

PUBLIC WORKS AND UTILITIES

Monday, April 12, 2021

A meeting of the Public Works and Utilities Committee was held this date via Zoom Conference Call at 3:33 pm. Notice of this meeting was sent to the news media.

PRESENT

Committee Members: Councilmember Perry K. Waring, Chair, Mayor John J. Tecklenburg, Councilmember A. Peter Shahid, Jr., Councilmember Harry Joseph Griffin and Councilmember Ross A. Appel. Also present was Councilwoman Jackson.

City Staff: City Staff: Mr. Tom O'Brien Director of Public Service, Mr. Matthew Fountain, Director Stormwater Management, Mr. Matt Alltop, Superintendent Environmental Services, Mrs. Susan Herdina, Corporation Counsel, Mr. Daniel McQueeney, Assistant Corporation Counsel, Mrs. Amy Wharton, Chief Financial Officer, Mr. Richard Jerue, Senior Advisor to the Mayor, Mrs. Tracy McKee, Chief Innovation Office, Bethany Whitaker, and Velvett Simmons

A. Invocation

Chairman Waring opened the meeting with a moment of silence.

B. Approval of Public Works and Utilities Committee Minutes:

1. February 22, 2021
2. March 8, 2021
3. March 22, 2021 – Deferred

C. Request to Set a Public Hearing

None

D. Old Business

None

E. Acceptance and Dedication of Rights-of-Way and Easements

1. William E. Murray Boulevard (Portion): Approval to notify SCDOT that the City intends to accept maintenance responsibility for approximately 75 LF of granite curb, carriage stamp driveway and handicap ramp in conjunction with the project at 370 Huger Street (S-99).

Mr. O'Brien said this was another letter to DOT saying the City would accept maintenance responsibility for a granite curb and carriage champion and the handicapped ramp. This was Fire Station #8 on Huger St.

On the motion of Councilmember Griffin, seconded by Councilmember Shahid, the Committee voted unanimously to approve the above Acceptance and Dedication of Rights of Way and Easements.

F. Temporary Encroachments Approved by The Department of Public Service (For Information Only)

- 1. 8 Gillion St. - Roden Law Firm, LLC** - Installing 36” x 36” non-illuminated right angled sign encroaching about the City right-of-way. This encroachment is temporary. **Approved April 9, 2021**
- 2. 325 Bayley Rd.** – Transfer 5 irrigation sprinkler heads encroaching within the City right-of-way. This encroachment is temporary. **Approved April 9, 2021**
- 3. 626 Bermuda Isle Dr.** – Installing 13 irrigation sprinkler heads encroaching in the City right-of-way. This encroachment is temporary. **Approved April 9, 2021**
- 4. 927 Cochran St.** – Installing 4ft fence encroaching in the City drainage easement. This encroachment is temporary. **Approved April 9, 2021**
- 5. 2068 Ten Pont Dr.** - Transfer 5 irrigation sprinkler heads encroaching within the City right-of-way. This encroachment is temporary. **Approved April 9, 2021**
- 6. 2866 Sugarberry Ln.** – Installing 7 irrigation sprinkler heads encroaching in the City right-of-way. This encroachment is temporary. **Approved April 9, 2021**
- 7. 2866 Sugarberry Ln.** – Installing 18 irrigation sprinkler heads encroaching in the City right-of-way. This encroachment is temporary. **Approved April 9, 2021.**

Mr. O’Brien said they had one right angle sign and some irrigation and a couple of fences, but nothing out of the ordinary. Councilmember Griffin said they probably needed to show when the date was because it said ‘March XX’. Mr. O’Brien said Ms. Moore was out and forgot to send the update. The date was April 9, 2021.

G. Public Service Department Update

- 1. Daniel Island Beresford Creek Bridge Replacement- Approval of a contract with JMT, Inc. in the amount of \$439,455.13 for surveys, detailed traffic analysis, subsurface utility engineering and coordination, geotechnical investigation, environmental permitting, roadway design, bridge hydraulic analysis and structural design, plan development and construction phase support engineering for the replacement of the road bridge over Beresford Creek on Daniel Island. Funding source for this project is 2018 General Fund Reserves (\$1,700,000.00).**

Mr. O’Brien said they were happy to announce they were putting this forward for review by their Committee and City Council the following night. Keith Fraser in their office had been working hard with JMT, who had a lot of experience in the City and was the firm that won the award. Hopefully, they would get through that and start the design process and get construction underway soon.

Councilmember Griffin said he served on the selection committee and it was one of the first he served on when he became a Councilmember. They took it very seriously. That bridge

wasn't big, but it had a lot of traffic. This was something Councilmember White had really championed to get replaced, and he knew Councilmember White would be very proud to see them get this bridge finished. It was a major thoroughfare for traffic on Daniel Island and would be a great project. It would also create good transportation options for people who wanted to bike and walk. It would fix a lot of the right-of-ways and create new sidewalk and enhance a bridge that had been in disrepair for many years. It was a big step in the right direction. Mayor Tecklenburg said the City owned 12 different bridges in the City. This was an example of it being their responsibility and the liability when it needed to be replaced and repaired. He thanked Mr. O'Brien and his team because they had organized good records about the bridges the City owned and made sure they had regular inspections of them in conjunction with SCDOT so they had a better idea of when replacements were needed. The downside was they had not dedicated funding source to replace and build bridges and so they were reliant on general funds or grant money until the State Legislature allowed some mechanism by which they could fund improvements to roadways, paving, and bridges.

Mr. O'Brien said that last week he was in conversation with the SCDOT District Office and Kevin Mitchell was very helpful. They had record of their last inspections SCDOT had done for them and also the record of the next set of inspections. SCDOT had taken a more global look on possibly helping with funding for replacement and repair of the bridges. They started that early this spring. They had a general meeting with members of SCDOT and Keith Benjamin's staff about things they were hoping to work on jointly because there was really no money put aside for these things. He had also been working with Rick Jerue and Sherry Ann to see what came to fruition with the President's Infrastructure Bill for funding and help to do some of these things. They needed to make sure the bridges were maintained and didn't get to a state of disrepair. Chairman Waring asked if there was any way they could look into how they came into ownership of this. He asked if they could have used the \$1.7 million from the 2018 General Reserve to go towards the \$3.2 million deficit for 2021. Mr. O'Brien said that a lot of the bridges, several on Daniel Island were there to connect portions of Daniel Island and the little peninsulas to make them developable. The Magnolia Bridge, the same was the Magnolia Project, was starting to get moving in the right direction. That would be the main thoroughfare to that activity. A lot of the bridges were connecting roads and it was a matter of providing access to different areas. Chairman Waring said he understood but wondered how they prevented that from happening again. If they annexed a piece of property and developed another piece of property and needed a bridge over the creek, he asked why they didn't apply to the highway department or the County for that. They were the ones getting the gas tax and other things. He asked if they didn't have this expense if they could have used the \$1.7 million that was coming from the 2018 General Fund Reserve and if they could access it for the \$3.2 million deficit that made them raise two mills to generate funds to offset. Ms. Wharton said they could have taken that money if they needed to use it towards their own deficit and put it unassigned. With the general fund reserve, they could take any project away and put it back in they wanted to. They could have done that with the \$1.7 million, but this wouldn't have been one they would have selected to do that with. Chairman Waring said he understood. He just wanted to know that those dollars were potentially eligible. Ms. Wharton said they were because they were just general funds. It wasn't restricted to anything other than what they restricted them to.

Councilmember Appel asked if there would be any problem pushing this out this year as they were continuing to get more information on how the federal law would be interpreted. He

asked if there was an exigent situation. Mayor Tecklenburg said he understood there was but would let Mr. O'Brien respond. Councilmember Appel asked if this was a project they could maybe look at in another six to twelve months to free up some flexibility as they were figuring out what the federal relief legislation had to say about the use of the funds and things of that nature. Mr. O'Brien said this was the design contract which would take about six to eight months. They had to put a plate on the bridge because there was some damage to the substructure. It was passable now, but they had a weight limit on it and he would have some concern if they didn't at least proceed with the design of the project. It would put them back eight months to a year if they waited to start the design. Mayor Tecklenburg said that the remarks he had heard since the inspections were done were of the nature that led them to putting the plate on it to support it and reduce the weight. It should be replaced with all reasonableness moving forward. Mr. O'Brien said the Mayor was right and they needed to proceed with this and move forward. If they had the bridge go out it could be a major concern to the citizens of Daniel Island. They were looking at any and all funding, even though the State. They had approached Berkeley County. The State was taking more of a position that any roadways, whether City or State maintained, they needed to take responsibility.

Councilmember Shahid asked if the road that this bridge connected was a State or City maintained road. Mr. O'Brien said that part of it was State and the portion of the bridge was City. It was a combination. Councilmember Shahid asked if the other 11 bridges were also in that kind of category. Mr. O'Brien said he would have to check on each one individually. There was some on Johns Island and a few on Daniel Island that he knew were City streets. He could send that to them. He thought most of the ones on the list were City maintained. Councilmember Shahid said he knew these were expensive projects. This was \$1.7 million and it was a short bridge. He didn't want them getting stuck with something that was the State's responsibility. Councilmember Griffin said that today they were only appropriating around \$400,000 of the \$1.7 million and they were saying design would take six to eight months which pushed them into the next fiscal year. He asked if the entire \$1.7 million was appropriated for this fiscal year or if the other \$1.3 million or so could be applied for something else this year. Ms. Wharton said it was from the General Reserve fund, so it wasn't a budgeted expense. But, even if they didn't spend that money, they would reserve it for the following year so they wouldn't have to re-budget it. Councilmember Griffin asked how they were allocating their general fund reserve with this. He asked if this was something they expected the entire expense to go into this year or over the lifetime of this particular project. Ms. Wharton said it was just to fix the bridge. Part of it was for future years. Maintaining the bridge would go into the general fund as an expense. Councilmember Griffin said they could reach back out to SCDOT to see if they could help with some of the costs of the actual building of the bridge. If it was shared, they could see if SCDOT would help with some of the bridges. They couldn't take the entire cost when it was a shared responsibility. Mr. O'Brien said those preliminary conversations had started at the District level and Mr. Benjamin may know more about higher up conversations in Columbia.

Mr. Benjamin said that moving forward with this as soon as possible was crucial. The moment there was a shut down on Don Holt all that truck traffic took that way to get through Daniel Island and get back onto 526. It was dangerous and the worst of the worst could happen. They couldn't ignore that. Chairman Waring asked about reaching out to other allies. Mr. Benjamin said that was something to explore, but they had to do that while also recognizing how much infrastructure they had in the City that had to be maintained. A few years ago, they

approached them because SCDOT was discussing a buy-back program where they would bring certain roads up to a state of good repair at a certain number with a 40-year buyout. They hadn't heard updates from SCDOT about that. It needed to all be explored because they were taking on infrastructure monthly and there was infrastructure to be maintained. They would have to navigate that. Because of the help of BFRC, they were able to do new signalization at Island Park and Fairchild. That was leveraged City funds that went into making that intersection happen. They had to have dialogue about the fact that they were constantly taking on new infrastructure without the means to manage it financially. Chairman Waring said they should set a time to have that conversation.

On a motion of Councilmember Griffin, seconded by Councilmember Shahid, the Committee voted unanimously to approve the Daniel Island Beresford Creek Bridge replacement approval contract with JMT, Inc.

2. Briefing on Grant Submittal for Electric Garbage Trucks.

Mr. Alltop said there was a short one minute video that showed what the truck looked like, along with other facts and figures. Right now, the diesel trucks were costing them about \$290,000 per truck. The electric trucks were quite a bit more expensive and usually ran about \$625,000 for a rear load like they were purchasing. They submitted the grant application for \$521,000, which came with a 12-year warranty and was about 45% of the purchase price of the trucks. The remaining amount of \$754,000 would be budgeted for the 2020 budget. They were paying about \$58,000 per truck over an eight-year period and about \$116,000 for the two trucks that needed to be replace over an eight-year period. These electric trucks would reduce fuel costs and reduce that cost to around \$11,000 or \$23,000 for both and that's pretty much the price of the electricity to run them. They would see a 60% reduction in maintenance cost. Right now, they were averaging about \$110,000 a truck over an eight-year period. That was about \$221,000 for two trucks over the same period. The reduction would take it down about \$44,000 per truck over an eight-year period compared to the \$110,000. There is about an \$88,000 difference compared to \$221,000 over the eight-year period. The charging station could charge both trucks at the same time and would take about eight hours or less to charge. The trucks would run about 10 hours and about 120 miles and they would be based on the Peninsula. There would be zero emissions and no noise pollution. The trucks did not have hydraulics, so there would not be any hydraulic leaks. These trucks had zero fluid in them other than windshield wiper and radiator fluid to cool the batteries.

Councilmember Griffin asked what the charging station would cost. Mr. Alltop said that the charging station was included in the price of the truck, but thought that it would cost about \$60,000. The charging station was a one-time cost and could be moved to a different facility if needed. Councilmember Shahid asked what the lifespan of the trucks would be. Mr. Alltop answered that it would be about 12 years and each truck would come with a 12 year warranty, so if anything happened to the batteries or anything else, it would be fixed under warranty. 12 years plus was definitely not out of the question compared to the current replacement program which was eight years. They would be extending the program by about four years. Councilmember Shahid asked if that would be a four-year longer lifespan, plus all the other benefits that Mr. Alltop mentioned, and they would be used on the Peninsula first. Mr. Alltop said they would be getting two rear-loading trucks to replace what needed to be replaced in 2022 and they would be used on the Peninsula and then they would look into the ASL's down

the road. Councilmember Shahid asked if the trucks would be located and recharge at the stations overnight. Mr. Alltop said that that was feasible and that the trucks would get about 120 miles to start, but that mileage would increase as the technology continued to develop, so in a couple of years they could get 240 miles instead of 120 miles.

Councilmember Shahid said that just the noise level reduction would be a huge step for the livability in communities. Mr. Alltop said especially for downtown. When the trucks started it was a bit early. Councilmember Griffin said that he thought this approach Council was taking by going through a grant, was a good first step because he had gotten multiple phone calls from citizens that were concerned with the price of the electric garbage truck. If the grant could cut the price in half and they looked at the amount of money that would be saved over the life of the truck, they would actually save taxpayers money. The grant could make it a lot more reasonably priced and it gave them two trucks to show people how great they were going to be. They were going to let these trucks speak for themselves. Chairman Waring said they should probably have a press release on this so they could get the full story out, as opposed to the story that was out because it did not speak to the grant. Mayor Tecklenburg asked if the electric truck was smaller than the existing trucks. Mr. Alltop said that it was the same size as they had right now.

Mr. O'Brien said he wanted Matt to speak about what the schedule was, as far as the application of the grant and when they might hear about whether or not they had been approved. Mr. Alltop said they should hear sometime in July about approval. Pending approval, they would put it in the budget for 2022. Amy would get that information in the budget and the trucks would be purchased next year around January. It took about three to six months to put one of these trucks together, so they would probably take delivery of it between July–September of next year. Chairman Waring asked if this had already been submitted. Mr. Alltop said that the grant had been submitted about a month ago through the American Lung Association (AMA) and they were waiting to hear now. There should be an answer in July. They partnered with AMA to make the case better because they were doing a lot of things around the area, and it gave them a better shot of getting the grant. Chairman Waring said that he thought that a motion needed to be put on for the grant application of the electric garbage truck even though it was approved. Councilmember Shahid asked if the motion would be to proceed with the grant application. Chairman Waring said they approved grants after they had been submitted before. Councilmember Griffin stated that he thought this was voted on during the last Ways and Means Committee meeting.

Councilmember Griffin asked Mr. Alltop if he knew what the lifespan of the Bees Ferry Dump (BFD) was. Mr. Alltop said that he had some conversations over the weekend with outside parties that had indicated that the landfill was probably going to become privatized fairly shortly. They were working on getting all of that together and would put it out for bid. Once the BFD was privatized, then the County would be out of the landfill business. Councilmember Griffin said that he figured they were getting close to that and that he thought the lifespan was 30 years. Mr. Alltop said that it was getting close to that and that a new cell was built, but he didn't think that it was going to be utilized at this time. Mr. O'Brien then stated that the number that was being used lost approximately 15 to 19 years off the life span of the BFD due to Hurricane Hugo.

Chairman Waring said Councilwoman Jackson was on the meeting. Councilwoman Jackson said that she was all for it and that she was not ready to update the committee on the idea they had been working on to consolidate the trash and collection routes on James Island with the PSD. They would make good progress on that this month and hopefully bring it to their last meeting in April. Having this kind of innovation really encouraged everyone that they were on the right track to do the best they could for the environment.

H. Stormwater Management Department Update

1. Stormwater Manual Taskforce Update.

Mr. Fountain said they did have a brief update that they were meeting with the Taskforce to discuss the Stormwater Manual this Thursday at 3 pm. Councilmember Shahid and Councilwoman Jackson were members. They would be discussing implementation experiences from the development community in the new manual, as well as the citizenry that were represented on the committee around the Taskforce. They would bring up the recommendations that Councilman Griffin had for fill restrictions and see what input the Taskforce had, both on the idea of potentially removing an option to do slab-on-grade foundations in the floodplain, as well as seeing if there were any other solutions that people may have. They would go over one of the departmental recommendations and the staff recommendations of looking at small lot grading standards. Right now, there were minimal restrictions on single-family and small commercial sites for grading. They had a number of complaints, where people had come and filled their backyards to such an extent that they really impacted the neighborhood drainage. The State just kind of went the other way in the new state regulation. They basically exempted stormwater regulations on anything up to an acre in size. They did want to make it relatively simple and straightforward that didn't involve a huge amount of engineering for an individual single-family home, for instance. They needed to be up to date with the State and it was called the Construction General Permit for the State. Basically, it was the large-scale permit that set the minimum standards everyone had to comply with in the State. They needed to make sure the manual was also in compliance with those minimum standards. They would come back to this committee and brief them on what they heard from that group and what the plans were moving forward at that point. Councilmember Griffin asked if there would be a Church Creek Taskforce scheduled soon. Mr. Fountain said another Taskforce meeting needed to be scheduled since April was the rough three-month period from the first test of the Stormwater Authority meeting.

2. King/Huger Project Update.

Mr. Fountain said this would be a relatively high visibility project in the area at the intersection of two of the major streets on the Peninsula, the cross street of Huger and the north/south highway for King Street. They were looking for a notice to proceed of next Monday, April 19th where the contractor's contract time officially started running on the project and they would see them mobilizing for traffic control and impact shortly thereafter. They had been working with the contractor, Gulfstream, engineer JMT, CWS and DOT, as well as City Traffic and Transportation to modify the traffic control plan for that project. They had a good approach that would minimize disruption. The only lane closures and road closures would not start until 7:30 p.m. and would continue until 6 a.m. The road would be fully reopened at 6 a.m. each day. They did this in coordination with the local schools,

churches, and DOT. They tried to figure out what the best way was to minimize the actual day-to-day impacts on traffic flow and the operation of those important institutions in the area. They were handing out over 400 flyers to the local residents to make sure they were aware of the traffic shift. It would be about four months that moving through four phases of traffic. He also coordinated with Councilmember Sakran and Mitchell on it already, so they were up to speed on the disruptions. It was an important project, and they wanted to make sure everyone was aware. If they had any concerns or complaints they could contact Mr. Joe Swaim and they would try to address any of those issues. The original contract had a combination of daytime and nighttime work on different sections of different streets, but because Huger/King was under different rules, the project was originally expected to take at least six months because you had to basically be working only in a single lane rather than being able to close a section of the street. This revised plan, they thought they could do in four months, assuming weather went well and they didn't have any unexpected surprises. They were looking to be done in September.

Councilmember Griffin said he had Mr. Hassel here with him in his office.

Mr. Hassel said they bought their house at Lochmore Terrace in December 2009 and it ran down to the golf course. There was a 10-foot easement on the rear side of each of the property lines for stormwater and underground electric, gas, and telephone. His neighbor's lot was dry and it drained down to the supposed easement and then partially flooded his yard. He called the seller and he told me that the neighbor next door had put a garden shed in his yard, a bunch of construction sand in there and that blocked the easement. His neighbor ran a bilge pump to pump the water out of the rear yard and he was not willing to agree with that. He went to the City engineering office, and met with Mr. Del Porto who came out to the yard and looked at it. He said there wasn't anything that he could do because the former owner of his property had put the shed in the easement and the next door neighbor's shed was in the easement. He told Mr. Del Porto he would tear his down and remove it. A few years later, the neighbor removed her shed. In the meantime, his solution was to run a 500 gallon per hour bilge pump with 200 feet of hose and a battery that replaced every 24 hours. It took 48 hours to pump the water out of the yard.

The middle of the easement was up through the stand of trees. They talked with the City about having the easement properly graded and the City said it was too expensive. One suggestion was to tie into a French drain his neighbor had built but he didn't want to do that because he didn't want to be tied into the maintenance costs of her drainage system. His suggestion was that the City abandon the easement. He would grade his yard, install a sump pump, and run it underground to the street. He wouldn't allow his neighbor behind to drain across his yard and would put a sheet pile in at the property line.

Chairman Waring said they should try to talk about some potential solutions here before getting into questions.

Mr. Fountain said they did look at the area. They surveyed and staked the easement. There was a drainage easement on the plats. They looked at where the easement was. They put that in a potential small project in last year's fall project allocation and because of the trees they

talked with some contractors. They thought it was probably in excess of a \$100,000 to remove that level of trees behind the homes because of the adjacency to the homes. There had been a question of what the likelihood of funding was for that project because there was a single homeowner who currently flooded. They surveyed and spoke with a number of neighbors in the area and Mr. Hassel was the only one who expressed any flooding issues. The neighbor did express they installed a French drain system in their own backyard. They let Mr. Hassel know he could apply for an encroachment permit to do any work he wanted within the easement because it wasn't currently being used as a drainage conveyance system. They discussed the potential for abandonment of the easement. Most neighbors showed no strong feelings either way on whether that easement were maintained or abandoned in the area.

Mr. Fountain said he would have to double check. He thought the backyard was lower than the street drainage was, so it wouldn't be able to gravity flow. That was why the pump was used to move that water up and into the street location. They did look at running a French drain originally back all the way down that easement to the larger drainage system. Unfortunately, the easy place to run that easement was outside of where the current easement was and it would back into people's private properties which meant acquiring more easements and that was always a challenge from the property owners. Chairman Waring asked if the drainage system in front of this house was a curb and curving gutter, or a pipe. Mr. Fountain said he thought it was curving gutter in that area.

Mr. Fountain said they did. There was a drainage easement back there and there was a little bit more of a swale in that yard. Mr. Hassel had the unfortunate situation where there was a combination of an electric utility box and some tree roots and his neighbor coming in that trapped the water in his backyard and was the low point.

Chairman Waring asked if there was any way to get an easement from his backyard out and up to this cul-de-sac. Mr. Fountain said to do that they had to acquire an easement from this house, and probably the property owner. It was probably more expensive than taking the trees down. Chairman Waring said they couldn't shrug their shoulders. Mr. Fountain said there was an approach, but it would cost. If they had all the money in the world they would fix all the problems. He would fix any problems that Council allocated money for, but they arranged \$1,000,000 a year right now with that small project allocation. Chairman Waring asked if it mad any sense to acquire an easement behind the neighbor's yard that did have the French drain and if there was any way they could make that an official easement, as opposed to cutting the trees down and then access the swale that way. Mr. Fountain said in order to do that, they would either need to get this property owner to agree to sell an easement through his backyard, or condemn it. He offered to let Mr. Hassel just tie into the system without an easement which would be the most straightforward approach from the City side on that. Councilman Shahid and Councilman Appel had quite a bit of experience with trying to get drainage easements from property owners to take someone else's water. It was not a straightforward process.

Chairman Waring said that was a good thought.

Councilmember Shahid said Mr. Hassel's problem was reminiscent of several issues he dealt with for the past several years with the assistance of Mr. Fountain. It was a serious problem that he was facing. Several of his constituents faced the same kind of issues with easements

being lost or people putting obstructions over easements. Those who lived in West Ashley, who represented the older neighborhoods, were experiencing the same problem and were here to help. He didn't want him leaving the meeting thinking they were not listening or that this was not a major concern. Mr. Hassel said he appreciated that. His neighbor's storm drain system was an underground pipe. Every time it rained, she was in the rain cleaning the straw and the leaves off. Chairman Waring said he saw what looked like a transformer in the backyard and wondered whether there was another utility easement there that they could partner with that was outside the drainage system. Mr. Hassel said that was supposed to be in the same drainage easement. Mayor Tecklenburg asked if the original intent of this easement would have been for a sizable ditch that would run from behind Mr. Hassel's house down to that ditch feature that ran along the golf course. Mr. Fountain said the original plats were listed as a swale easement being a very gentle low ditch area that would have drained back to the larger easement. Mayor Tecklenburg said that must not have been done or, if it was, it was never maintained because those trees looked pretty sizable. Mr. Fountain said that was their feeling, and it was likely when they ended up doing the lot grading, that they probably just didn't end up building it. Chairman Waring asked how wide the easement was. Mr. Fountain said it was 20 feet, 10 feet on either side of the property line.

Chairman Waring asked how long this one was. Mr. Fountain said it depended on how far they went. If they kept the easement all the way down, it would be around 500 ft.

Chairman Waring asked what the action step was for this. Mayor Tecklenburg asked what the benefit would be of them abandoning the easement. Mr. Hassel said if they permanently abandoned the easement for stormwater, he still had the utility. He would go to the corners of his lot and dig a four-foot deep trench and put in a metal sheet pile system and back fill it with dirt, so his back neighbor's water stayed in his yard and then would put in his own grade and put in a sump pump and pipe the water underground out to the street. Mayor Tecklenburg asked when it came out to the street where it went. Mr. Hassel said it went back to the end of the street. Chairman Waring asked Mr. Fountain from an engineering standpoint what his feelings were on that. Mr. Fountain said that was probably a right-of-way permit for the tie-in. They hadn't aggressively enforced that aspect, especially for temporary systems as Mr. Hassel had now. It was a good way to get water out and they wouldn't make an issue of it from an abandonment perspective. That was where they spoke with the surrounding property owners to try to see if anyone had any strong feelings saying they needed the ability to drain water through. The adjacent property owners were relatively ambivalent on whether it stayed or went. From a departmental perspective, generally it was always good to have easements, in case the City ever wanted to build that project and add the drainage system in there. It was an option for Council to consider to say that they didn't intend to build a system. There wasn't any public water going through that area at this point, so there wasn't an obligation on them to maintain that easement or to keep an easement. They could choose to abandon it, but it was very hard to go back to do a project later if they changed their minds. Mr. Hassel said the only way that he would spend money to fix it was if they abandoned it.

Chairman Waring asked if Mr. McQueeney had any input. Mr. McQueeney said he could look at it, but didn't have the declaration for Shadow Moss. This didn't serve city roads. Nowadays, the City would consider this a private drainage easement. The easement tied into the City system which was that 30 foot easement, but it didn't move water from the roadways which was why they acquired easements over subdivisions. His concern abandoning it from

their standpoint would mean abandoning any public interest in it. The problem was that if there was a 20 foot easement back there with utilities in it, there was probably something in the declaration of covenants, conditions, and restrictions for Shadow Moss that gave everyone cross easements over each other's property. In other words, hose drainage easements were both private in that they served the development and the lots of the development in public in that they are dedicated to the City. Once they accept it, the City agreed to maintain them and it was part of the City's stormwater system. It would be subject to the fact that the adjacent owners could likely complain if they did something to stop water from entering onto or through his property. If he caused flooding on his neighbor's property, there may be an issue, regardless of whether it was City-maintained. There was a private interest, as well as a public interest. Chairman Waring asked what he recommended from a legal standpoint. Mr. McQueeney said he was with Mr. Fountain, in that it was really a money issue. They couldn't require people to spend money. He didn't have to worry about budgeting as much as they did. It was really a City Council call on whether or not to spend the money to address this issue versus any other stormwater issues in these circumstances. They could always give a solution forward. It was just whether or not they had the money to implement that solution. Mr. Fountain had given the solution, in that they could abandon it. He didn't have a problem with abandoning it because then there was no question of their liability. He didn't know if it created private property disputes between joint owners potentially. That was probably why the shed was brought up and if there were private rights they didn't necessarily control the private rights between the parties. There were certain drainage easements that they didn't control.

Chairman Waring asked if Mr. Hassel could do that, his suggestion of putting down the metal thing, if he gave them the permission to do it via easement, if they could do that. Mr. Fountain said that was a good question and was one that Mr. McQueeney may want to weigh in on. Typically, when the City installed public infrastructure, it was serving a public good or a community good. It was not for the benefit of a single property owner. It was a little bit trickier to say they would install a pumping system and spend potentially tens of thousands of dollars to relieve flooding in a single person's backyard. It gets a little bit tricky that the drainage easements are normally there for draining public water especially if it's coming off of a roadway. That's how they generally treated easements. For rear yard systems, they were not saying that someone didn't have a problem. They asked if there was a governmental role in solving that problem. So, an easement provided a benefit to all the homeowners that backed up on the easement. There was a community benefit. Doing a single project in a single person's backyard is where you start to get tricky and it was the same reason they didn't like to resurface people's driveways for them.

Apparently, the homeowners had done that, a couple of them already had figured out water solutions to figure out how to get the water out. This man was left with the bigger problem. Mr. Fountain said he was not saying anything against Mr. Hassel in this situation, but Mr. Hassel could turn around and sell the house to another property owner who could say this pump system they installed wasn't doing enough to drain my property out and I need you to install a bigger system. They had seen that a few times over the last few decades. There was also the concern of blocking of water on someone else's property from entering the easement would certainly be something that generally they wouldn't want to take on. If they caused flooding on that home, they also damaged someone's property which was a public responsibility. Chairman Waring said, hypothetically, they improved that easement, it was actually going to benefit more than one home, and it benefited as many as three homeowners.

The lady who had a French drain, her drainage was running through onto another neighbor's yard. He asked if that easement were improved, if it would benefit all three properties. Mr. Fountain said it was a good question on how we described benefit. They could say from a stormwater perspective, there was a benefit. The neighbor had expressed that she didn't feel she had a stormwater problem and would probably be opposed to cutting down trees in her backyard. Chairman Waring said he was talking about the drainage easement that the City already had. Mr. Fountain said he agreed and that was exactly what he was speaking about. From a drainage perspective, they could probably say there was an improvement to the easement. As Mr. McQueeney mentioned, this is generally why the City didn't accept new rear yard drainage easements, because it tended to get very difficult and very contentious very quickly. Mr. Hassel had an issue in his backyard and he was not trying to diminish that, but there was never an answer that made everyone happy. Chairman Waring said he understood that, but this issue just needed to be put on the agenda for an up or down vote to fix this, or fix it this way or not.

Councilmember Shahid asked why this would not fall into the small project allocations. They just had to put it on the list and see where it ended up on the small project allocations. This was why they had the money allocated. Chairman Waring said he agreed. Mayor Tecklenburg said in a case like this, before they made a definitive commitment, it seemed it would be best to maintain the easement. They could try to take it back to the original intent of 30 or 40 years ago and create drainage that served those property owners. He heard Mr. Hassel's commitment to do a project on his own if they abandoned the easement, but he hated to shut anybody off. They ought to try to make the thing work like they originally intended. The fault of anyone might go back to the original developer for not putting it in place like it was planned and then the City didn't make sure it was put in place like it was planned, and then nothing ever got done to maintain it. They had a big elephant in the City of fixing our drainage issues. They had been taking it one bite at a time and they took a lot of bites this year by taking care of those small projects. This was just another bite at solving the long-term drainage needs of the City for these property owners like Mr. Hassel. They should add it to the small project list and get it priced out. They spent this year's allocation, but 2022 will be here before they knew it. Mr. Hassel said if he had light at the end of the tunnel, he could live with that. Chairman Waring said they could get a common time to go out there and walk that area. Maybe they could do a meandering ditch, as opposed to cutting out all the trees, but would defer to Mr. Fountain on that. The action step was that they were going to go out and take a look at it and then simultaneously add it to the small project list.

On a motion of Mayor Tecklenburg, seconded by Councilmember Griffin, the Committee voted unanimously to add this item to the Small Project Allocation list.

I. Miscellaneous Update

Mr. O'Brien said they had the Country Club II item on the City Council Public Works report which did not make it on this agenda. Mr. McQueeney said there was supposed to be an executive session on this agenda that went on City Council's agenda. He reached out to everyone involved with the discussion and thought it was better to wait until the next meeting to have the discussion, especially since it had a lot of public interest involved and he didn't want anybody to be caught off guard.

Having no further business, the Committee adjourned at 5:01 pm.

Justyn Graves
Clerk of Council's Office