

**CITY OF INDEPENDENCE
UTILITIES & SEWERS COMMITTEE MEETING
MINUTES
NOVEMBER 18, 2019 4:00 P.M.
COUNCIL CAUCUS ROOM**

Present: Chairman James Trakas
Councilperson Carl Asseff
Councilperson Dale Veverka

Also Present: Vice Mayor Grendel
City Engineer Don Ramm
Councilperson-Elect Chris Walchanowicz
Law Director Gregory J. O'Brien
Resident Nancy Dugan
Resident Michael Grande
Resident Mary Ann Penitz

Chairman Trakas called the Utilities & Sewers Committee meeting of November 18, 2019 to order at 4:00 p.m.

Chairman Trakas said we do have a quorum present, and we have the Minutes from the October 2, 2019 meeting of this committee. Is there a motion to approve them as submitted or are there any deletions or additions?

Moved by Councilperson Veverka, seconded by Chairman Trakas, to approve the Minutes of October 2, 2019. Voice Vote: 3 yes/0 no; motion carried.

Chairman Trakas said we do have some guests today, and we want to thank you for coming. I just want to say we are pretty open-ended here; so the first time you say something, state your name and address for the record and just keep talking unless told otherwise. We try to have a free-wheeling meeting where everybody has a chance to give their thoughts. At this stage of the game, if it's okay with my colleagues, I would like to turn the meeting over to our City Engineer Don Ramm for discussion on what this committee has had the benefit of seeing, I am not sure if the residents have the full benefit of it as well; but it was our fault that we didn't get a chance to invite you to the last meeting. We had a wonderful meeting, we just did it without you; so we wanted to correct that. Thank you for your indulgence and thank you for suggesting this.

City Engineer Ramm said Mr. Chairman, thank you. So, I do again apologize publicly for not inviting you to the last meeting where we had our consultant from Crawford, Murphy & Tilly present their findings of the study, and we had hard copies of both the study findings and the Power Point. I can run through their Power Point here just as a brief summary to catch us up to speed. About a month ago I met with the residents on site to kind of have a one-on-one or a

group meeting with the study documents in hand; and as a result of that on site meeting, the request was made to have a follow up separate meeting of the Utilities committee.

Without further ado, I believe our consultant met with you folks back in March or April. It's been a while; and we had a busy spring and summer. We didn't circle back to this until in October unfortunately; but this was the study location on Braewood, primarily just the 3 or 4 homes closest to Brecksville Road, not so much the whole street. This is a graphic representation of the watershed area; so it's not shown here, but it's about 211 acres of a drainage area which flows through down through the streams and the creek, and down on the bottom the engineer is using the stream stats from USGS, it's calculated the flows from 10 year, 25 year, 50 year design storms routed through this watershed. So, in essence, the stream in the rear sees these kind of cubic feet per second flows with the significant rain events. There is a lot of water, and it does drain up into the tip of Seven Hills; so it goes as high as up in Seven Hills.

Chairman Trakas asked can you explain from a civilian perspective the cubic feet per second and what impact. Could you just describe what does that mean?

City Engineer Ramm said it's just the volume of water or flow, a raindrop that falls anywhere within the yellow boundary topographically rolls into smaller creeks and streams that are high up in the watershed; and as it moves down through the watershed, they tend to combine with other, in fact this map off to the left here, is an older drainage map that we inherited from Elewski's office. The blue lines represent ravines and kind of (inaudible) streams and ravines; and you can see the water kind of flows from southwest to northeast, diagonal there through all the ravines throughout the City. We are right here to get you oriented, Braewood. These are borders of sub watersheds; so these are boundaries where within, and it's kind of just a representation of a watershed.

Chairman Trakas asked has this watershed changed substantially since this map was put together?

City Engineer Ramm said no but for development. Impervious areas increase as time goes on, people add on to their homes, driveways, patios, things of that nature. Subdivisions get built up on top of the hill. Our own subdivisions get constructed, yours in particular was built in the 1990's. There is no formal detention basin anywhere in that subdivision. So, it's things that happen over time that tend to cause problems years later. We have learned a lot over the years, and that's why our ordinances have been updated for riparian setbacks and steep slope protection to try to stay away from the low spots where the water flows and congregates because we know, we have learned hard lessons with erosion and flooding.

Chairman Trakas asked does this indicate anything Don about the cubic feet per second, do we have any type of a barometer as to what it was at this time?

City Engineer Ramm said well this map does have culverts, and one nice thing is the map is kind of a citywide map of all the culverts; so when streams cross major roads, we have pipes that convey the water below the surface of the road. So, you can see, call out the sizes of culverts; and in general, when you go from high to low, the lower in the watershed, the pipes tend to, they

have to get bigger because you are hitting down lower in the watershed. So, the culverts were designed and designed by engineers to know to convey and not flood people out. So, certainly there is a way, cubic feet per second isn't noted on the map anywhere; but these culverts were sized to accommodate the adequate flows. Some of the routes, Brecksville Road is obviously a State route, and it probably was an ODOT design of the culvert. Pleasant Valley is a County route; and again, the County probably was instrumental in designing culverts at those times.

So, real quick, getting back, so it's 211 acres. The Northeast Regional Sewer District has a major stormwater utility program that we did approach them and ask them if they could assist. Their threshold is 300 acres and greater is where they call that a regional stormwater asset to where they will get involved. We are at 211, so it's a pretty large watercourse, but not big enough to warrant their participation. That's why they, I think we had asked them; and they kind of told us pretty quick that it didn't rise to a level that we could engage them in.

So, this was just the existing topography. The contours there represent a two dimensional representation of elevation. You can see a pretty steep drop off in the rear yards as you well know down to the stream. This was, the engineer had taken some photos when he was on site just documenting the erosion conditions. That pipe probably at one time was to grade, the dirt was probably close to the tip of the pipe; and you can see the erosion, it has eroded back.

Mary Ann Penitz of 7227 Braewood Drive said that's right at the edge of my, well you know that, it's right at the edge of my back property.

City Engineer Ramm said and the gabions on the right side, those are the Grande's that were put in 10 or 15 years ago. They are showing, the cage is rusted out. It is exposed at the bottom. The aggregate is soon to be working its way out. This is another view from a different direction looking downstream, and you can see at the end of the gabions where there has been some erosion and the stream has naturally tried to widen itself; and the bank has eroded at the end of the existing gabion that is there presently. The bridges that are out there, most all properties have the pedestrian bridges that cross the stream; and there is definitely evidence of erosion working its way back on the piers that are at one time were probably set in the bank and now with the erosion of the stream those piers are now starting to be exposed on all 4 sides and sitting out now in the stream. So, there are definite signs of continuing erosion.

Ms. Penitz asked did we ever tell you that sometimes whenever there is a big rain that whole land will be like a lake?

City Engineer Ramm asked like locally flooded, that whole lower?

Ms. Penitz said yes.

City Engineer Ramm said I don't doubt it, the topography would be such that it appears that is what would happen. We call that just a local flood plain down in that lower level.

Ms. Penitz said it's like a lake.

City Engineer Ramm said and that's probably a good thing because then that water gets to spread out, could slow down and not maybe move so fast. It's still going through the main channel when it's up flooding the higher up elevations; but that's just how it works. Luckily your homes are nice and high so you have never been damaged in that way from a flood event because you are sitting well up high above the creek elevation. So, that's a good thing.

This is just the downstream end of the stream, and this is the Dugan's property as the creek tries to turn to the north and west. It is chewing up on the outside of the curve. There are some tree roots that are being exposed and undermined; as is the case, all the energy is on the outside of the curve.

This is a makeshift bridge underneath the CEI easement. They have a little access road that allows their vehicles to cross this creek; and somebody threw some steel beams and some railroad timbers. So, it's more like a bridge than a culvert; but it is seeing some signs of erosion and undermining on the backside of the one abutment there.

This made mention of the deeds speaking to that when the subdivision was being planned, the stream was well noted and the language was both put on the plat and written into some of the deeds. We didn't do an extensive search, but this one, a handful of the ones we checked did have some language that spoke to the existence of a stream and the fact that it is subject to erosion and drainage problems as a result. That is pretty standard language all over the City in subdivisions that have any stream or creek running through it.

Ms. Penitz said can I ask a question. That designation, where I have erosion is on the other side of the creek. So, that is not considered the flood plain on the other side of the creek is it?

City Engineer Ramm said well there's no real designated flood plain. It's not a FEMA designated flood plain, but I don't know what you mean. This just speaks to the stream itself, it doesn't speak to one side or the other of the stream. It just says that the property has a watercourse running through it; and it's subject to, the property adjacent to the stream is subject to flooding and erosion because of the existence of the stream. It doesn't necessarily speak to one side or the other.

Ms. Penitz said well I can understand with the other side, when you say that's a flood plain, and that we could expect erosion there; but I never expected that was going to be my backyard going away every year.

City Engineer Ramm said you could expect water to flood those lower elevations just because it's low. It's low lying ground next to stream such that when the water.

Ms. Penitz said but it wasn't like that when we moved there. You could walk across that creek. You didn't need a bridge. You could step over it.

City Engineer Ramm said we have heard that, those exact words and sentences in a lot of sections, a lot of people's yards who had streams, who had been there for 30, 50 years. We hear that a lot, and it's just indicative of development over time and things that got done.

Ms. Penitz asked so what does that do to your property value if you don't have the property anymore when you originally moved in here? Taxes have to be affected. So, you are paying essentially taxes on land that isn't there anymore, it has eroded away?

City Engineer Ramm said well taxes are based on the parcel not so much physical dirt that is over here versus some dirt over there.

Ms. Penitz said it's missing land. Where you saw all that erosion, at one time that was all land that had some flowers on it. We had shrubs. Now it's all going down the creek.

Chairman Trakas said the County performs those types of, they are the ones responsible for the value of the land. You can certainly talk to the County. They have a Board of Revision that you can talk to that deals with the value of properties. You can certainly bring that up with them, show them the evidence.

City Engineer Ramm said that the area you are referring to that's been heavily eroded, and you are losing your yard; and therefore the value of your lot has gone down because of it. We don't disagree, but whether or not, like the Chairman said, the City doesn't place the values; the County Auditor does.

Ms. Penitz asked when you did what you did on Mike's property, didn't that kind of like hold the water back so that when it got to my property it started flooding through there a lot faster?

City Engineer Ramm said well it wasn't meant to be a retention issue. It wasn't meant to slow the water down as much.

Ms. Penitz said it did slow the water down.

City Engineer Ramm said it potentially maybe under the low flows where it cascaded down. I saw some of the little, and we will see some of those photos here in a few slides further; but really it's just meant to shore up the edges of the streambanks so that doesn't happen. So, that it doesn't erode. It's really not meant to slow the water down per se.

Ms. Penitz asked well how is that fair to do that just in one spot? Didn't you expect that would happen to the rest of the properties going down when you did that?

City Engineer Ramm said well it's was before my time here, so I don't know. I think Mr. Grande taught me a little bit about the dynamics of how that evolved; and I thought that the City reached out and offered to maybe do it on a couple few parcels, not just one. Maybe decisions were made to not go forward with it, or to end it. I am not sure how it arrived at just one versus 3. Again, that was before my time.

So, this is not rocket science here in terms of what the engineers came up with as the proposed solution. It is a lot of what is already out there. It's just more gabion protection that again has a certain surface life. It's not 100%. It can fail. Over time they do as evidenced by Mike's. We have gotten better. The fencing is now vinyl coated so it's more resistant to rusting. They might

last longer now than the cages with the stones in them; but in essence that is what they proposed here, just an extensive armoring of the entire channel all the way until it gets off the back corner of the Dugan parcel.

Chairman Trakas said quick question for you, if you were designing this subdivision today, we probably would have added a retention basin. Is a retention basin something that is possible for this subdivision currently? It would be private property obviously, but would that be a desirous outcome to do something like that?

City Engineer Ramm said at this point, anything you would propose here would only help people downstream of this subdivision, not these folks. They would need something upstream.

Chairman Trakas asked is there anything upstream that can be done?

City Engineer Ramm said you know, it's tough when you are dealing with streams. A lot of those detentions, we call them off line. Back in the good old days, you used to dam up a stream and create a big bowl and let the stream itself dam up; and that's been a practice that's been long. The EPA doesn't allow for that anymore because of the significant maintenance and debris, heavy maintenance efforts that they don't function adequately. As you know, those streams were near raging, they need to patch that water through, not store it. So, it's just a challenge to try to do something here upstream in the watershed that would have any significant value here.

Chairman Trakas asked how long would these gabions last? Obviously, we have a pretty healthy amount of water that's coming down through here. What is the anticipated life of something like this?

City Engineer Ramm said well if they are done properly, and one thing to note, so the engineer picked up on the fact; and Mr. Grande you mentioned it, even when the ones that got built in your yard, you say they were about 3 feet wide. The width from face to face was extremely narrow, you said you better widen that up.

Resident Michael Grande of 7209 Braewood said originally they were installed 3 foot wide, and I had stopped the project because obviously when the culvert coming under 21 is 4 by 4, choking it down to 3 by 3 is not going to work as Don referenced before. As the water goes downstream, you need to open it up. So, after a 2 week delay, Elewski decided to make it 6 feet wide; so it's now 6 feet by 3 feet.

City Engineer Ramm said you could almost see.

Mr. Grande said what's happening now is that since, not only is this creek water, it's also runoff water from the catch basins on Route 21. So, in the catch basins on Route 21 is saltwater from the winter snows. So, saltwater sits in the creek all winter when there is not a flow, and then rots the gabion cages out. So, now the gabion cages are all rotted out on the bottom, and the rock is starting to close that opening down because it's falling into the creek. That's the problem now.

City Engineer Ramm said and with significant flows it just billows it right through I am sure. The smaller stones just end up down underneath in the CEI easement probably during the heavy flows.

Mr. Grande said so originally I questioned what kind of band aid we could put on it to prevent that from happening going forward so we don't have to replace them; but they are actually recommending to replace them.

City Engineer Ramm said so the opening, the dimensions that they are calling out, I just want to bring your attention to this. They are saying it really ought to be a 9 foot opening from face of gabion versus 6; and then these dimensions further down are saying 15 feet. That is from outer dimensions because they are 3 foot wide; so 9 and 6 is 15 from out to out. That alone, you open up the cross section area, it tends to slow the water down because I think what's happening is it's being restricted. It has to go through there like a fire hose, and it's putting a lot of stress on those gabions to try to resist that velocity. So, you asked the question about the longevity; I think if they are designed right, they are entrenched properly and the cross section is opened up to put in a better position not to have to fight those heavy velocities, I think you can get 15 or 20 years out of them, maybe longer.

Mr. Grande said actually they are designed to last a long time, almost a lifetime. They are actually, if you knew any history about them, which I have been told from Geotech; they were actually designed in Italy after the war. They took all the rubble, and somebody came up with this idea and caged them. They are still gabion cages sitting in Italy after the war. So, they are designed for a long time if they are put in the right way; and you don't have other environmental factors like the saltwater that could erode them.

Chairman Trakas said that galvanization, does that impact the saltwater.

City Engineer Ramm said it's resistant, it's vinyl so it's not corrosive.

Mr. Grande said prior to what the City put in, I had gabion cages that I had installed myself; and they were the rubber coated ones, and I never had a problem with them. They took those out when they put the galvanized ones in.

City Engineer Ramm said and they could be still exposed to abrasion of debris and stones and trees, things that would tend to over time rub up on that vinyl and wear it down such that the steel could be exposed over time. So, they are not indestructible by any means, but they certainly are protective.

So, this treatment, these were 2 layers of gabions; the first layer is buried 2 ½ feet or 3 foot total, 3 foot by 3 foot, typically by 6 foot long. Then you see the channel width making sure it's 9 feet. Now the bridges would need to be removed and replaced because those bridges are over top of where you would need to construct these; and that they are saying with that cross section, it's designed to carry and convey 50 year flows which is a pretty significant storm event to carry through there. What that says as the bottom is United States Army Corps of Engineers coordination. A PCM is a pre-construction notice; so what you noted in the study was that the

Army Corps will let you armor a bank up to so many feet before it triggers a permit activity, permit submittal, coordination. This definitely exceeds it because of the armoring of both, every running foot of it, it would trigger the permit activity which requires engineering, plans.

Law Director O'Brien said a very long process, very expensive. Is it over 200 feet?

City Engineer Ramm said time. It's over 500 between both sides of the stream.

Then this was a quick and dirty cost estimate of what this job, what this picture of that proposed solution in terms of cost. Some of the footnotes at the bottom, we have unit prices from our City contract which is prevailing wage. So, those tend to pay to higher prices. That's one thing to note.

Also one thing to note is that for the very first one, this cost is strictly construction. The first note, engineering design, environmental, meaning permit activity, construction specs, there's a lot of soft costs if you want to call it that which are not even in this number; and the significant cost for bridges. Maybe a homeowner can get that bridge done a lot cheaper, can get it removed and replaced versus \$10,000. That's a lot, but they felt like you probably would have to scrap the whole thing and start over. So, there's a significant, \$30,000 expenditure of the bridges.

So, it's a significant cost. That is what we gravitated to, over \$200,000 to benefit really 3 properties; and it's a big ticket, a big dollar value, big cost. I think that's where we left it, and I have a little bit of supplemental information; but I thought at this point we would let the residents speak and weigh in on anything you want to say.

Mr. Grande asked can we put money aside every year and continue to work with the Army Corps of Engineers to get permits, and when we have placed enough money aside, can we go forward with the project? I mean it is our money, it's our taxpayers' money, and we need to decide how we want to spend it or would like to spend it.

City Engineer Ramm said I think it was a question of funding when we met on site, and I just briefly said that as a result; there was no conclusion made that we were going to fund the project, that it was some follow up discussion, and decision made by Council, but just a general caveat that it's private property, it's expensive. We do have the community cost share funding that we do get from the Regional Sewer District that's \$.25 on every dollar that goes downtown; we get \$.25 back. This would be eligible for that type of funding. We get citywide, I think I shared with you, about \$190,000, \$200,000 tops a year annually from that program for the community cost share.

Chairman Trakas asked isn't the Brookside project taking that up the next 2 years or something like that?

City Engineer Ramm said oh yeah, we earmarked those funds for a good number of years. I am just speaking in general, that's the amount of money we get annually from the community cost share program. So, this project alone would take almost the full year and then a little bit more;

but then call it a year of that whole citywide funding just to benefit 2 to 3 homes. That is the challenge. It's expensive.

Councilperson Asseff asked is there a different way to do this? A big concrete pipe, a 6 or 8 foot pipe; you could dig it out, put the pipe all the way down the whole thing, bury it with dirt. It gets it away from everything. You close it off as if there is no stream through that area.

City Engineer Ramm said significant Army Corps permit action.

Councilperson Asseff said that's another way to approach this, and you don't get erosion.

City Engineer Ramm said it would be 5 times that cost probably and duration of time, maybe not 5 times. If they even let you do it because in essence you are doing it for 3 properties just so that their backyards are flat and don't have a stream running through it. It's not because it's some major development project. It's not because of, those aren't very popular, piping in streams. Keep in mind, the EPA is an entity that mandates our local ordinances, riparian setbacks, to not impact streams and to go in there and completely pipe it in and wipe it; it would not be received too well. To answer your question, yes it could in theory be done.

Councilperson Asseff said I doubt you are just leveling it for the 3 properties because the stream is still there.

City Engineer Ramm said you pipe it in, and you are basically eliminating the stream and enclosing it. That's a 100% impact on a stream in terms of what the spirit and intent of the riparian setbacks were to stay away from the streams. Here you are completely eliminating the stream.

Mr. Grande asked so that's what they did behind Ivandale?

Ms. Penitiz said yes.

Mr. Grande said it's all piped in. Was it because they had the same problem? One question I would like to ask, now that was private property also. They went in and did that. How many other private properties have the City gone in and done in the last 20 or 25 years?

Chairman Trakas said it's pretty inconsistent about this I think. I don't have the answer for you.

Mr. Grande said that's something we should look into, and the other thing to consider is that this is not a result of what anything that we are doing. It's a result of other things that have caused this problem. Like Don said, development upstream, the saltwater on 21. This is not the way we bought the property 25 years ago. It was a little creek that you could step over.

Ms. Penitiz said there were no bridges at all.

Mr. Grande said no, we didn't have the bridges there. Actually my bridge with the gabions there, I had that bridge in before they put the gabions in on gabions. Mary Ann and the Dugans,

I think they replaced their bridges already and extended them once because of the widening of the creek. Mine remain the same because I had the protection of the gabions prior to what the City did; but it's only getting worst. It's not going to get better.

Chairman Trakas said I understand. Those facts are not disputable.

City Engineer Ramm said so the challenge of course is, to answer your question; and I think I mentioned to you, for us to accept the responsibility here. If the City were to say we will do it; then where do you not do it? I am looking at the bigger picture that setting precedent, and look at all the blue streams. We have all kinds of ravines and creeks that run through.

Ms. Penitz said they aren't looking at the same kind of problems.

City Engineer Ramm said well a lot of them are. Like I said, the erosion that is indicative up your creek, you don't have to walk too far down any other stream nearby and see that very same conditions. It is a systemic epidemic through the watershed. It's not just with this City. All the local suburbs, you see it all over the place. It's a major problem, and I think that was one of the reasons why the Northeast Regional Sewer District got involved because they could, and they are big; but also because there are some problems that are just too big for any resident and/or municipality or village to try to fix themselves, and that's the bigger watersheds, the bigger streams, which is why they set that threshold.

Law Director O'Brien said well Don, I would say this to you, I am Greg O'Brien the Law Director. When Don says upstream, he doesn't mean the City of Independence. He means Brecksville, Broadview Heights, Akron. That is one reason why the Northeast Ohio Regional Sewer District because the City could only manage what is going on in their boundaries. I don't know why the City went on Mr. Grande's property and put the gabions in there. I am sure he does. At the time whoever was Mayor did that. Unfortunately, the City can't go in and better private property with public funds. It has to have a public purpose. So, it would be naïve to say it doesn't happen, in other cities and in this City; but there are cases on that. If the City was in there, and I appreciate what Mr. Grande is saying, none of the property owners are contributing, but the City isn't contributing to this issue. If there is a pipe that the City put in that's funneling water abruptly, too quickly, that's causing erosion; then we have something to discuss. As far as bettering private property with public funds, you just can't do that. It is against Ohio law and the Constitution.

Mr. Grande said I don't know if you are bettering it. I think you are protecting it.

Ms. Penitz said that's not the point.

Mr. Grande said I don't like the term bettering it. You are not really bettering, you are protecting. It's a safety issue. You have kids who play in the stream. It is a raging river when it rains. You have motorcycles that get washed down in here, 20 foot logs, trees. It is amazing what comes down in there. Looking at a picture you have no idea what it is in real life.

Ms. Penitz said may I also mention how many times has my landscaper's tractor, the ground gave out just as he is going past there. It's just soft, all the ground.

Law Director O'Brien said I appreciate it. Don't execute the messenger who is just communicating the law. The motorcycle that falls in there or trees, the City definitely has to maintain the creeks and streams that they have access to. I don't know if we have an easement that goes across this stream.

Mr. Grande said there is.

Law Director O'Brien said so on a periodic basis, the City should go in and monitor creeks and streams and clean them out over a period of time. I'm not saying they have to do it annually, but they should do a periodic thing and have a plan in place that on a regular basis the City gets to every stream and river in the City to make sure that it's free flowing. The erosion, that section that Don read, it's actually in our code. It's in our Codified Ordinances about erosion.

City Engineer Ramm said and most streams are not City streams. Just because a stream, they exist all over. They are not, the City doesn't have jurisdiction over but for when they come and cross our right-of-ways and our pipes. Then we have occasion, those are our assets when they fail or when there's significant erosion, when the streets get undermined; that's then when we step in and fix things. As they traverse through the City, it's all private property. It just happens to be a stream that runs through private properties all over the place, including yours. I am not sure if there's an easement back there, but we could check the plat. It would show.

Mr. Grande said it comes right off of 21, and it goes right through the Bender property, right through ours; and it's so they can get in there and clean it. Actually when they do clean it, it makes it worse because the logs and debris slow the water down. When they clean it out, it has free flow. Actually, they only show it up to the Bender property there; it's actually eroding on the Bender property, onto my neighbor's property, even though his doesn't go back as far as the creek, it's creeping toward his house, toward his property line. So, it is actually from 21.

Chairman Trakas said so Don, in terms of the Corps of Army Engineers, so let's say that privately or publicly, or public/private partnership or something, we wanted to move forward with this. What is the cost related to, so \$202,000 is an estimated cost; it doesn't include fees and permits.

City Engineer Ramm said for a gabion project.

Chairman Trakas asked what is the going rate on something like that with the Army Corps and how long does it take?

City Engineer Ramm said you would have to have the property surveyed. You have to have the plans drawn up, and that's probably the easiest portion of the work. Our Army Corps permit is filled out and submitted, and once it goes to the Army Corps I think it's 6 to 9 to 12 months of review time to just get the permit reviewed and turned around such that they; and the challenge is when you are down by the stream, you have wetlands to worry about, there's environmental

aspects, that's where it tends to go off the charts relative to what the Army Corps wants you to look at. If there's wetlands that are going to be impacted as a result of you trying to do the work; it gets very complex, complicated.

Chairman Trakas said so trying to be creative. The Western Reserve Land Conservancy, would they be interested in something like this? Is it enough territory for them?

City Engineer Ramm said that entity tends to be in the preservation. They are not big into armoring. Now, I think I brought up, and I know it might be offensive to you to say, look this maybe cut off the back of your property to try to sub-divide and split that off so you are not paying taxes on that creek. Give that creek away to somebody, and now you would lose the land.

Ms. Penitz said I don't want the wild animals. There are coyotes back there.

City Engineer Ramm said so let it go natural, I guess that's the question. Now that maybe something that West Creek Preservation might look to take on; but you don't want to give your property away, you want to protect it and be able to use it.

Ms. Penitz said I just want to stop the erosion. I don't really care. I am not asking for pretty. I am just asking to stop it. That's it.

City Engineer Ramm said and that's a big deal. That is a simple question and a simple ask; it took you 5 seconds to ask you, but you see the ramifications of putting that into action is significant. It's not easy.

Ms. Penitz asked why are people not informed by the City that you have water problems here? I mean that should be known.

Law Director O'Brien said actually I was having lunch with Sean Gallagher who is an 8th District Court of Appeals judge, and he said one of the more frequent cases they have; now the 8th District is all Cuyahoga County, is these types of cases, water cases. He just said it at a lunch last Wednesday. It was something they didn't see 20 years ago, and he's been on the bench over 25 years.

City Engineer Ramm said I think that was the reason the language was put on the plat and the deeds to just make you aware to the question that any stream anywhere in the City is subject to. Some are worse than others, some may, maybe the stream 20 years ago that was this wide, is still this wide somewhere else in the City; but not here, and not in a lot of places.

Ms. Penitz said I understand what you are saying, and I get the whole thing except that you basically are saying to me and to Nancy and to Mike that we can just sit there and watch this keep on going. It took 30 years to get to this point okay, and it's like that's what you have to look forward to, just the erosion of your land. Like what you say about parceling it off and letting it go back to wild; I mean I don't use it anyway, but it looks nice when you don't have. There are ground hogs back there. There are coyotes, there are all kinds of animals that live back there.

City Engineer Ramm asked you mean it looks nice to keep it mowed?

Ms. Penitz said when you mow, they don't come close to your house, they stay farther away. There are tons of deer back there.

Chairman Trakas said if it goes natural, then they would encroach on the home is what you are saying.

Ms. Penitz said right.

Chairman Trakas said it's not that there is not sympathy obviously to what is going on there, the problems; but we have to figure out some kind of creative solution. Mr. Law Director, are there creative solutions that can help out or anything you can think of that other communities have done that might be able to help alleviate some of the costs associated with it?

Law Director O'Brien said the Northeast Ohio Regional Sewer District is certainly, I am not as familiar as Don is with them; I know what our community share is, but I don't know if they take individual applications, Don. Do they do that?

City Engineer Ramm said no, everything they do, do you mean community cost share?

Law Director O'Brien said community cost share, I have.

City Engineer Ramm asked direct from a property owner?

Law Director O'Brien said yes.

City Engineer Ramm said if it's on the regional network, I think they would.

Law Director O'Brien asked is this on their regional network?

City Engineer Ramm said no. You might have been late when we talked about the watershed being too small.

Law Director O'Brien said if there is something upstream, either in the City of Independence or in another city that's causing this velocity beyond normal engineering principles, I read the Minutes from the last meeting; Don went through as far as what engineers do and how they size piping and everything. If something that has not occurred upstream, you could bring a nuisance claim against that property owner; but I am not aware of anything.

Chairman Trakas said well it just comes down to a function of money. Where do you find the money to get this thing solved, and this solves the problem for 20 years at least.

City Engineer Ramm said it's an attempt to address the conditions, shore it up, protect it; and how long it lasts, Mother Nature is involved here, all bets are off. You got a good amount of years out of what is there?

Mr. Grande said 10 or 12, something like that.

City Engineer Ramm said and that was without any vinyl coating.

Mr. Grande said I just noticed that like 3 or 4 years ago.

Law Director O'Brien said gosh, I thought you had a lot more. I thought that gabion project predated me in the late 1990's. I thought it was installed in the late 1990's.

Mr. Grande said I didn't move in until 1994 or something. I came to meetings after 1994 for 10 years.

Law Director O'Brien said I thought it was under the Ramos Administration.

Mr. Grande said it was.

City Engineer Ramm said and I got here in 2008, and it had already been done so it was before that; so sometime between 2004 and 2008 maybe?

Ms. Penitz said 2006 I think it was.

City Engineer Ramm said which was the 2004/2006 events, we had some significant rain events that would have prompted, May or June of 2004 and 2006, sounds about right.

Nancy Dugan of 7313 Braewood Drive asked what was the reason for Ivandale enclosing it? Did they pipe it?

Mr. Grande said they piped it. It was massive flooding. It was flooding some basements.

Mrs. Dugan asked 2 people?

Mr. Grande said it was more because it was the backyards of Pleasant Valley and backyards of Ivandale.

City Engineer Ramm said I know Mr. Grande mentioned that to me, and again that project too was before my time; but I am aware of where you are talking about. So, this is just a snapshot of this map upstream of this area; and we identified some culvert crossings and believe that the culvert was always existing under Pleasant Valley and Midland intersection. At some point back here I believe it went back to an open channel; and the project you are speaking to, took it and extended that pipe across a number of lots to the (inaudible), I am not sure. So, that did get extended if you will.

Mrs. Dugan said and that solved their problems.

City Engineer Ramm said I don't know what the problem was per se, maybe it was development of some lots that on Ivandale that maybe weren't buildable or wasn't safe to build until the stream maybe got enclosed or something, I am not sure; but the exercise that we wanted to go through here is to see what that pipe was, what size it was, and see if there was an exacerbation of conditions that may have maybe contributed to the condition you are speaking to, you are living with, keeping those numbers in your mind because we reference them going forward. So, these are those very numbers. It starts off under a driveway of Kim Mandarano's house; it's a property, the culvert goes under here just before it goes to Pleasant Valley. That pipe is a 54 inch diameter pipe. These numbers are a cross section of areas of the pipes themselves; so again, this is a stream trying (inaudible). This is the pipe under Pleasant Valley. You can see it's 16 square feet, it's a 4 by 4 box; and that is pictured right here. Here's the inlet side of it right before it goes under Pleasant Valley, and then this is the new pipe. So, the pipe got extended. It's 54 inches in diameter, so very consistent with what is under; and here is upstream and downstream. So, what we wanted to try to gravitate to is to see what got put in and when; but basically the stream was culverted on the upstream side of this gap and also then this is the stream that controls the flow under Brecksville Road. So, this little piece that got extended and is between the 2 culverts that have existed for years. What we just wanted to show, the diameter, it doesn't look like anything was done there to be too small, to maybe choke the water down and create higher velocities or vice a versa, maybe too big, letting too much water through. So, nothing jumped out at us as being problematic. So, this is the end of the pipe that got extended here, that piece that went between those backyards between Pleasant Valley and Ivandale. This is a view, so the pipe is right here with that headwall; this is the view of the stream looking downstream when it's back to an open channel. The banks are nicely vegetated. It is a nice trapezoidal section, there is no significant erosion.

So, we did just go out there as a result of our meeting; I wanted to go out and check the conditions and walk these pipes and see if there was any problems that would stand out as being cause for some of the conditions; and nothing jumped out at us. It didn't seem like anything inappropriate had gotten done. This pipe is a unique pipe in that it is the one that downstream of the Brecksville Road culvert, why it's there, we are not sure. There is a small culvert pipe that a number of years ago was plugged like a cork with a tree trunk; and it dammed up the water. I think it flooded, that was when we had that significant flooding; this area was under water, and this intersection was under water. I think that's when the Robericki's house got devastated; and we took it down not too many, a year or 2 after that.

So, that culvert pipe we surmised was thrown in there when the subdivision got built, I'm not sure. I am not sure what value there is to it, but it is sitting out there. It is a 54 inch, it's downstream of an 18; so there might be a little bit of a restriction downstream at the box culvert that goes under 21, but to the extent that it's causing major problems, it's nice and open. You can see both ends, it is pretty clean.

Law Director O'Brien said Mr. Chairman, I don't know if Cuyahoga County Soil & Water Conservation District has been out there. It would certainly not prevent the erosion, but I thought I had been at a couple of meetings with them over the years that they could recommend certain types of plantings that would slow it down. I don't know what's back there now on these 3 properties, but certainly different plantings they suggest.

Ms. Penitz said we have already done that. We have done that. How many times has everything on that hill washed away? Actually, there is one tree over there that the tree company comes out and does a house call once year because he doesn't want me to take it down. It's tilting, it's ready to fall over; and he said don't do it because it's going to erode more of the land. It's the one by the bridge.

City Engineer Ramm said those treatments are applicable to certain instances when to make maybe a quasi stable bank more stable, but the devastation you are talking about, that's not going to help.

Ms. Penitz said you are familiar with that ornamental grass. I can't tell you how many times I have planted ornamental grass on there, and they have deep roots. They are hard to pull out.

City Engineer Ramm said oh yes, once they get going.

Ms. Penitz said they are gone. They have been gone a long time, and actual trees. There were 2 apple trees there, they are gone.

City Engineer Ramm said the velocities that you are dealing with down there, they need something special.

Ms. Penitz said something has to be done to make it stop. It's so ugly to look at that just washing away.

Chairman Trakas said I don't think anybody disagrees with you about that. It's just a function of how we can go forward.

City Engineer Ramm said the one good thing is, overstating the obvious, is that we are not undermining the corner of your house foundation or your garage isn't getting ready to fall into the stream; that's one good thing is that the houses were built well far enough back, and that the structures are protected. We are not talking about this erosion causing, but for your pedestrian bridges and sheds maybe nearby, that's different, it's not your living space, it's not your primary residence, where all your value is on the property.

Ms. Penitz said even that shrub there, that was way up higher; and that's how far it has slid down already. I mean that's pretty big.

City Engineer Ramm said and I surmise to that a lot of that fill, when the houses were built, and mass grading operations were performed and dirt is pushed around, that might have been a lot of fill put back in that area, such that it's not native soil so it's more prone to be eroded because it was placed there. I am not sure. I wasn't around when the subdivision was graded, but it's possible that it's some fill. It is more easily erodible, that's all I am saying than if it was virgin ground. It may be less strong and can't withstand; and therefore, it sees excessive erosion in a quicker and shorter duration.

Ms. Penitz said that ornamental grass was up on the top and see how far down it is this year. That's huge ornamental grass whenever it's in bloom, and that was sitting up on the top of the bank, and now the bank is really down into the creek.

City Engineer Ramm said right, and to your point, it's not going to fix itself. It will keep going.

Ms. Penitz said it's not holding back anything anymore. That's why I put it there because I tried to keep because I knew that was going to happen. So, everything that I ever put there just doesn't stay; it's in the creek, it's gone somewhere.

City Engineer Ramm said yes. It's a high bank, so it's kind of vertical; and it's just unstable. Everything is just sluffing down because there's nothing to hold it.

Ms. Penitz said that wasn't always that steep though. It was always a little bit flatter at one time.

Mr. Grande said I am sure it eroded down depthwise. It has eroded widthwise as you can see by the sewer pipe.

That's another thing, the City Engineer designed the storms to run out of the creek which only dumps more water into it; I don't understand that, but that's how he designed all that. These are the problems that have been building up, causing more water in the creek; and it's not something that we did to create this. It's something that by design they just keep dumping more water into the creek. You flush a fire hydrant on 21, and the creek fills up with water, one fire hydrant. It all dumps into there.

City Engineer Ramm said and relative to the salt.

Mr. Grande said I understand the whole private property thing, I get it; but I hope the committee and everybody understands that this is the cause of somebody else that has done this to private property. All my work there that you see, that's all my work with the ties to raise the elevation because of the overflow and the sandstone walks that I put in, the bridge, the steps, everything. That's all my work, that's nothing that the City did was come in and dig out my rock and put the cages in. I even had to put those cross tiered things in because it would wash all the rock away. So, I am pretty much exhausted with trying to fix it. For years I carried boulders and rocks down there and built stone walls, and a storm would come by and wash them away; and I would get down there in there and rebuild it and the next storm would wash it away again. I got tired of doing it. I just couldn't do it anymore.

Ms. Penitz said you used to walk back there and pull back all the rocks that would go down.

Mr. Grande said and there are still some downstream, big boulders that you can't imagine that water would move, and it's moving them. I constantly carry rock down there and throw it in the creek to try to stop the erosion. It is kind of funny because in the one picture there was a bucket of stone there that I carried down there.

Ms. Penitz said Nancy, why don't you tell them about your little island there.

Mr. Grande said that's just ironic. They took a picture, and I had a bucket there full of stone.

City Engineer Ramm said I am sorry Mrs. Dugan, were you going to say something?

Mrs. Dugan said it used to erode this way, and now it's filling in like a bank; and now it's going this way towards the house, around the bend there.

Ms. Penitz said I think it's wanting to turn too, that creek. You know where my bridge is Mike? I think it's doing that because that creek wants to turn when that water comes down. I think it's making the turn. Remember that place in the back where there was another creek in the back over there? Remember? You know where we used to take the dogs and walk?

Mr. Grande said right. So, years ago that creek was on the other side of what you want to call the valley.

Ms. Penitz said I have seen that.

Mr. Grande said and the old timers tell me that it's moved toward us, it's probably a good 100 feet. Mr. Tartabini, who is close to 90 now; he said when he was a kid, he played over there and that is where that creek was.

Mrs. Dugan said it's still behind us there.

Mr. Grande said that's what they do, they meander; and that's why they change directions and move side to side.

Chairman Trakas asked Greg is there, I am trying to be creative, what types of options do we have? Is there any public fundings for us? Can you do a percentage of this and the other percentage from the people? What types of things can be done? Obviously, this is why we are here because they heard this already. I am just trying to brainstorm what type of legal things can be done, present a few options and see what types of things. We don't have anything in the budget obviously right now, and it has been eluded to because there are only a couple of homes, and the expense of the project, absorbing the whole project wouldn't be something we would be able to do at this point in time, if we could legally do it. What types of options do we have available?

Law Director O'Brien said I think the funding is probably your biggest hurdle because I think if the City Council as a whole wanted to support the project, the Law Department could have very creative language and legislation to get over that preclusion against supporting specific private properties with public funding. I think the funding issue is your main hurdle.

Councilperson Asseff asked if we did that (inaudible)?

Law Director O'Brien said anybody familiar with that would come in and ask for similar treatment.

Mr. Grande said let them ask.

Law Director O'Brien said but as I say all the time, it's a business decision, it's not a legal decision that the Law Department needs to worry about.

Chairman Trakas said so what we have seen done on rare occasions in the past is if residents do perform work, it can be put on their tax bill.

Law Director O'Brien said we have done that. So, we have gone in and through consent under the assessment statutes, with consent of the property owners, it could be an assessment over the course of 30 years at your very, very favorable municipal rate. We could look into whether or not we could include that in some sort of bonding initiative in the future so that you would get a very, very favorable fixed rate. We have done the assessment.

Chairman Trakas asked do you understand what that means?

Mr. Grande said they would assess your taxes.

Law Director O'Brien said so there's no one lump sum payment. It would be paid over the course of these residents, and it's a 30 year assessment, the next individuals; but the next individuals buying the property would see that on there, and I am sure they would say it's a low tax community, I like the neighborhood, I like the house.

City Engineer Ramm said we had a situation at the very end of the street a number of years ago where it was a major pipe failure, collapse, on down a stream that was a different watercourse, but runs through those last 2 homes' driveways.

Mrs. Dugan said you put a new culvert in.

City Engineer Ramm said right. The pipe collapsed, and it was a drainage issue; and there was a failure. They lost access to their properties, and the City stepped and by petition of assessment, we went in there and fixed that pipe. They are probably still paying the assessment on that repair. It was expensive because we had City contractors paying prevailing wages, and it was an emergency type bid. It was a significant cost if I am not mistaken, shared by only 2 property owners down there.

Councilperson Veverka said one other thing that we ran into with another situation, the water on Brecksville Road. What we discovered was the cost of doing it based on the figures that you had was substantially more expensive than the homeowner doing it on their own individually with a private local contractor. So, I mean on the one hand you have a very large cost, and on the other hand, you may have a smaller cost; but in one case as you said, it could be assessed, but if it was through a private contractor it couldn't be. There could be potentially less cost.

Mr. Grande said but you could also run into problems with the Army Corps of Engineers.

Chairman Trakas said there is no guarantee.

Mr. Grande said that's the problem. They can come in and say hey you altered the creek.

Councilperson Veverka said absolutely.

Chairman Trakas said there's a liability.

Councilperson Veverka said yes.

City Engineer Ramm said and by and large, when it's one property at a time, and it's small lineal footages of this protection; you fly under the threshold, those triggers versus a big project, now you trigger those thresholds that require extensive permitting activity, all the complications in the equation of how to resolve a problem.

Councilperson-Elect Chris Walchanowicz said the biggest complication is the Army Corps of Engineers. The property that I have is in Valley View. It's Paul's property that he used to have. We lost an acre of property because of a creek. It used to go directly straight through Hathaway, between my property and Art Westfall's property and went out onto Donald. At some point, 30 years ago, it started going to the left; and now literally I have an island that is probably 30 by 30, and the creek is 12 foot wide and it's a big circle. For 25 years my uncle and now myself have battled the Army Corps of Engineers, and they will not do a thing because it's a natural waterway. They have been fighting us no matter what we do. They will not fix it.

Chairman Trakas said for public safety purposes, did the City help put bridges, change the bridge structure. Is that our right-of-way.

Law Director O'Brien said we have been very creative over the last 4 years, we could be very creative here; it's just the issues of people who come in behind, but it would be my same answer. The funding would be the bigger issue than us putting together legislation for it.

Ms. Penitz said actually somebody said something about doing the landscaping or planting trees or whatever. I actually did have someone come out and give me advice on that; and what they recommended was, apparently there is some kind of like trees that you plant that actually grow in the creek, right along the banks of the creek; and I am not a landscaper so I don't know what he was talking about. The point is that they hold back the soil, but I don't know that I can believe that. I have done that for years, and eventually it kind of gives way. I don't know how a tree root would stop it from doing it because it would start falling over. The roots would be shallow I am guessing.

City Engineer Ramm said I think the weeping willows, they love the water, and I know that the West Creek Preservation and the Regional Sewer District, when they do stream restoration projects; they plant thousands of these, what they call live stakes with little stubs of these seedlings. They just plant them all over the bank, hoping that they will take root quickly, and before the next big rain that washes them all downstream.

Ms. Penitz said I was going to say, it seems like now since it has increased so much, the volume of the water, I can't even believe it would take root. It would just get washed out. All that wild stuff would grow there if that was the case.

Chairman Trakas asked Don, is there any way to interdict the water before it gets to the neighborhood? Is there something we can do upstream from there?

City Engineer Ramm said it would impact many of the private properties. So, people who have nice low areas like you that don't have problems, all of a sudden we cork that pipe, and we are going to just back up the water and let it flood other people's properties. It happens naturally, if it happened naturally, that's nothing we directed; but we couldn't purposely do that.

I will tell you one thing, I don't know if it would affect this watershed or not, we have that project on the books, the Broadview Heights regional stormwater basin. That was on the lower Brookside watershed. I don't think that's the same watercourse, but it's the same principle, to catch that water upstream in the watershed, slow it down, store it and release it slowly.

Mrs. Dugan asked so that's something you are going to do there?

City Engineer Ramm said it's a proposal. We did a study, and the engineering firm identified a big tract of land above I-77 right at the northeast corner of Broadview Heights, before that water comes down into the City, south of Sprague, and they identified an area that could really help the whole watershed. The project is riddled with challenges because it's a city building a detention basin in another municipal limit. They don't control it, it's privately owned property; so there are just layers of challenges and hurdles.

Ms. Penitz asked did you see the last episode of Bluff City Law? It is exactly what they were talking about how all of these what you just said; all these municipalities fighting and saying it's not my problem. Some little girl she wanted to sue the United States of America because there was a flood, and she couldn't understand why they were living in a motel for a year. So, the story goes on, and they are trying to figure out; and it was just exactly what he said. Nobody wanted to take the responsibility. We can't do it. Ten people, and he was talking about the Army Corps of Engineers, all these people; and nobody wanted to do what was the right thing.

City Engineer Ramm said own it, chaperone it. That's kind of how this project, it's a tough one to advance and spearhead the charge to rectify it.

Chairman Trakas said you are really talking about up in Seven Hills is where the watershed begins, and there wouldn't be any place to do that. Those are all residential. It's all built out.

City Engineer Ramm said it's on a ravine itself, it's on the watercourse itself versus being off line.

Chairman Trakas said it's pretty close to Ivan the Terrible's old house on Vezber Drive in Seven Hills.

Mrs. Dugan asked what are these things they are planting along the side of the creeks to protect them?

Ms. Penitz said trees.

Mrs. Dugan asked little trees?

City Engineer Ramm said they are just saplings of weeping willows, trees that really like the water; and they grow quickly. All those roots tend to really shore up and stabilize the slopes if you can get them to take, get them to grow quick enough.

Ms. Penitz said remember how we used to have all those wildflowers that grew along the side of the creek. They don't even grow anymore. That's getting washed out. Everything gets washed out there, all that ornamental grass, and they have really deep roots.

Law Director O'Brien said we have Soil & Water on retainer, you already pay them annually.

City Engineer Ramm said they could give us some guidance, maybe the walk the area and see if there are some natural treatments.

Chairman Trakas said maybe they could help solve something while we think about other options we have. I appreciate everyone, and I hope you appreciate the City's perspective, all the things we would have to get involved with in order to work with you. It is a balance. Like Don said, there are literally hundreds of these types of projects. Have we ever been on private property before? Of course, we have, but I don't know the circumstances. It is a bit of a balancing act, but again talk amongst yourselves and see if there is anything you think you might be able to bear and how creative we might be able to be, something like that. Would that make some sense to you?

Mrs. Dugan said something that wouldn't be so expensive.

City Engineer Ramm said that it would be cost prohibitive.

Mrs. Dugan said yes.

Chairman Trakas said and I couldn't write a check for \$202,000.

Several people began speaking at once.

Ms. Penitz said I would just like to see it stop so it's not disappearing so fast. I mean it's just every year.

Chairman Trakas said it's substantial. You have a problem, and there's no question. No one is denying that there's a problem. As the City attorney says, sometimes we say we have this culvert and it's doing this; then we say we can probably solve it. This is a naturally occurring problem. It has been going on for a long, long time. It's going to continue to go on. We are

trying to abate it as much as we can. You are trying to do as much as you can. You have already done things to see the results. It's a bigger problem than all of us here in the room, but let's try to see if we could put our heads together and see if there's any creative solutions that we can come up and see if Soil & Water might be able to assist us with some of this. Maybe we can reconvene in a couple of months and see where we are heading. With respect to what we talked about in terms of putting it on the property tax thing, look at what you might be able to bear on something like that. If that would be the case, we might be able to assist in something like that; we might be able to find some creative solutions.

Chairman Trakas said I wish I had a checkbook to say okay, here you go. I don't have that.

Does any other member of the committee have any other advice or ideas? There were none. Does that sound like at least something that would be beneficial? So, we promise we will get back to you.

Several people began speaking at once again.

Chairman Trakas asked are there any other matters to come before the Utilities Committee?

There were none.

Chairman Trakas said I will entertain a motion to adjourn.

Moved by Councilperson Veverka, seconded by Chairman Trakas, to adjourn the Utilities Committee meeting of November 18, 2019. Voice Vote: 3 yes/0 no; motion carried.

There being no further business, the Utilities Committee meeting was adjourned at 5:13 p.m.

Debra J. Beal, Clerk of Council
Minutes Unapproved at Time of Release 11/20/19
