



## Village of South Russell

5205 Chillicothe Road  
South Russell, Ohio 44022  
440-338-6700

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### SPECIAL PLANNING COMMISSION MEETING

FEBRUARY 23, 2022, 4:00pm

#### Record of Proceedings

**Members Present:** Steve Latkovic, Chairman, James Flaiz, Mayor William Koons, Ph.D.,  
Elisa Budoff, Mark Porter

**Other Officials:** Bridey Matheney, Solicitor; Eric Haibach, Village Engineer, Ruth Griswold, Board  
Secretary

Meeting called to order by Mr. Latkovic at 4:05pm.

Ruth Griswold conducted roll call.

**Agenda Item 1: PC Case #22-03: Considering for approval a drainage easement and environmental covenant among Whitetail Run Community Association, Inc., the Village of South Russell, and the Ohio Environmental Protection Agency.**

Mr. Latkovic asked Eric Haibach, Village Engineer, to provide an overview of the proposed project.

Mr. Haibach said, to briefly summarize the project, the Village is looking to increase the culvert size under 306 in the vicinity of the red ranch. He said presently there are two culverts, one of them being a large elliptical concrete culvert, which is fine and is sized properly for the drainage area to which it is tributary. He said a drainage study was performed 3 to 4 years ago to specifically look at why the properties on the east side of Chillicothe flood out, and they discovered a second culvert with a 12" inlet which then transitions under the road to an 18" size. They were surprised to discover that the 12" culvert drains about 30 acres, which is the cause of the flooding of the properties on Chillicothe. He said that culvert needs to be upsized to 30", and they are in the process of getting the project together, which will include the replacement of three additional culverts under 306, which are in bad shape. He said residents who are downstream on Fox Run, Sugar Bush, and areas to the south and west expressed concern that, with the increased culvert pipe size, water may come through their yards and neighborhoods faster. He said their concern was valid, as the water will travel faster through those areas. Mr. Haibach said the purpose of this project is two-fold; the Village was able to obtain a 319 Grant to complete the project and this program is largely for habitat restoration and, when done correctly, there can be a significant amount of flood plain storage and retention added in with it. He said that is what is being done with this project.

He continued by saying the flood plain for the area inside the ranges that are being talked about today is sized appropriately to buffer that flow, meaning the amount of back-up that was happening on the east side of 306, will be created on the west side of 306, for a net-zero effect to those neighborhoods downstream. He said the project includes excavation of a very large flood plain area that will be able to accumulate storm water and

slowly release it after the rain has subsided, and it will buffer the flow, in velocity and quantity, which was on the west side of 306.

Mr. Latkovic said, after having read through the materials, he does have a few questions. He said the request from Jim to get a satellite image of the site with the overall plan superimposed on it is very helpful. He referred to the two points on the map that touch 306, and asked if that was where the two culverts would be coming in. Mr. Haibach said the culvert replacement is at the southernmost point of where the line touches 306, closest to the Manor Brook Drive entrance, and the large elliptical culvert is in the big ditch on the east side of 306, across from the word "easement" on the map, which is where the main stream channel is, and the project will be creating a meandering stream pattern and a widened flood plain in that area. The culvert replacement will be farther south of that area, closer to the Manor Brook Drive entrance. Mr. Latkovic said the retention pond area would be made larger and it would look like a big lake after a heavy rainfall. Mr. Haibach agreed and said after a heavy rainfall, that whole area would be flooded with about two feet of water.

Mr. Flaiz said there are flooding issues near where the ditch comes from Bel Meadow, and asked Mr. Haibach if that would be remediated. Mr. Haibach agreed that it does flood there, but the cause of that flooding is due to water trying to come in there from 30 acres that are tributary to a 12" inlet to the south, and it can't get through there. The water continues to build up until it touches the point where it gets to the bigger elliptical culvert to the north and flows through there. He went on to say that a lot of the flooding seen at the big elliptical culvert to the north is because water has built up, and it is now taking water that should be going through the southern culvert. Mr. Flaiz asked if the water was coming down the ditch line on the east side of Chillicothe, from the north to the south. Mr. Haibach said the water that is coming into the big elliptical culvert, where the big ditch is, is coming from the north and from the east.

Mr. Porter asked about the location of the big ditch. Mayor Koons referred to the satellite view on the big screen and pointed to the location of the big ditch. Mr. Porter asked for clarification that the 12" pipe is to the south, by Ralph Richard's house. Mr. Haibach said yes, that is correct. Mr. Flaiz asked what size the 12" culvert would be enlarged to. Mr. Haibach said that would be a 30" culvert. Mr. Flaiz asked for confirmation from Mr. Haibach that the reason the north culvert is backing up is because not enough water is getting through the 12" culvert on the southern part of the easement. Mr. Haibach said that is correct. Mr. Flaiz asked the size of the elliptical culvert. Mr. Haibach said it is 32x48. Mr. Flaiz asked if the water is backing up at the ditch on the east side of Chillicothe. Mr. Haibach said yes, at the ditch and in the front and rear yards of the homes on Chillicothe, until it gets deep enough that it can touch the big ditch to the north, and finally get the water across through the big elliptical culvert.

Mr. Latkovic said looking at a Google map of the streets, it looks like the elevation falls south to north on 306, so leaving Manor Brook, it appears that the road goes lower, the further you get away from Manor Brook and closer to that culvert. Mr. Haibach said that is correct. Mr. Latkovic went on to note that on the east side of 306 is a big ditch, and on the west side there's a big hill that blocks the view of the White Tail area. He said he could see how the water would back up as Mr. Haibach had described.

Ms. Budoff asked how the flow correction does not flood the west side of 306, and where does the water end up going. Mr. Flaiz said it will flood the blue area on the map, and asked Mr. Haibach to explain the retention pond's relationship with the flood plain area and if there was a spillway into the easement. Mr. Haibach said it is not functioning well as a retention pond, and the outlet is currently blocked up and is very full all the time. He went on to say that he doubts very much that they are getting any retention capacity out of that pond in its current state. He said this project will give that pond a dedicated outlet so the water will be able to flow into the stream channel, which will be created and enhanced in that easement area. Mr. Latkovic asked where the water goes from there. Mr. Haibach said it would go under Manor Brook, through Fox Run, to Sugar Bush, and ultimately ends up at Chelsea Court, where it hits McFarland Creek, which is a big open drainage channel.

Mr. Flaiz asked Mr. Haibach what the current culvert sizes are under Manor Brook. Mr. Haibach said there are three 36" culverts if he is not mistaken. Mr. Flaiz asked if that would sufficiently restrict the water to flood the easement area. Mr. Haibach said no, they have to manually do that by shaping the land and installing grade control structures in the new stream channel to cause that water to slow down and, in effect, to back it up so it causes the flood plains to be accessed and provides storage capacity. Mr. Flaiz asked if they were creating some sort of spillway at the end of the easement before it reaches the Manor Brook culverts. Mr. Haibach said (*unintelligible for 15 seconds*) they will do some rock armoring up the sides to only allow a certain amount of water to come through, so once the flow rate exceeds that amount allowed through, that is when the water will start backing up into the flood plain and flood the low area that will be created.

Mr. Flaiz asked Mr. Haibach if he anticipates seeing less water flowing through Manor Brook during a major rain event, because of these improvements. Mr. Haibach said he thinks it will be about the same. Mr. Flaiz said he thought part of the plan was to help the people on the east side of 306, but that he also thought part of it was to ease up what heads through Sugar Bush and down to Chelsea. Mr. Haibach said they are looking into that more with a separate project, and they are definitely looking to alleviate the flooding on the east side of Chillicothe, while maintaining a net-zero effect for the west side. He said they don't want to make it any worse for the properties on the west side, but that this project is barely big enough to offset the flooding that gets impounded on the east side of Chillicothe. He said they will be able to let the water flow free under Chillicothe and now impounding on the west side, but the volume of water capable of storing is about the same, thus the net-zero effect.

Mr. Porter asked if the effect would be net-zero after the 12" pipe has been replaced. Mr. Haibach said that is correct. Mr. Flaiz confirmed that it is a net-zero downstream of the easement; that it won't help them, but it won't hurt them. Eric said that is correct and that he would love for it to help them, but they barely have the room in the easement to accommodate the water that is currently ponding on the east side of Chillicothe. He went on to say that he is hopeful that if this project goes well, and if public opinion is good, that they will be able to gain access to additional property to the south along that creek to do a Phase II or even a Phase III to really start alleviating the flows that the people on the west side of Chillicothe are currently seeing.

Mr. Latkovic asked how much of the easement location will be subject to tree removal, and when the trees are taken out, what types of plantings will replace them. Mr. Haibach said most of the easement area will be cleared of most of the trees and lowered by about 2'. He said they should be able to save three or four of the larger trees, and the area will be replanted with native vegetation and woody material to stabilize it, creating a more natural wandering stream corridor, rather than a straight ditch, which is a requirement of the 319 Grant funding.

Ms. Budoff said it looks to her as if the easement area is all tree-filled. Mr. Flaiz agreed and said that was why he wanted to see an overlay on a satellite view. He said he thinks this is a great project, but he doesn't think people realize that the project includes clear-cutting three acres of trees. He said after the clear-cutting, it will look very stark, and he doesn't think people have a good realization or appreciation as to how bad that is going to look, at least in the beginning.

Mr. Flaiz asked Ms. Matheney if the Planning Commission could require the Village to provide screening on the north side of the easement and on the west side of the easement. He said he is concerned about the house to the north, having the woods adjacent to their home clear-cut, and the condos will lose their privacy barrier. He said he is concerned about increased noise as well. Ms. Matheney said they could require the Village to provide screening, but without the use of grant funds. Ms. Budoff suggested arborvitae, and Mr. Flaiz agreed that something of that nature would be appropriate.

Mr. Latkovic asked how the process of agreeing to this project with White Tail was achieved. Ms. Matheney said it has taken almost three years, and the scope of the project was going to include four parcels. She said it's

a long story, but initially there was an issue with the ownership and the title of three of the parcels, then it became an issue where White Tail was not involved, having quit-claimed their interest to another entity, which was the Manor Brook Gardens Condo Association. She said the project was then revamped and split into two phases, which asked White Tail to provide the Village an easement and an environmental covenant. She said that part is very important, because OEPA does require that for this 319 Grant, and they are signatory to this drainage easement and environmental covenant. Ms. Matheney said White Tail did sign on to the agreement, and they are the owners of the largest of the four parcels, which is over 5 acres. She said the president of White Tail signed off in December of 2021, the Village signed off and then it was sent to OEPA. The OEPA took a bit of time, and they also reviewed the environmental covenant and drainage easement, and it had to be to their standards, which is why this may not look like your typical easement. Ms. Matheney said she is assuming that White Tail took a vote to approve, but she was not a part of any of their HOA meetings.

Mr. Porter said he and the mayor did attend the White Tail HOA meeting that specifically addressed this issue. He said they were able to answer their questions and address their concerns about what the project was, and what it would look like, and he believes the vote, if there was one, was taken after he and the mayor left the meeting. He said as far as they know, the president of the White Tail HOA had the authority to sign the document based on the consent of the members in attendance, and from the Village's point of view, that was a major step toward making this happen. He went on to say, as Bridey noted, it is basically half the project that was originally envisioned, but as the engineer mentioned, it is the hope that after this project is completed, Manor Brook may be more inclined to explore that with the Village.

Mr. Flaiz asked why the parties only wanted to do half of the project. Mr. Porter said, per his recollection, one of the biggest reasons was that Manor Brook wanted \$10,000 a year for the easement. Mr. Flaiz asked if White Tail is being compensated. Ms. Matheney said White Tail is receiving \$100 for the easement. She said White Tail owns the parcel that is being discussed, and the other three parcels are now owned by Manor Brook Gardens Condo Owners Association. She said it was, at one point, in the original developer's name, then it was quit-claimed to White Tail, then there were ownership issues between White Tail and Manor Brook Gardens as to actually who owned those three parcels. She said she believes, to this day, it is titled to Manor Brook Gardens Condo Owners Association.

Mr. Porter said at one point, White Tail officially owned all four parcels, but Manor Brook Gardens objected because they believed they were paying taxes on and maintaining the area. Eventually it was worked out that Manor Brook owns and controls the three parcels south of Manor Brook Drive, and White Tail owns and controls the parcel to the north, which is the area that the project entails. Mr. Flaiz said Manor Brook Gardens Condos, the entity that did not grant the easement, will be impacted by the clear-cutting. Ms. Matheney said Manor Brook would not enter into the agreement. Mr. Porter said the Village would have much preferred to do the entire project, but due to the timing of the 319 Grant, the Village decided to move forward with half of the project. He added that the subject of the replacement of trees has come up in Council meetings, and while he can't speak for Council, he feels they are probably inclined to address that issue after project completion. Mr. Flaiz said the Planning Commission could impose that as a condition of approval. Mr. Porter said he does not think Council would object, and that the last thing Council wants to do is antagonize the homeowners.

Mr. Latkovic said the residents on the east side of 306 are going to be clearly benefiting from the project, because right now, they have tremendous water issues. He said other than those personal properties, is there a benefit to the Village itself, or what other issues does the project prevent. He said he does not take lightly, and he thinks it is potentially problematic, that the Village is doing something for the benefit of one group of private property owners, to the detriment of another. He asked what the benefit is to the Village beyond getting water out of the properties on the east side of 306. Mr. Haibach said the Village has an interest in the Chillicothe Road right-of-way, that being the main corridor through the Village. He said since that is an elevated area, Chillicothe Road in effect acts as a dam that impounds water flowing east to west. It can't effectively do it well because

there is a culvert that is (*13 seconds unintelligible*). Mr. Haibach said the water does jeopardize the integrity of the road.

Mr. Porter said there is also flooding over 306, south of the Bell and 306 intersection, which is going to be addressed by another culvert project. He said the reason to do the 319 project now, is because ODOT is going to resurface 306 in 2023, and the Village wants the culverts replaced prior to the road project, since the road will need to be disturbed to do so.

Mr. Flaiz asked if the project area will be able to be dug out and create a sufficient water impounding area before the southern culvert is replaced. Mr. Haibach said that is the goal. Mr. Flaiz asked if it has gone out to bid. Ms. Matheney said it cannot go out for bid until the easement has been recorded. Mr. Flaiz asked if anyone knew what month ODOT is paving 306. Mr. Haibach said it is planned for July or August 2023. Mr. Flaiz said if the project is not done, and you put a 30" culvert in instead of a 12" culvert, that will cause problems on the west side of 306, downstream, to increase significantly. Mr. Haibach said yes, that is correct.

Mr. Flaiz asked when the project is going out to bid. Ms. Matheney said once the easement and environmental covenant are recorded, she believes that Council authorized Mr. Haibach to solicit bids and quotes for the clearing of the trees. Mr. Haibach said they will be soliciting bids for the clearing, and that needs to be completed by March 31<sup>st</sup>. He said the construction portion of the project will be advertised for bids next week.

Mr. Flaiz said he feels that this is a worthwhile project and wished that the whole project could be done. He said his main concern is the clear-cutting of three acres which will affect the condos, who are a clearly a group of people who are not in favor of the project since they didn't allow the easement on the other part. He said the house to the north will be affected as well. Ms. Budoff asked if the house to the north was aware of the project. Mayor Koons said he doesn't think they are aware unless they've picked it up over the years. He also said the people of Manor Brook Gardens did not refuse the Village access to their four parcels south of the easement, but they ran out of time for negotiations, and their demand of \$10,000 a year was quite high, along with other things. Mayor Koons said the grant runs out on September 30<sup>th</sup> of this year, and they may be able to get an extension, as the Village has a good relationship with OEPA. He said once this phase is finished, and the people of Manor Brook see how well the project is managed, and how well the residents are taken care of, he is hopeful that they will be agreeable to talk about the four small parcels, three of which are south of the easement, and one is north of Manor Brook. These parcels are basically east of the driveway to their private water system.

M. Budoff asked if anything could be done with drainage on the east side of the road. Mr. Porter said this project is the best way to deal with the situation.

Mr. Haibach asked if there were any other questions for him to answer, as he had to leave the meeting for another commitment. There were no further questions. Mr. Haibach left the meeting at 4:40pm.

Mr. Flaiz said he would like to see some screening included in the project, and he thinks it has been underestimated how the residents will react to the initial shock upon seeing 3 acres of woods cut down, which will look very bad. Mayor Koons said discussions with Manor Brook have included the size and types of trees that would possibly be planted. Ms. Matheney expressed concern regarding the functionality of the meandering stream as it relates to proposed plantings. Board members referred to the satellite view on the large screen and discussion followed regarding the stream line, possible areas where trees could be planted, and types and sizes of trees that may be acceptable.

Mr. Porter suggested that the Planning Commission approve the easement and environmental covenant, provided that Village Council, upon project completion and per the Village Engineer's recommendation, plant a sufficient quantity of trees along the eastern edge of the easement, which is very close to the stream line.

Mr. Flaiz asked if they could approve it and require the Engineer to return to the Planning Commission within sixty days with a landscape plan. Ms. Matheney asked if the 60 days would be starting now, or after the project completion. Mr. Flaiz said it would be 60 days from now, and the landscape plan would then be part of the project, although the funds may not be able to be used for screening. Mr. Porter asked how many trees could possibly be involved. Mr. Flaiz said there may be 50 trees. Mr. Porter said an arborist should recommend the proper trees to plant, since they would have to be salt-resistant. Mr. Flaiz said he believes the Planning Commission should treat the Village the same as they consider proposals from any developer or anybody else and impose strict standards that they would be held to. He said he doesn't want to hold up the project, but the requirement should be to have a landscaping plan presented to the Planning Commission for approval, showing screening and the types and placement of trees. Discussion followed about where the screening should be required.

Mr. Latkovic asked Ms. Matheney if the project could move forward with conditional approval from the Planning Commission, or does Council have to do something as well. Ms. Matheney said the board can treat this proposal exactly as they would any other developer, and that the project can still go out for bid, the clear-cutting proposals can be presented for approval to Council, and the Village Engineer can be required by the Planning Commission to present a landscaping plan for the easement. She said the Planning Commission's condition of buffering and screening ensures that the Village is being a good neighbor.

Mr. Flaiz said they could grant the easement subject to the condition that the Village is going to provide screening on the eastern and northern portions of the easement, and that the Village Engineer will present a landscaping plan to the Planning Commission within sixty (60) days, which will be subject to approval by the Planning Commission.

Mr. Porter expressed concern that the court could hold up the project unless the landscaping plan was in place. Mr. Flaiz said that would not happen, and past approvals by the Planning Commission have been conditioned upon a developer returning for further approvals, but the project was not held up.

Discussion followed among all board members and the solicitor regarding the wording of the motion.

Mr. Latkovic said the board should make the intent of the condition clear. Mr. Flaiz said the intent is to provide a natural, aesthetic visual barrier for the affected homeowners. Mr. Porter said it is aesthetic, rather than anything else, and the project will not be held up because the landscaping will be installed after the project is done.

**Mr. Flaiz made a motion to approve the drainage easement and environmental covenant, and to require the Village to present a landscaping plan that will sufficiently screen the project by creating a natural, visible barrier, within ninety (90) days, and the Village will be required to implement the final landscaping plan that the Planning Commission has approved. Mr. Porter seconded. On roll call vote, the motion carried.**

There being no further business, Mr. Flaiz moved to adjourn the meeting at 4:54pm.



Steve Latkovic, Chairman



Ruth Griswold, Board Secretary

3-10-22

Date

3-10-2022

Date