

**RECORD OF PROCEEDINGS
PROPERTY COMMITTEE - STORMWATER MEETING
MONDAY, JANUARY 23, 2019 – 9:00 A.M.**

PRESENT: Koons, Canton, Galicki, Nairn, Porter, Schloss
Fiscal Officer Romanowski, Street Commissioner Johnson,
Solicitor Matheney, Engineer Haibach

VISITORS: Kim Brewster, Chagrin River Watershed Partners
Bob Royer, Manorbrook

Mayor stated the purpose of the meeting pertained to pursuing a 319 grant to be utilized to ease flooding issues in the Manorbrook Dr. and Chillicothe Rd. areas. An additional meeting will be held Sunday, January 27, 2019 to inform the Manorbrook homeowners of the project. The residents have been informed of this meeting by their HOA President, Chris Berger.

The Mayor distributed a North Center Drainage Study map and a second map reflecting the proposed project area (Exhibits (1) and (2)). Mayor asked Brewster and Engineer how they would collaborate. Engineer stated he would be fine with CRWP writing the grant but asked that he be kept informed of the physical features and allow him to participate in the anticipated cost estimate. Brewster stated CRWP would be happy to work with developing cost estimates, technical approach, etc.

Nairn asked whether CRWP was a branch of the federal government or a private entity. Brewster explained that CRWP is a 501(c)(3) non-profit organization and have 34-member communities that pay dues to CRWP. They also receive grants from the government and private foundations. Nairn asked if they were required to answer to the federal government. Brewster stated they were not unless they were involved with a grant funded project. Nairn clarified that CRWP acquires funds through the grant process from the government and then oversee the projects. Brewster stated that CRWP's involvement depended on what the Village would want.

Royer asked how specific the grant needed to be. Brewster stated that it did not have to be specific in terms of formal engineering, which would be done as part of the design-build process. For the application, Ohio Environmental Protection Agency (EPA) required a conceptual plan. This could be modified as the design progressed. The Engineer added that when too many details are provided initially, it becomes limiting later. The intent should be made clear, but in terms of specific details, these should be used judiciously because the Village would be locked into these details.

Engineer explained that over the past two decades, it had become apparent that after a large rain event, there was a lot of standing water on the east side of Chillicothe Rd. Last year, the Village engaged CT Consultants to do a North Central Drainage Study to look at this area and develop solutions. After the hydraulic analysis of the area, it was found that the secondary culvert that runs under Chillicothe Rd. just north of Manorbrook Dr. was only a 12-inch culvert that drains a

30-acre drainage area. A 30-inch culvert would be necessary. During a significant rain event, 110 acres of run-off flowed west across Chillicothe Rd. through two culverts. Most was draining went through the larger culvert, but about 30 acres of it was being forced through a 12-inch pipe. The result was that the east side of Chillicothe Rd. would fill up with water until it reached the north culvert. Then all the water would come through, which created a lake on the east side of Chillicothe Rd. and would occasionally flood the home in this area. It was determined the problem was not the large culvert to the north, but the smaller culvert to the south. The 12-inch culvert needs to be replaced with a 30-inch culvert. Manorbrook HOA had done some mound-type landscaping. Included was an 18-inch pipe that runs from the outlet of the 12-inch culvert to the main stream channel. At the point that the Village replaces the 12-inch culvert with a 30-inch culvert, the water would have nowhere to go with the 18-inch culvert. Through the analysis, it was determined that all the structures downstream would be capable of handling the flow of water, to include the triple culverts under Manorbrook, the driveway culverts, and all the way to McFarland Creek. No other culverts or structures would need to be redone. The 18-inch culvert is the critical pinch point through Manorbrook property to the creek. Rather than simply digging a ditch, CT Consultants felt improving the stream on the west side of Chillicothe would be most beneficial. It would decrease erosion in the area and lessen the amount of sediment travelling downstream. It would also serve as a critical buffer to handling the storm water. The stream enhancement would improve the quality of the stream, slow the water down in the stream and would have a wider vegetated flood plain area so that the water could swell and spill out while being contained in the flood plane area.

Nairn asked if the stream was manmade or natural. Engineer stated it is natural, but tamed, constrained, and was altered as the area had built up. The Engineer said that the project would attempt to return it more to its original state. The Mayor asked whether the Engineer wanted to replace the 12-inch culvert with a 30 or 36-inch pipe. The Engineer thought the study recommended a 30-inch. The Mayor indicated that the map reflected a 36-inch. He also asked whether the 12-inch should be replaced or kept, adding the larger culvert down the road. The Engineer explained the 12-inch culvert was located at the low point so that is where the replacement culvert should go. Nairn asked whether it was possible to do either a 30-inch or 36-inch culvert, and the Engineer said the 36-inch was more cost effective because it was a more common size. Nairn asked if it would be more beneficial to have the 36-inch and the Engineer stated it would.

Brewster asked whether the Village had funds for the replacement of the culvert under Manorbrook and the culvert under Chillicothe Rd. The Engineer said there were budgeted funds for replacing the 12-inch culvert under Chillicothe Road. He did not think the triple culvert under Manorbrook needed to be replaced. The Mayor explained that independently, both the Engineer and Brewster had analyzed the area. Brewster explained that she missed the outlet of the 18-inch pipe, possibly because of vegetation.

Schloss asked if Ohio Department of Transportation (ODOT) approval was required to install the culvert, and the Engineer said yes, but that it was not a lengthy process, possibly four weeks. The Engineer said he could make a case for the culvert being in critical condition.

Regarding traffic control, the Engineer suggested a temporary red, yellow, green light on either side of the road and replacing half of the culvert at a time which would allow flow. The Engineer stated the project would take about four weeks. He said the work required on the west side of Chillicothe Rd. to accommodate the new culvert would be the more challenging part of the project. Porter asked if the project would take place during daytime hours or at night, and the Engineer said it would be during the day. To pay a contractor to work at night would not be cost effective.

Brewster asked about a line of some type that runs next to the stream, and the Engineer said there was a sanitary sewer that runs in the area. The design would avoid it and any other lines.

The Mayor asked the Street Commissioner if the Village maintained the area where the gas line was located. The Street Commissioner explained that it is an easement for Geauga County sanitary sewer. The easement runs from the east side of Chillicothe Road to Bell Rd. and then down to McFarland Creek. Engineer was aware of some manhole structures in the area. The Street Commissioner stated that the Village just cuts grass in the area to give the County access to the manholes.

Nairn pointed out that in 1991, the two large ditches adjacent to Manorbrook were clean and without weeds and water seemed to run through them well. However, they were neglected and had turned into an underground jungle. She surmised that this was the cause of some of the problems. The Engineer recommended cleaning these ditches. Mayor asked about covering the ditch at West Bel Meadow because it seemed to have become deeper over the years. The Engineer stated he doubted the ditches have become deeper because the area is flat and the water moves slowly, so it would not carve it out. The depth of the ditches is necessary because of the existence of a steady downhill grade. He would not recommend covering any ditches, particularly as part of the project. The Mayor stated he would prefer not getting involved with the ditches at all. Street Commissioner added that there was a common line from the old septic systems under the deep ditches. The problem was where the lines enter into the creek line that runs from West Bel Meadow to Chillicothe Rd.

Royer asked how the big elliptical culvert to the north of Manorbrook handled the stormwater. The Engineer stated that it was the correct size to handle the water coming from the 90 acres of watershed. He said that the ditch was so choked with vegetation in the area that it might have caused the water to drain more slowly for the Bel Wood area. This would just be a matter of ditch cleaning. The Engineer further conveyed that according to the study, there was not a problem with standing water and flooding in the Bel Wood area. Royer stated then that by putting in a 30-inch line, this would take care of 30 acres and the water on the east side would be handled. The Engineer agreed. He explained that it would be taking some of the water from the culvert to the north, which had been handling most of the water.

Canton asked how long it would take to get the project started. The Engineer explained that although the culvert could be installed at any time, it would be important first to have the necessary measures in place downstream to accommodate it. This could not be done in the winter. The Engineer asked what the timetable would be if the Village were to apply and receive a 319 grant, specifically pertaining to the ability to use the funds for the stream enhancement

project. Brewer could not say but anticipated by fall there would be an announcement about awarded grants. She explained it was a three-year grant. In year one, the contract with Ohio EPA would be signed, coordination would be done with project partners, verification of cooperation by landowners would be determined, proposals would be released for a design-build firm, initiation of the design work would begin as well as pursuit of permitting. Year two would involve the construction and year three would be wrap-up and education deliverables. She said there had been communities that were able to expedite this, such as Chagrin Falls. It was recommended that construction be conducted between June and October. Canton asked whether the project would start this year, and the Engineer stated that it could start next year.

Royer stated that the Village needed to handle the water on one specific side of the road before the other. The Engineer agreed but reiterated that it would be problematic to put a larger culvert in before the water could be accommodated downstream. The Mayor asked if there was anything better the Village could do. The Engineer stated there were other options such as building retention ponds, but that would involve in excess of \$1,000,000 and the purchase of a lot of property for a retention pond. This would be expensive and tedious. He believed that making a substantive change to the downstream area of the culvert might mean eliminating the need to build a retention basin. He added that potentially the Village could obtain a grant to offset at least half of the construction costs. Porter suggested that this might be better than purchasing the red ranch and digging a big pond. The Engineer stated that it was not that simple. The red ranch area is a long, narrow, flat property that would not serve well as a retention pond. Porter stated that the culvert replacement and the stream enhancements on the Manorbrook side would be a better solution.

The Mayor stated that the Village would be holding a meeting January 27, 2019 with the Manorbrook HOA to get approval of an easement. Regarding the Manorbrook pond, the Mayor stated that the Village did not want to get involved with the retention pond that belonged to Manorbrook Gardens. He said that Brewster advised against involvement with private property and added that there were homes with basements in the area. The Engineer stated that the Village would not want to do this because it was not at the required elevation and was a static pond. Royer asked, then, if there was no way for the Village to enhance this area, such as making it twice the size. The Engineer said that regardless of the changes, this would not solve the problem. Referring to the map, Nairn stated that there was a body of water to the left. The Engineer said it was a pond by the water plant, but that the same reasoning would apply to this pond as far as storm water control. Nairn asked if the project would help the homeowners on Sugarbush. The Engineer said it would. Nairn explained that the homeowners have a terrible problem with the storm water. The Engineer agreed and said it was a volume and a velocity problem because of topography. She said that in addition to alleviating the problems on the east side of Chillicothe Road, it was necessary to let the Sugarbush residents know that the Village was working towards solving their issues as well. The Engineer said that ultimately, he would like to see stream enhancement run through the whole water course, which he believed would solve a lot of problems, but would be a huge project. This would be the first step and is the most critical area.

The Mayor asked whether a walking trail could be created with the grant. The Engineer said it could be included in the application if this was a project component the Village would like to

incorporate. The Mayor thought this might make the proposal more appealing to Manorbrook homeowners. He also asked if the project would be invisible to the residents. Brewster said there would be a big vegetative buffer around the project. It might be slightly visible from Chillicothe Road and on exiting Manorbrook Dr, but it should look like a stream instead of a ditch. Brewster said that native plants would be incorporated, and the project should be attractive. The Mayor asked if the trail could be extended to Whitetail as part of the grant. Brewster said this would not be an eligible 319 grant activity but could possibly another NatureWorks project. Nairn felt that it would be necessary to communicate that the project would be attractive to the Manorbrook HOA. The Engineer said that there was not a lot of room on the east side of the stream enhancement, but there could be a meandering trail along the west side of it.

Nairn referenced Canton's statement about seeing evidence of water damage in the basements of the condominiums. Canton said this would have been in about 2008. Nairn indicated there were condo's around the other pond as well, and she was concerned that those homeowners might run the risk of getting water in their basements. The Engineer stated that the project would be far away from these homes. Canton asked Royer whether he, as a realtor, had ever seen water damage in the condominiums. Royer was not aware of any.

Royer asked whether, when the project was complete, it would look any different than it does now. The Engineer said it would because right now it was a manmade overgrown ditch. There would be natural stone and a meandering stream running through the area instead with native plants. Nairn stated this would be the way to sell it. The Mayor asked about making a trail, and Brewster said to keep it separate from a 319-grant proposal since it was not an eligible activity.

Brewster stated that the restoration components of the projects funded through 319 grants must be protected in perpetuity. Thus, there needed to be a conservation easement or a deed restriction. If the community had riparian setbacks in place, this could also count as a way to protect the area in perpetuity. There had to be something that ensured the restoration would stay in place. The Engineer stated that the Village would require an easement from the Manorbrook HOA to construct this. He asked if it would be satisfactory to include that the purpose of the easement was to construct and maintain a natural drainage course through the area. Brewster recommended asking Ohio EPA. Royer asked whether the property in question was buildable. The Engineer and Nairn stated that it was dedicated green space and could not be built on. Royer said that what was being proposed would be enhancing the property.

Mayor asked Brewster whether the Village should pay to put a walking trail around the project as a thank you to the Manorbrook HOA for giving the Village an easement. Brewster said that this was a question for the Village. She said trails can be expensive and the Village would want to seek grant funds to help with this. Regarding the language of the easement, the Village would want to include provisions to allow a trail going right by the stream. Canton asked the Engineer whether this project would enhance the water table, and Engineer stated it would. Canton felt this was an important point.

With the requirement to maintain the project in perpetuity, Nairn asked who would be responsible for the maintenance of the plants. Brewster said that maintenance of the plants

should be minimal, but she surmised that maintenance ultimately would rest with the HOA. The Engineer added that the vegetation could look natural, and Nairn added that the existing ditches were natural and unattractive. Galicki asked Brewster to verify that in the Kensington Green HOA 319 agreement, there was language about the HOA maintaining the plantings after the first year. Brewster said the concern was to keep it in place. Galicki asked then if this would be the same for Manorbrook HOA. Brewster said it would in so far as making sure the plantings were not removed. She addressed invasive plants and said that these could take over a project area. Nairn asked who be responsible for eradicating these, and Brewster replied that she did not know. She suggested that the Village could have an agreement with the HOA, but ultimately it would be the responsibility of the HOA. Porter stated that if it was on an easement, the Village should be responsible. Royer said from a salability standpoint, it should stay with the Village. Porter added that the man who comes out from the Natural History Museum each year could walk the property to look for invasive species. Galicki stated that the language needed to be included in the necessary agreement. Porter said that it should be in the easement, and felt that with this knowledge, it might put some of the homeowner's minds at ease.

Solicitor added that there was a cost analysis required but keeping the maintenance of the easement could be important for the Village. Porter added that if it were the Village's responsibility to maintain it in perpetuity, it should be in the easement. Royer added that the project would ultimately enhance the property at no cost to the HOA.

Nairn asked whether the home and condo owners would make the decision about the easement or was it the Boards. Solicitor said that in what she was given for the HOA, it appeared to say that 2/3 of the Board Members made up the vote with respect to an easement agreement. Royer said that the property belonged to the Master Association, not the Manorbrook Gardens Association. Manorbrook Gardens was not part of the Master Association. Canton asked Royer who was part of the Master Association, and Royer explained Whitetail Condominiums and Whitetail. Nairn asked whether the Reserve was a part, and Royer said it received some monies from the Master Association. Solicitor asked who made the decision regarding the easement agreement. Royer stated he thought it was the Master Association. Porter asked if it was the Board or the residents. Royer did not know the answer. Solicitor recommended contacting Kaman and Cusimano, LLC to determine who had the authority to execute the agreement. Royer stated that what added to the complexity was that the homeowners who were most affected did not have a vote. Galicki added that the issue was that there had to be consent and agreement from the Master Association for the Village to go forward. Royer said the land is owned by the Master Association. Porter stated that the Board had the power to enter an easement based on subsection C of the by-laws. Royer asked which set of by-laws Porter was reading, and he said Whitetail Run. Royer said it should be the Master Association. Nairn said it was the 96-page document. Solicitor informed Royer that an initial call should be made to the law firm, and Royer agreed. He advised that with the Whitetail Condominium Association, 75% of the homeowners had to vote to bring in Spectrum. Solicitor stated that it was up to the HOA to seek the advice of its attorney regarding what was needed to approve the easement. Solicitor offered to speak with the Master Association attorneys as well.

Brewster provided a presentation about 319 grant requirements. (Exhibit (3)) The presentation included that the grant would provide for a 40% local match and was a three-year grant. A requirement was that it must improve water quality.

The Mayor stated that Chris Berger was the President of the Master Association, and Canton verified this. He said that Manorbrook Gardens and the Condominiums have their own HOA and boards. Berger is responsible for the water and the maintenance of the front of Manorbrook and Chillicothe Rd. Royer added that Berger and the Master Association were responsible for the land owned by the Master Association, clarifying that this land ran behind Manorbrook Gardens as well as what could be seen from Chillicothe Rd. The Mayor stated that Berger sent an email to residents written by the Mayor, and Royer confirmed this. Mayor added that the meeting for January 27th with Manorbrook would be in the paper January 23, 2019 and would be eblasted to the community. The Mayor stated that the pros and cons would be presented to the Manorbrook HOA. He was not sure that the residents of Manorbrook understood their rights regarding the Village's request. The Mayor stated that what was necessary was to obtain approval from Manorbrook HOA for an easement for the property, and in return the Village needed to offer them something for giving the easement to the Village. He would inform the residents that the Village would be improving the land and it would not cost them a penny. The Mayor felt that the Village should maintain the easement. The Solicitor offered that this was something Council could discuss. The Mayor asked the Street Commissioner whether the Village already mowed the property, and the Street Commissioner said it was a very small area, but that the project should require very little maintenance. The Engineer added that if the Village were to construct an upstream retention pond, that would require maintenance as well. The Mayor wanted the Manorbrook HOA to see that this would be an improvement to their property, and they would be helping their neighbors. Canton added that they would be helping the HOA water table.

Nairn asked if a vote would be taken at the January 27 meeting, and Solicitor said a vote could not be taken. Solicitor stated that a vote would have to be at a Regular or Special Meeting of Council. Galicki interpreted the situation to be that the onus is on the President of the HOA relative to the rules of the HOA. The Solicitor agreed. Royer asked whether the South Russell Supervisor's Board was in favor of the project. Galicki stated that this does not matter. Royer disagreed and explained that if the Board was not completely in concurrence with the project, there was no point in pursuing it. Nairn asked to whom Royer was referring when he said "board" and asked if he meant the Council. Royer replied yes. Solicitor asked if this had been decided. Mayor and Nairn replied no. Mayor asked Brewster what was needed to submit for the grant, specifically whether something was needed from Manorbrook. The Engineer was holding off on this and asked about timing. He asked whether the Village could begin to work on the grant application while it waited for the HOA's response. Brewster said that if it were successfully awarded, it could be withdrawn. She cautioned, however, considering the previous 319 issues, the Village should consider how this would look to the Ohio EPA in terms of future grant applications. Galicki added that much of how Council would view the proposal would depend on if the HOA supported it. The Solicitor added that because of timing and needing the informational meeting, it might be a case of putting the cart before the horse. What if they did not have time to get their votes in, and the Village does not know their requirements for approval. Royer asked if South Russell agreed with going forward with the project. Galicki

repeated that Council's opinion would be based on where the homeowners were coming from. If the residents were in favor, Galicki did not think there would be opposition from Council. Royer was concerned that the HOA would agree and then Council would decide against it. Nairn said she did not see that happening and added that there were too many positives with it. The Engineer added that the Village would not be conducting informational meetings if it were not something that would add value to the community. The Solicitor said this was very true.

Brewster said relative to matching funds, Council should discuss this to ensure they are in favor of it. The Mayor asked if the Village should proceed with putting together the grant, and the Engineer said he could put a cost estimate together, which would be important for Council knowing what the matching funds amount would be. The Mayor asked if the Village could get everything together and submit the grant application without a Manorbrook decision. Brewster agreed, and the Mayor added that it could hurt the Village's reputation with Ohio EPA. He added that the Village has a black eye from the first 319 grant. Galicki said the critical decision rested with Manorbrook and explained that the push-back from the previous 319 appeared to be the result of the process progressing without the agreement of the residents. If Council knew that Manorbrook was in favor and the agreement was signed by the appropriate HOA personnel, he did not perceive any opposition from Council. He further explained that the agreement of the HOA was an element missing from the last 319 grant.

The Engineer said he did not want to put a negative spin on the issue, however, the Village would be replacing the 12-inch culvert under Chillicothe Rd. with a larger culvert at some point. That would necessitate Manorbrook bearing the expense of removing the 18-inch culvert that the HOA installed on Manorbrook property. He explained that if the Village replaced the culvert and nothing was done with the 18-inch culvert, it would become Manorbrook's problem to deal with the ramifications of this. The culvert will be replaced, and this would provide the opportunity for all the necessary improvements to be done at the Village's expense. Royer stated that from a commercial standpoint, the Engineer did not want to go there. The Engineer agreed. Royer added that this was an opportunity to enhance the property and handle the water effectively.

Engineer was asked if he could attend the January 27 meeting, and he agreed that he would.

The Mayor asked if it would be inappropriate for the Village to contact the Manorbrook HOA attorney, and the Solicitor stated that it would not be, but that she was hoping the HOA would make the initial call. Royer stated he would contact the attorney immediately. The Mayor stated that unless the Village had something in writing from Manorbrook, it could not proceed. Brewster stated the support should be in writing. She explained that in the past CRWP had not recommended this during the application process. In the last year or two, however, they have recommended getting it in writing in the form of a brief contract giving permission to access the site for design and construction, monitoring, easement, and if maintenance was required. In the event the Village was awarded the grant, the Mayor asked if the Village would then have to obtain a formal easement. He clarified that the Village would not have to obtain the actual easement in the next two weeks. The Engineer answered no. He clarified that once the grant was awarded that the Village would need to engage Manorbrook HOA in developing the

language of the easement. He offered that the details of the easement might include that they want trees and a trail in return for the easement.

Royer said that in the beginning of the dialogue about the project, there was a suggestion that the Village would pay for the trees that line Manorbrook Dr. He added that those trees have been removed at this point. He asked if this was still a possibility. The Mayor said that this discussion would take place when the easement was being negotiated. Royer asked if this was a real possibility. The Mayor said this was a difficult question because it involved working on private property, but it could be something that the Village might want to do. The Solicitor asked if this was in the road right of way and clarified whether replacing them was what he was conveying. She recalled that this matter had been discussed by Council. The Mayor stated that the Village would replace the trees in exchange for the land for the project. The Solicitor said she was uncertain. Galicki said he would not complicate the issue, and Nairn added that the bartering is not acceptable. Royer said it was not a complication but a sales tool. The Engineer said if there was any monetary value associated with the easement, the Village could pay the HOA this money, and the HOA could use the money as they saw fit. The Mayor asked if theoretically the Village could give Manorbrook HOA \$10,000. Royer added that he asked because the suggestion had previously been made. The Engineer said there could be an exchange of funds for the easement.

The Mayor asked the Engineer to provide visuals of what the project would look like completed, and the Engineer said he had photos from a very similar project that he would provide.

Nairn asked if the Mayor had spoken to the board members of the HOA's, and he said he had only spoken to Chris Berger. According to the Mayor, Berger said he would attempt to get the information out. Nairn asked if the article that was scheduled for release was reported by Joan Demirjian, and he said it was. She asked Royer if he had spoken to the board members and whether he knew who planned to attend the January 27 meeting. Royer did not know but did know that the email went out to the whole Manorbrook community. Nairn reported that Berger said he only had 40% of the HOA member emails but questioned whether he was referring only to the Whitetail Run community.

William G. Koons, Mayor

Danielle Romanowski, Fiscal Officer

Prepared by: Leslie Galicki