

**STREET COMMITTEE MEETING
PAW PAW LAKE ROAD
APRIL 28, 2020 7:00 P.M. (VIA ZOOM)**

Present: Mayor, Councilman Carroll, Councilman Porter, Street Commissioner, Engineer Haibach

Visitors: Paw Paw Lake residents Richard Haber, Kent Kristensen; Heidi Baumgart, Virginia Dix; Darrell Johnson, Brunswick; Collin Cunningham, CVT

The participants began the meeting by introducing themselves. The Mayor stated that the purpose of the meeting was to deal with the road in Paw Paw Lake. He stated the Village had a lot of presentations from the community, and that the role taken by the Village in the current meeting would be to listen and determine specifically what the Paw Paw Lake community wanted from the Village and how the Village could help them.

Kent Kristensen stated he is the Road Chair for the community and referred to a presentation made previously at a Council meeting by Haber and the former HOA president, Chris Manchester. Kristensen stated that the Paw Paw Lake community has a private road that they service and maintain. He added that they pay real estate taxes and they wanted to form some sort of partnership with the Village relating to upgrading the roads and addressing the watershed.

Richard Haber said that since the presentation to Council, many details had been developed. As background, Chris Manchester had looked line by line at the road budget for the Village of South Russell and determined approximately what percentage of tax receipts were spent on roads in South Russell. He then estimated Paw Paw Lake's contribution to the tax receipts and determined what portion of the road budget would have been spent on Paw Paw Lake roads. This would have been roughly \$21,000 annually. For 80 years, Paw Paw Lake had received none of this allocation from the road perspective. Paw Paw Lake had always born the brunt of maintaining the roads. The community now realizes it cannot keep up with the deterioration of the roads, which Haber attributed to the flow of water through Paw Paw Lake. He stated a large part of the problem related to the watershed issues in South Russell. Haber described that all the water in that part of South Russell flows across Paw Paw Lake and is undercutting and deteriorating the roads. Originally, the HOA approached the Village to determine what would be required for the Village to ultimately service the roads, to include plowing, salting, and maintaining. They had spoken to the Engineer about the issue, who provided the community with the requirements.

Kristensen brought in contractors to look at a couple of different projects. The Engineer gave the community a ballpark estimate to do the roads from Bell to the turnaround by the pumphouse. Kristensen received estimates for expanding the project, which Haber stated were not necessarily consistent with the standards that the Engineer had previously outlined, but a standard that would allow for adequate passage of vehicles, snowplows, etc. It would result in the widening of the road to the dam, with two separate turnarounds, and potentially installing a

bridge in a different location that would give easier access for service vehicles. With those details in conjunction with an understanding of the requirements of the Village, Kristensen reached out to several contractors for pricing, which gave the HOA an idea of the potential cost. The potential price received was within striking distance, according to Haber, if the HOA could get a partnership with the Village to help fund it. Haber stated that the community had spent a lot of money in taxes without getting much back for a long time but recognize that they must participate in the solution. They are looking for a partnership with the community so that ultimately the Village can provide better services to the community and the community can solve infrastructure issues which would add value to Paw Paw Lake. Haber thought there was benefit to the Village as well in establishing a successful private-public partnership. He was not quite sure what this would look like but added that Kristensen had looked at some finance options. He stated that Paw Paw Lake HOA had been proactive in recent years because they recognized the deteriorating infrastructure. In particular, they funded repair to their spillway, which he added was a function of the watershed issues. They recognized that there were large expenditures coming, and as a community they established a capital assessment that is paid yearly by residents. A portion of this financed the new pumphouse and a portion is accumulating in an account as it is collected. These funds could also provide additional financing for the project.

Haber also addressed the timing of the request in that cost of financing is low as well as oil prices and roadwork contractors are looking for business.

Virginia Dix advised that she is in the construction industry and agreed with Haber about the reduced cost of road paving.

Baumgart stated she was aware that the Paw Paw Lake community had been separate for 99 years and had done well with planning and addressing its own needs. However, the watershed issue is a huge problem and the community can no longer address it alone. She explained that the water from South Russell is coming into their area so rapidly, it has created an issue for drainage and is hurting the roads. She spoke about having to do the spillway and added that they worked with the EPA. She stated that the HOA cannot get a loan unless it has the Village's support. She added that it was time to look at Paw Paw Lake's contributions as a community, and it was now their turn.

Kristensen stated that the community did not have a specific "ask" at this point but are asking for a conversation about how to move forward.

With regard to the public-private partnership, Carol asked if the community was hoping for the Village to co-sign on the loan and then the community would make the payments until it was paid off, or were they wanting South Russell to contribute funding towards the loan. Kristensen stated co-signing alone would be extremely helpful and would allow them access to the State of Ohio Department of Transportation (ODOT) infrastructure funds. Kristensen stated he had heard from ODOT and were told their fund was flush and that they liked this project. They said that they could approve it right away. Recently, however, they indicated that they would need Village involvement. As far as public-private partnership, the HOA has funds coming in from association dues and road maintenance funds that they could apply towards a payment. He did

not think the community could pay for the whole thing, and Haber stated they could not. They could contribute a significant sum of financing based on available cashflow, but realistically they would need a contribution from the Village. He did not have the exact number without knowing the State loan from an amortization schedule and interest rate. Haber did not think it would be an onerous burden on the part of the Village if done through financing.

The Mayor asked if they were asking that the Village's contribution would be based on the \$21,000 yearly it had paid annually for so many years and for which they did not receive services. Haber thought it would be an unrealistic ask for the HOA to say that for the past 100 years they had been paying taxes towards roads and now they would like it back. He said this was not the ask, but some recognition of what they had been paying over the past years and candidly what they would be paying going forward would make participation in the funding extremely palatable. For example, assuming the Village contributed \$21,000 a year to maintaining the community's roads and plowing, that \$21,000 a year should not be a difficult ask to contribute to the financing package to get the project done. He clarified that was not saying this was all it would take, but the reality is that the residents are paying the taxes, and there was one million plus dollars over the past 50 years for which the community received no services.

Baumgart added that regarding the watershed issues, individual and community properties have been affected and required mitigation because of water coming into Paw Paw Lake from other Village areas as well as their lakes. They have taken on additional expenses for water damage whether it is paid by individual property owners or through dues as members of the HOA.

The Engineer offered a counter point to the argument about the tax money. The Engineer stated the money that has been generated over the past 100 years by Paw Paw Lake has gone into the things that make the Village a better place for everyone. He offered that the residents drive on Bell Road and other roads within the Village as does everyone else, and enjoys the amenities enjoyed by all the residents of the Village. From an infrastructure perspective, Paw Paw Lake has a cluster of houses that in effect share a common driveway that comes off Bell Road. The road has been private for that reason for 100 years and has been the responsibility of those combined homeowners to maintain the driveway just as it is the responsibility of each individual homeowner to maintain their driveway. He added that he is not a resident of South Russell and has no stake in the matter. He thought it was a little bit of a mistake to say that they have paid \$20,000 a year and not gotten anything for it. Kristensen referred to the original presentation provided to Council and stated there was a suggested break-out of what goes towards community roads and what would be the proportionate value of road service in Paw Paw Lake.

Haber stated that this was taken into consideration when they calculated the number. He did not question that the Paw Paw Lake residents benefitted from snowplowing on Bell Rd, but added that they do not benefit from having their road plowed, salted, etc., which every other community in South Russell does. Haber stated this includes private communities, who, according to the Village's definition, would basically have a private driveway that South Russell has deemed as wide enough to plow.

Carroll asked about the awareness of residents of the impact on the frontage with the required widening of the road. He asked if it had been marked for residents to see how much property they could lose in their front yards. Kristensen said the committee had been meeting for a year and had a vote to determine that the residents wanted the project. He added that the HOA owns 30 feet of road property. Kristensen said that currently, they have 25 or 26' at the entrance and the average of 14' wide. All homeowners had been notified that their properties do not go up to the road. There is five or six feet of it that is road property. Everyone is prepared for this. Haber stated that they had not staked out the road all the way through the proposed project for the residents to see how their frontage would be affected by the project. It had been verbally explained and they planned to have a community meeting to address it but felt it would be better to wait until the cost was determined as well as what the Village's part would be. Haber added that there are people in the community who are not in favor of losing their frontage, particularly the owner of the first house in on the left. He acknowledged this residence would be impacted, and this would have to be addressed by the HOA. He did not think the vote for the project would be unanimous, and said it was a matter of whether it would be enough to carry the vote. The committee felt confident, provided that the dollars make up.

Porter asked if there had been a vote in the past, and Kristensen acknowledged the vote was to authorize the committee to work with South Russell and to report the results to the HOA. He added that the committee has gone house to house to let the residents know the areas involved in the project. Porter asked how many residents were in favor of forming the committee and how many were against. Haber thought it may have been unanimous, or close to it. The meeting where the vote was taken included a discussion about widening the road. He added at the time of the vote, no one understood how wide, the impact on property, what it would entail, or how much it would cost.

The Engineer stated that if the Village were to go for a fully maintained public road, the minimum right of way width had to be 60', 30' from centerline on each side of the road. This is a minimum South Russell standard that could not be waived. Porter clarified that the road was 14' wide now, and Haber said some of it is 14' and some of it may be as wide as 18' or 20'. Haber asked the Engineer what he meant by 'fully maintained,' and the Engineer explained he meant plowing, paving, repairing, and it belongs to South Russell. He thought this was what the HOA wanted; to turn it into a public roadway. Kristensen addressed the issue of other non-compliant roads in South Russell that are plowed and serviced by the Village. The Engineer asked if he meant private communities and asked which ones. Kristensen said Sugarbush. Haber stated he identified a number of roads that were not 30 feet wide that the Village maintained. The Engineer stated he was addressing the right-of-way for the roadway that was required to be 60'. The roadway itself could be as narrow as 20'. All the roadways that are currently 20' wide were put in well before South Russell had a standard roadway section. Any new road put in by a developer must be a minimum of 24' wide. He did not think this would be in keeping with the character of the neighborhood and said that the Village might be willing to make an exception subject to Council's approval and legal review for a 20' wide paved roadway. He added that the Village does not have any roads with less than a 60' right-of-way, other than some of the really old original small roads.

Carroll asked for the Engineer to clarify right-of-way. He asked with a 20' wide road, what was the extra 10' on either side providing. The Engineer explained that this area is used for storm sewers, sanitary sewers, utility poles, underground utilities, above ground utilities, access to drainage structures for the Village to maintain. It looks like a yard, but allows the Village to do what is necessary to maintain the ditches, roadway, etc.

Dix asked if Paw Paw Lake HOA already technically owns that right-of-way, would it be possible to agree to make the 20' road. The Engineer stated that he understood that their right-of-way was only a total of 30' wide. Kristensen stated that the HOA owns 30', and would have to negotiate right-of-way on additional people's properties. In the 30' they currently own, they have all the utilities, to include poles, gas line, and water system. The Engineer stated he understood, but in some places, the roadway will be significantly wider and five feet on either side of the road that they currently have is a cramped space to begin with, and by widening the road another five or six feet to make it 20', it is not feasible. He added that in the past, South Russell has denied development opportunities to developers that could not provide a 60' right-of-way. Kristensen advised that the proposals the HOA received took advantage of the 30' of road property and put 20' of road in the middle and then had five feet of drainage and swale as well as catch basins where necessary along the road. The proposals were all inclusive and included drainage along the road. The drainage would be four feet above the underground utility lines that are in the ground, which include gas and water.

Baumgart stated she understood the law of the land with South Russell, but felt compelled to make the point that this is not new development or construction, but a 100 year old beloved community with residents who could use a compromise because the safety of the road is getting worse by the day. It would make it safer even if it is not perfectly to the "t" of new development rules that exist in 2020. She asked where the concession is. The Engineer said the concession would be four-foot narrower road that the Village would make anyone put in and utilization of property the HOA currently owns.

Using telephone poles as an example, Carroll asked how far it must be from the road. He questioned if it would be necessary to move some of the poles for widening. Kristensen stated that to that point, they could place the electric and cable utility in the ground because there is enough room according to the contractor. Carroll cited the example of the expense of burying the utilities, and asked if the HOA were to do other things that otherwise the Village would not take on that burden because it would not need to, was the HOA parsing it out in the quotes or just putting everything they wanted in and hoping the Village would help share the cost. Kristensen stated they did an estimate using the Engineer's cost estimates for the 20' road and they buried the utilities. They have a cost estimate for this. Most recently, they have a cost estimate with keeping the poles, but widening the road and putting in the turn arounds suggested by the Engineer. They have both options in terms of cost, including the bridge that the Engineer proposed.

Porter asked if he saw a \$1.2 million estimated cost for the project. Kristensen said this was the most recent one that kept the utility poles above the ground. Porter stated this would be about \$30,000 per homeowner if the HOA financed it completely. Haber added that on a 20-year term

at 3%, on an annualized basis the cost for the financing principle and interest would be \$80,000. Carroll asked the Fiscal Officer if the Village were trying to get a bond rating, this would be used against any possible bond rating the Village might need to go for a bond in, for example, 15 years for another costly project. (The Fiscal Officer was not present, only signed in for recording the meeting) Porter thought Carroll was correct and that it would count against whatever bonds the Village might want to issue in the future for a major project. Carroll stated a 20-year loan could impact future projects. Haber stated he had not been involved in the finances of which Kristensen discussed.

Porter asked if the HOA was looking for the Village to handle the project as if it were a sewer project, meaning the Village would give the ok, and then the amount for each homeowner would be assessed to their tax duplicates which would be paid off over twenty years. Haber clarified that what Porter was suggesting is that the Village would pay the full amount and then assess the homeowners their portion of it if there were a partnership. Porter agreed. Haber stated the financing discussion had not reached this point. The involvement of the Village would be first necessary to understand the options. The HOA recognize its ability to contribute to the project, or it could contribute to the financing the Village would pay, which might not be logistically feasible because of the nature of public financing. The HOA was willing to be flexible but required a better understanding of what their options would be in the context of a public-private partnership. If the HOA could reach an agreement with the Village of what portion the HOA would pay and what portion the Village would pay, they could go out and get a loan for its portion and pay it directly to contractors in collaboration with the Village and the Village would pay its portion through the public financing. Or, Haber stated it could all be done through public financing and the HOA could consider the suggestion that it go on the residents' taxes. The selling point for doing this would be that some residents would not have to be the ones to pay the bulk of it because they would eventually sell the house and someone else would pick it up.

Haber stated that in having the dialogue, the reality is that everyone could come up with ten or twenty reasons it would not work. He thought they needed to come up with reasons how it could be made to work. The HOA is willing to engage in a dialogue and process to make it happen and want the Village to have the same mindset.

Carroll asked if the HOA's dues were decided so everyone has to pay, and Haber stated yes. He explained that every year, a budget for the following year and a five-year plan is presented to the membership so the community can see and plan for future expenses. They vote every year on the amount of the dues and the capital assessment. This was put in place five years ago with the intention of making it permanent, because of a need with the pumphouse, roads, and dredging that would require addressing. In passing the budget, the budget calls for adequate dues to cover operating expenses. The budget and five-year plan include not just operating expenses but anticipated capital expenditures. When a capital expenditure is anticipated in the following year, the community must vote to approve it and it is approved in the budget. Special meetings are required for unforeseen capital expenditures. Carroll explained that the Village would want to be assured that if the HOA had an unforeseen expense, it would not impact the HOA's payment of its share of the project to the Village. Haber stated something could be written into the bylaws

for approval by the community that during the term of the loan, Paw Paw must have a balanced budget where no expenditure could be approved that would infringe upon the debt owed to the Village. He added that the HOA has an obligation to its debtors, and if too many people did not pay dues, the HOA is still under obligation to pay debt. If necessary, they can place liens on houses, etc. He would not expect to default to the Village.

The Mayor summarized that 24 feet would be what the minimum road the Village would accept. The Engineer stated that 24 feet is the minimum standard, but in this instance a 20-foot-wide paved roadway would be acceptable. The Mayor added that there must be a 60' right-of-way, and the Engineer concurred. Porter asked Carroll if 20 feet is wide enough to get a firetruck down and back, and Carroll stated yes. It would be tight, and the biggest issue would be the bridge. The Mayor continued to summarize saying that there would be issues with trees, poles, water lines, gas lines, electric, and a dam in the right-of-way. Kristensen added cable, internet, and phone lines, but said they were collocated on the First Energy poles. The Mayor stated once a road was in, an issue would be the bridge area, and Kristensen added that it would be the bridge and the dam. Carroll asked if the dam met the Ohio Department of Natural Resources specifications, and Kristensen stated yes. The Mayor stated a big variable that had not been discussed is whether the HOA wanted sewers put in before the project.

The Mayor said the timing was good and bad because the Village would be having a similar conversation with the Sugarbush community on Thursday at 7:00 p.m. For clarification, the Mayor stated Sugarbush, Paw Paw, and the cul-de-sac roads at the end of Alderwood are the private roads in the Village. The Mayor verified that they were not maintained by the Village with snowplowing and salting. There are three roads, Fairview, the old section of Hazelwood, and the section of Maple Springs are the only roads that are smaller than the average roads. The Engineer added that there are also Forest and Cascades, and stated that all of the roads mentioned were at least 20 feet wide.

The Mayor stated he would let everyone think about what had gone on and get back in touch with the Street Committee. He thought the best solution would be to meet again in two weeks on May 12th after the matter could be discussed with Council at the May 11th meeting. He did not want anyone to think they were or were not getting a new road, but just wanted to keep talking about it. He asked Baumgart to get an exact number of houses in the community, but said they were nowhere near doing the financing. The Mayor asked the Engineer if he knew of other Engineers with experience with private to public, and the Engineer said he sent an email to other city, village, and municipal engineers with whom he works. He is aware of a number of other communities that are attempting to do the same thing. Ultimately it was the cost of bringing the roadway width and thicknesses up to spec that proved to be a deal breaker in the examples of which he was aware.

The Mayor said he had spoken to local Mayors and stated that Moreland Hills, Gates Mills, and Hunting Valley plow private roads. He did not know that they maintained them, but they have a signed agreement to do some plowing of the private roads.

The Mayor stated they should all be ready and that the matter could be in the paper next Thursday. He added that Council has gotten near the subject of septic cleaning standards and are trying to avoid any sort of panic or emotional outburst of people saying that they are going to ram sewers in again. Just like with private roads, he wants to get ahead of the game and get the word out that they want to keep the facts in the forefront.

The Mayor reiterated that the next meeting would be May 12, 2020 at 7:00 p.m. on Zoom with the same people.

The meeting was concluded at 8:05 p.m.

A handwritten signature in cursive script that reads "Mark Porter". The signature is written in black ink and is positioned above a horizontal line.

Mark Porter, Chairman

Prepared by Leslie Galicki