reports. You could e-mail them or turn them into Debi. The Directors' reports will be turned in. They are not going to be, they will be active participants. My thought would be that we will still use the same format with the Vice Mayor conducting the Caucus before the meeting if everyone thinks that's the best strategy. Then we would go into a meeting, with the Consent Agenda, it would be kept to be as efficient as possible.

Councilperson Walchanowicz asked I have a question. How do we do the Executive Session this way as Mr. O'Brien had mentioned?

Someone said we don't.

Chairman Veverka said there are specific limitations on what topics we can and can't talk about. There's legal, personnel, real estate. Greg O'Brien remind me what else.

Finance Director Blaze said he's not on there; he would agree Chairman about some of the categories you said; but I believe the host then has the ability to disconnect anybody who is not Council or Mayor and an Executive Session still could be held in this format because all the other participants would fall off of the call.

Law Director O'Brien said yes to all of the above.

Chairman Veverka said it would probably be most appropriate to do it the Executive Session first before the Caucus.

Mayor Kurtz said or at the end.

Law Director O'Brien said or at the end, but you would still have to open up the meeting in public.

Chairman Veverka said right. What I am saying is if you go from Caucus then you go to Executive Session and then go into the general meeting; that would be difficult for anybody who wanted to follow the meeting.

Law Director O'Brien said right.

Mayor Kurtz said we will construct our agenda, and then we will figure out the way to be efficient but legal; but I think this format, considering everything else we have going, I appreciate everyone's participation. Next week we have a lot of work to do still, but with these

uncertain times, we are navigating through a lot of different issues right now. I appreciate Council's participation, and we will get through this.

Chairman Veverka said now I will entertain that motion.

Moved by Grendel, seconded by Narduzzi, to adjourn the Streets & Sidewalks meeting of April 7, 2020. Voice Vote: 3 yes/0 no; motion carried.

There being no further business, the meeting was adjourned at 6:01 p.m.

Debra J. Beal, Clerk of Council
Minutes Unapproved at Time of Release 04/19/20