

MINUTES of the STORMWATER MANAGEMENT COMMITTEE

Meeting of: Wednesday, October 25, 2017
Leawood City Hall, Main Conference Room

COMMITTEE MEMBERS PRESENT:

James Azeltine, CHAIR and Councilmember Ward 4
Lisa Harrison, Councilmember Ward 3
Skip Johnson
John Kahl
David Lindley
Jim Rawlings, Councilmember Ward 2 (sitting in for VACANT Member Seat-Council Ward 2)
Curt Talcott

COMMITTEE MEMBERS ABSENT:

Debra Filla, Vice Chair and Council Ward 1
Carole Lechevin

STAFF PRESENT:

Scott Lambers, City Administrator
David Ley, P.E., Interim Director of Public Works/City Engineer
Michelle Sherry, P.E., Special Projects Engineer
Julie Stasi, Administrative Services Manager, Public Works Department

GUESTS: (by order of sign in sheet)

Harlow Schmidt, 12607 Delmar, Leawood, KS, 66209
Tom Messenger, 12515 Delmar, Leawood, KS, 66209
Frank Loeffler, 12609 Delmar, Leawood, KS, 66209
Brent Johnson, Olsson Associates, 7301 W 133rd Street, Overland Park, KS, 66213
John Martin, 4503 W 126th Street, Leawood, KS, 66209
Linda Kautzi, (did not stay for meeting)
Jesi Lay, Olsson Associates, 7301 W 133rd Street, Overland Park, KS, 66213

The meeting was called to order at 7:33 AM. Chair Azeltine introduced himself and asking before we get things started to please raise your hand if you have questions or something to say and you will be called upon as quickly as possible. Introductions of members, guests and staff were made.

FIRST ITEM OF BUSINESS: Previous Meeting Minutes

ACTION: Lisa Harrison made a Motion to approve the past Minutes of August 30, 2017. Skip Johnson seconded the Motion to approve. All members in attendance were in favor. Motion passed; Minutes approved.

SECOND ITEM OF BUSINESS: Stormwater Concerns in Patrician Woods Subdivision in connection to the planned Stormwater Project near 12600 Delmar SMAC Project No. TM-04-006.

Chair Azeltine advised this Committee has seen about 16 pages of Draft Minutes from the Public Works Committee Meeting from early September. So if you were at that meeting and made comments, then those concerns are already on the record. Chair Azeltine asked Staff Member David Ley begin.

David Ley gave a summary of where we are at with the project to get everyone up to date, and then we can listen from the property owners.

David Ley-In 2013, the residents in this area came to this Committee to request a stormwater project. There was flooding that had occurred in 2010 and 2013. This Committee recommended doing a stormwater project and the Governing Body authorized us to proceed forward with a Preliminary Engineering Study (PES). We hired Olsson Associates to do the PES for us in 2014. Prior to doing the PES, we did send questionnaires downstream from this project. The project stops at a metal pipe and then there is an open channel for probably 600' down to Roe Avenue. We sent out questionnaires to approximately 20 property owners adjacent to the open channel just to see if they were interested in continuing improvements to Roe. We told them we were going to be doing a flood improvement project and the open channel does not convey the 100 year storm within the channel. So there is quite a bit of overtopping of the banks. Of the 20 questionnaires we sent out, 10 of the people responded. Eight of those did not want the City to do anything downstream and they didn't believe the flood levels on their property was anything to be concerned about. Two responded back that they wanted to have the channel enclosed and those people were closer to Roe Avenue. From that, as we did not have a consensus to continue further downstream, it pretty much set the limits for this project which was to replace the metal pipe that is under Delmar and continue the project to 127th Street.

Olsson completed the PES in 2014, Johnson County SMAC approved the funding for construction in 2017. Along with the PES, part of that requirement is for Olsson to look upstream and downstream and determine if there are any impacts from doing the improvement. Olsson determined there were no impacts upstream or downstream from the improvement proposed.

In the middle of 2016, we had Olsson survey the area and develop the construction plans for construction to occur in 2017. Since that time we have been working with residents to minimize the improvements as much as possible and provide landscaping where we are removing trees and bushes. The residents are here today because they do not believe the box culvert that is being designed is big enough to convey the rain events they would like to have passed through. The proposed culvert will convey the 1% storm and it is designed to convey it within the box culvert so there is overland flow going across Delmar. It would all be within the culvert. The 1% is what used to be defined as the 100 year storm. The 10% is a 10 year storm. So instead of a 10 year storm now they say 10%. So every year there is a 10% chance that storm could occur. We had Olsson review the rain gauges that are at Tomahawk Creek bridge over Roe Avenue (which is the closest rain gauge that we have) to see what the rain events were that have occurred since 2010. From their study, they believe there were four of them that were the 2% event or less. So we're designing for the 1% or the 100 year storm event (bigger than any of the storms that have come through).

David Ley- Let me show you where we are at on Easements. Referencing a map (*marked "Exhibit A" and attached to these Minutes*). The blue is proposed. The thicker blue line is the main trunk line. So this is conveying approximately 200 acres through this box culvert. And then these other lines are stubbed out. For the most part we are following the existing alignment. We are wanting to install an area inlet to collect the water coming down off of Aintree subdivision so it does not go into the current pool area or continue through the rear of the properties. Currently there is a small swale that appears to convey the 100 year storm. The areas are on the map that are green, that shows the easements that the City has received. The areas in red are the easements that we have still not received that we have requested. In Aintree Manor, the HOA and the other two properties next to Catalina are still needed in order to construct the main channel or the box culvert. The line going up to Catalina is a metal pipe. Originally this was not part of the project but we through since we were in these back yards, we would go ahead and try to remove or replace that metal pipe so in the future we would not

have to get back in there when we are replacing the pipe with the metal pipe program. Unfortunately, that property owner is not interested in signing the easement. So at this time we will probably have to pull this line segment off the project.

James Azeltine-So the large red line down below is all HOA Easement?

David Ley-Right. We have a couple Temporaries and a Permanent Drainage Easement for the Aintree Manor Homes Association.

James Azeltine-And the red up at the top...

David Ley-Points to the red at the top of the map. The one on the right side of the property line (near Catalina) is an Aintree Manor Property Resident. The red line on the left side of the property line (near Delmar Street) is Patrician Woods.

James Azeltine-Asked if we needed either one of those to really do the project?

David Ley-To control the flooding that is occurring now out there from this main channel, we do not need this line segment. But what this does is it eliminates – there is flooding that occurs in the pool if there is not an area inlet here then it really becomes a civil matter between these property owners and the other property owners in the controlling of that stormwater as it flows to the south.

Harlow Schmidt-Not sure he agrees about what the City is saying in that the line might not be needed and could be removed from the plan if we do not get an easement.

James Azeltine-Thinks what he was saying-the big thick blue line on the map in order for that to happen, you do not need the little blue one on the top.

Harlow Schmidt-That is true but what he is saying is, that doesn't answer the problem though. At least part of the problem. We are only solving part of the problem if we eliminate those lines. I'm not sure why we are so cavalier to remove those lines. Aren't those lines just as recommended as the original line and part of the global solution here? What I'm saying is that if we eliminate the top narrow lines, we still have (this area is a slope) and not flat like this map. This is not a small run off. I've watched it. A horse could wash down that thing. It is going to end up here with other collection points down below. Given the permission and grace of Aintree Manor Subdivision, to put some of these things in. But without these, what happens to the water that would have been collected at these points by these smaller blue lines? Where is that water going to go?

Brent Johnson-He is right; explains part of the whole global project. We would probably need to revisit this as one of the problem comes from the south. But we did take credit for some of the points in the SMAC rating with homes here flooding from the north. So that system right there is for some of that water on the north portion. So if we decide not to do this trunk line, we would need to go back to SMAC. They would probably ask us to revise our rating table; and the project would probably get rescored again and we may or may not be able to get funding for it.

James Azeltine-It wouldn't be a matter of us choosing not to do it, it's just a matter of them not willing to sign the easement.

Harlow Schmidt-Well then that raises a different question.

David Ley-Points to a storm sewer line that is being upgraded. It was going to be the same size coming from a metal pipe to a concrete. So from our studies this is not causing any of the flooding issue.

Curt Talcott-That was part of my question. The upper piece is part of the flooding, this other piece is more of a metal pipe replacement going back in the same size; and it wouldn't have an impact on the flooding. It is more a matter of, we are in there now. We are going to replace this down the road, let's

do it now. It wouldn't have any impact as far as SMAC's point of view is (to remove this lower line). Harlow Schmidt-So if that is the case and you choose to eliminate the right portion of that line; it still doesn't address the question of the top part of the diagram. Where the top line would have collected and brought forward and not to those lower properties (of which mine is one). To be quite frank, I'm being thrown under the bus because we are not willing to make an unpopular decision with a tiny piece of land in Aintree. No one has not yet told me where that water is going and how much water that is if we don't do that piece. We just said it will run down. I'm down. I'm 12607 Delmar. I'm entirely in favor of the main trunk line. I'm in favor of a massive fix to encompass my entire neighborhood running water through there so it doesn't end up in my yard. But I am not convinced that without some relief to the north that jeopardizes the project. I am still going to see a sufficient overland flow from flooding my yard, even with the pipe that will go forward.

Brent Johnson-Yes and you will see relief from the flows to the south as this one picks the flows from the north as it is traveling between the yards. So a combination of the two would address that water.

Curt Talcott-And we have determined they would still get flooded by the flow to the north?

Harlow Schmidt-From my recollection, the house at 12605 had reported some sort of issue.

David Ley-The 12605 is pool flooding. So I do not think you will lose many points from pulling out a pool from being flooded. I do not know if you can get points for that. But yes, the issue is; we are trying to work with Aintree Manor and we are not going to be purchasing easements. So we are requesting all these easements to be donated by the property owners. So the property owner at 12528 Catalina is requesting \$100,000.00 for that 200 square foot easement. We already have an easement here. We already have the Storm Sewer Easement for the south line in her lot, but her last request for the north part was \$100,000 plus new fencing and landscaping.

Harlow Schmidt-So what happens when someone wants an enormous amount of money for a sliver of land, are we just hand-cuffed or do we have options?

David Ley-Well we were going to approach the property owner and see if she would be willing to give us an easement so we could possibly put a manhole on the 12528 property; so it is not an open structure and then move the area inlet to another location. There are a large number of trees in the back and a swale and that is the swale we are trying to catch.

John Kahl-The 12603 Delmar with the red strip going across the lot. Obviously we do not have that easement yet. Do we anticipate difficulty obtaining that particular easement?

Michelle Sherry-His neighbor to the south at 12605 told us that his northern neighbor feels it is pointless to sign an easement because he knows of the problems (getting 12528 Catalina to sign their easements) with the people behind him. So he seemed to indicate he would sign it, but they haven't. Because they know there is a problem with us trying to get that easement and he just...

Lisa Harrison-That is a Patrician Woods address. I thought we had all of the Patrician Woods easements.

Michelle Sherry-Well we do for the main line.

Tom Messenger-So it sounds like it is just a case of what she said (Michelle) he (the resident) doesn't want to do anything until he knows. He doesn't want to sign something even though it is temporary that would come back to bite him not knowing/he is skeptical of how that would run sometimes.

James Azeltine-I would point out that in other cities, including Overland Park, on projects like this. Correct me if I'm wrong. They will just come in and take them to do a project. So Leawood tries to do things in a little more courteous fashion here. And the other point I would make is with the exception of

our right-of-way, this is all private property. And the City is under no obligation to do any of this. But I know that even through the culvert and the pipe are not to the satisfaction of the residents, and that flow area. There is still going to convey a lot more water than what is being conveyed now. I'm not an engineer and I have to rely on the engineer to tell me whether or not that is going to work. Anything else to me is anecdotal. Other comments? Questions?

Harlow Schmidt-I guess I would argue that's not just anecdotal, it is genuine flooding and more than one resident and it's certainly mine. I would say that \$100,000.00 is clearly their attempt to say "we don't want to play". There is no one, even they, who believe that is worth \$100,000.00 and they are simply looking at the City to walk away. I would say that I am concerned that it is the fear of offending someone that is paralyzing the City from actually completing this project in its totality. And I would argue that is an important part of this project. Not as important as the other. I am not disagreeing with that. But is still a relevant part of this project especially as it relates to my property and that if they wish to be unreasonable, it may require the courage of the City to go forward and exercise some leadership in taking an irrelevant piece of property that you couldn't put a fountain on that is a fountain at least several times a year.

Chair Azeltine-asks Scott Lambers if he would not mind to give us his read on the whole easement thing and where he sees that going, if we do not get the easements that we need.

Scott Lambers-Personally I have no problem condemning easements. Particularly when you have a situation like this. The issue here is one of equity in terms of the people that have donated easements. Are they going to come back and say they now want to be paid for theirs as well? If the project area people all have the sense that some people are being ridiculous, it's okay to pay them for a temporary easement. It won't be much money if it's a temporary easement and they will forgo demanding payment from the City, I say do it and move on.

James Azeltine-What about since this is a SMAC Project for this year? What about the time line?

Scott Lambers-If you go to condemnation, you are talking at least 3 to 6 months.

John Kahl-what is the reservation at 12528 in terms of granting this Temporary Easement? It seems the math makes it appear it is a very small portion. Do they have some wonderful landscaping back there that is going to be destroyed or what is the reservation? They just don't want to help their neighbors? I do not understand the reservation.

Michelle Sherry-It is in the middle of their children's' play area. There is a playset right near it. Although the area where we are proposing the inlet, has complete rock because of the water problems. So basically it is a dry creek bed rock area. The resident will have to look at it, and it is where they spend all their time in their yard and will destroy the beauty of their yard. These are the reasons they told me in both email and in person.

Residents in unison- "Nonsense".

Michelle Sherry-I'm relaying the message (of their reservations).

Jim Rawlings-How do we value the land if we want to condemn the land or give them payment for an easement?

Staff-You have to hire a professional appraiser. And usually more than two for a review appraisals of the appraisal.

Curt Talcott-Most cities require three appraisers.

David Ley-First we would need to make an offer so we would need to hire an appraiser just to give us a general guideline and then the City could determine a value to offer before we do that. There also is a

Permanent Easement that we do need. There is already an existing easement plus a Permanent and then we need a small area.

John Kahl-Do we have the necessary easements if we just dropped a manhole? Or do we still need Temporaries?

Michelle Sherry-No. We still need a Permanent Easement from the 12528 because there will still be a manhole on that property. They might be more agreeable to just a 2 foot manhole lid being there than the inlet itself.

John Kahl-But that would actually add an additional cost to the project for a manhole and then another inlet.

Michelle Sherry-Yes, yes.

Curt Talcott-That would likely be more expensive than the cost of the easement.

John Kahl-Do you condemn or is there a way around it? That is the main issue.

Curt Talcott-What is the long term history of projects being killed by residents that are unreasonable and not wanting to donate easements? Have we done condemnation on projects?

David Ley-We have. On DB-24, we had a few property owners we had to condemn to do that project. The people who had signed their easements, like what Scott was saying, were very upset because the people who didn't sign were being paid money and the people that were trying to be ...

Curt Talcott-I understand. More and more cities have just gone to straight paying for all the easements. That is becoming more and more the policy because the cities get residents that are unhappy that have given. Eventually the cities know how much the property values are and they start offering that.

Julie Stasi-We have gone through condemnation proceedings more on street/road improvement projects than we have stormwater projects over the years.

John Kahl-Mentioned DB-24 Project years ago as he was involved on that. The problem on that project was that the people having to give up large chunks of their property were not really receiving benefit from the project. They wanted to help their neighbor, but they were feeling like their entire back yard was being removed. In that project, it was about 20 years ago, but the philosophy was we will pay for those easements or go through the condemnation process if necessary because if you are giving up a lot and you are not receiving the benefit, okay, maybe they should be compensated. That was the approach on that project. I do not know if we have had other projects as such, but when you end up with one particular easement that freezes a whole project, it would make sense to go through the condemnation procedure on that one or if there are limited numbers, If there is no other alternate that is reasonably cost effective; where you can work around it.

Harlow Schmidt-I'm agreeing in the gentleman's position that if the cost to you is large and the benefit is small, it would be reasonable to approach the City about fair compensation for that. If the cost to you is trivial and the benefit to other constituents is large, it is reasonable for you to ask something if you are of that mind. I am not sure I would be of that mind, but I do not live in that house. But it is not reasonable to be unreasonable and stop an entire project. And that is where I think this City has probably the opportunity decide that is the way to go and just show them the stick and see if they are willing to cooperate.

John Kahl-So what is it specifically that we are being asked to consider today?

David Ley-The big concern we had heard from the residents was the size of the culvert.

Curt Talcott-Yes and in reading the draft Minutes, we are analyzing to see if we are using the proper standards as well. If we feel comfortable with the standards that are being applied to this project. Is this being properly looked at from a flooding standpoint? With the standards that are in place.

Frank Loeffler-Asked to review the map again. Michelle Sherry was nice enough and in fact at our last meeting in understanding the scope of it, he offered to grant the easement, no charge to the City. His concern is this, his house has had flooding numerous times. The supposed 1% is more than 1%. Under 127th Street, there is a large culvert and another one coming down that feeds into this. Twice during the three flooding events of this past summer I was stupid enough and there was a light out there, I went out during the storm at 3 o'clock in the morning and looked. I will tell you that the water cascades over 127th Street. The existing culverts there do not handle it. And the existing culverts are approximately 30% larger than what you are going to feed into the 6' by 10' proposed culvert; which is the issue associated with the size of the culvert. You can't put two larger pipes into a smaller one. Because if did overflow... for those people who chose to be out stupidly at 3 o'clock in the morning watching the water flow. I am concerned about the capacity. I know that Olsson has engineered it and I have spoken to them. I think the enclosed pipe is inadequate and I do not think it has to be tremendously expanded. Michelle pointed out to me that the two culverts coming in there never are 100% full. You are absolutely right. But it did flow over the street because it couldn't handle it.

James Azeltine-Asked Brent from Olsson to comment on that.

Brent Johnson-The worst thing that you would ever have happen on a project would be to get a call from David or Michelle saying we have property flooding after we did the project. So internally, Olsson goes through a pretty rigorous design. We have an independent engineer review our design. We have done that for this project. I talked to David and he suggested we have an independent firm review our design, I'm open to that. So we are open to any of that.

Lisa Harrison-We have a swale in the back of our back yard-and about six properties in Waterford in Leawood South. And we have culverts in our back yards and I would say that it is not unusual for about an hour for there to be a creek running through our back yards. But then it's gone. It is there when the heaviest rains come and then it's gone. So I'm wondering if this 3 o'clock in the morning (kudos to you) was an example of the height of the water, the biggest water coming down from all points higher up and it's going to happen, but as long as it is not that way for 6 or 8 hours and thus getting into all of our basements, we are okay. If it is there for an hour, I do not know enough about it, I'm not an engineer. I just know a lot about flooded basements. But if it's there for an hour, we're okay? If it's there for six hours do we have a problem? Is that sort of the case?

Brent Johnson-Let me back up a little. What is wrong with the system now is we have this concrete gabion lined channel and then we have undersized corrugated metal pipes and when it gets backed up, it backs up onto the property and then it takes a while for it to push through. By enlarging the box culvert that we are proposing and enclosing it, we are still going to have a lot of flow over the top of the ground because we have 6 or 7 inches of rain like we did this summer. We will have some over the top of 127th because we are looking at a 10% design storm. There will be some water overtopping 127th Street, traveling down to probably our collection point. We are trying to pick up all the water that is not being picked up and keep it shallow enough that we keep it out of their homes. So yes you will see some water on the ground during rainfall events, but to the point where it gets to the residences.

Harlow Schmidt-And that was the question I wanted to ask is we have seen three of these better than 10 year events this year. I am confident that the design you are striving will take a lot of that forward sufficiently that we will not have quite the build-up we have had. Clearly getting rid of that bottleneck by my house will help, but walk me through what happens in the 1% or 2% whether. While this is a large slope up there is also a location that slopes up to the street before going to the existing holding area;

some of which will be closed in. This still represents a potential lake. A river in my back yard, I get. You can't stop the rain. I'm not asking to be standing in with a Mai-Tai in my hand watching the river somewhere else, I will accept some water. I just don't want the water coming right up to my house. Is that we are arguing will not happen with this? And wouldn't that help that also. Also if that capacity is exceeding, are there going to be any fountains around here of back pressure up? If we are overwhelming the system, is it going to start using this as a path of least resistance to fill my yard up retro-grade through what would have been collection points? I am not an engineer and I will accept your answer but have those concerns.

Chair Azeltine-Fortunately we have four citizen employees that are. And after Brent addresses that I'd like to hear the Engineers in the room.

(The engineers look over the pipe sizes and the layout of the current piping).

Curt Talcott- What are the sizes of the two existing culverts? I think there is a 48 and a 96?

David Ley-What is coming in from the south is a 72" and a 48" coming in from the east.

Curt Talcott-We're putting in a 10 x 6? So that's not a correct statement that they are smaller. We have 60 feet of area which is significantly larger than the other two pipes.

David Ley-Then there is a 24" coming off Catalina.

(Several talking at once; ...someone asks about doing the math and wanting to understand).

Brent Johnson-So what we are proposing is a 10 foot wide 6 foot wide tall box. The box is length time width. Area of a circle is Pi R squared, so what we are saying 72" pipe is definitely not the same area as a 10' x 6' box.

Curt Talcott- Twenty-eight (28) square feet. That's a two times increase. (Engineers are working the math).

Skip Johnson-You are almost doubling. There is a 28, and 72 plus a 24.

Dave Ley- The 72 is concrete. The 48 is metal. The 10 x 6 is actually a 58 square foot opening because you have the haunches. There is a 48 and a 72 plus a 24.

Unknown-So maybe 40 square feet? And we're going to 60?

Dave Ley-Well a 10 x 6 is actually 58 square foot opening.

John Kahl-And what's coming in are all corrugated metal? Correct?

Dave Ley-The 48 is metal, and coming through Aintree the 24 is a metal. Everything else south of there is concrete. The 72 to the south is all concrete.

Brent Johnson-We are only comparing the two that are tying into the box. Because they are the two that are conveying the two into the box. Anything else that ties into the side doesn't convey any of the water out.

David Ley-The existing pipe under Delmar has 37 square feet of opening. That doesn't include a tree that grew up through it. The edges of the metal pipe are kind of folded over, so you have some serious entrance losses. Instead of doing just a box culvert with an opening we are connecting it to the 127th Street so it is a continuous pipe network.

Brent Johnson-Yes instead of just a single with one pass. Back to the plan here. Points out the cul-de-sac and points to the reinforced concrete box that is near 127th. In the event we do have a 100 year pipe system underneath 127th Street is full, we are already seeing water cascading over the top of 127th Street. Travel down and see that it will be picked up in a series of 3 different inlets. And the purpose of those is to capture any of that overland flow that is not picked up underground upstream and get it underneath and into the box.

Harlow Schmidt-This argument does also reinforce the importance of the north collection point to bring the water; as you make the point and I think rightly so. The issue is getting the water to this collection pipe and that will decrease the volume, the strain upon that overland collection by decreasing the delivery of water to it because it will collect that water that is coming down from the north and bring it forward through the pipe. And not to that overland collection basin, so it will relieve some of that volume.

Curt Talcott-Do we have numbers as to how much water is over 127th street vs water that is in the box? What year storm that that handles and how much water is going over.

Brent Johnson-We haven't asked that question. We have taken a conservative approach and assume we are going to pick up the difference between a 10 and 100 in these inlets. We have taken the assumption that it's going to keep a 10 year underground.

Curt Talcott-You don't know that that pipe hands a 10 year though?

Brent Johnson-I don't know, we haven't looked at that.

Skip Johnson-At this point; in hearing Curt and John. I am not seeing anything here that says the City or the City's consultant has done or is doing anything other than what the original request that has been required in this case. I think as Curt and John have been asking questions; is there some additional analysis that could be done? Yes I believe there probably is, but at the same time too I think now you are going on and beyond what would typically be a standard of what we look at. Now you are looking at beyond a standard study be required; it's almost a specialized study. Now you are setting a precedent for future projects like that. I think based on what I know and what SMAC requirements are, and seeing the City's Standards again there is nothing that tells me that we are doing anything at this particular point that is beyond what is required or necessary.

Curt Talcott-The pipe that goes underneath 127th that is not just a culvert, is that an enclosed system that goes underneath there? Not an opening immediately there on the south side?

David Ley-Everything upstream of this is fully piped. There is no open channel.

David Lindley-Can we all agree that the north part of this has to be done?

Chair Azeltine-Here are the two main questions that I think we need to answer this morning:

1. Are the standards we are using as a City, do they appear to be correct?
2. Do we go forward and complete this project without all the easements?

Curt Talcott-My thought would be I would hate to see us do a 1 million dollar project and not look at; I guess we can't go all the way upstream, but I would like to know how much water is overtopping 127th Street. Because there is a design standard today that it shouldn't be topped any more than by 7 inches. And if we have a safety issue there and it doesn't have a 10 year capacity there, that maybe replacing the culvert on the south side of 127th and putting a large box there to collect the runoff might be reasonable extension while we are already there.

James Azeltine-How would that work in terms I mean this is a SMAC Project and the County is paying 75% of it. If we start talking about the south side of 127th, how is that going to affect the project?

Brent Johnson-I would say we too have gone out there the past couple of times this summer after it had rained. And the next morning, we were not getting any reports from the City that they had to close the street down or anything. Or that it was impassable. There are no signs that the grass is overlaid even with debris or any physical signs. But we could check that.

David Ley-I'll add to that. In 2010 and 2013 when flooding first occurred I went out. We actually

walked from 127th Street south through Cherry Creek and as Brent was saying, there was no grass lying flat on 127th Street. But when we went upstream there were homes that were flooding but it looked like it was getting back into the system before 127th Street. But we could have Olsson look at that, as to what is the capacity under 127th Street.

Curt Talcott-That is my thought. If it has the ten year and the topping is less than 7. If it has the capacity, then that question is put to bed right there. And to the question about SMAC, SMAC would certainly entertain improvements if it was more than overtopping at 7 inches of a minor arterial street like that. That would qualify for additional funding.

Harlow Schmidt-On the concept of precedents, I agree. I think establishing a precedent of doing very specialized studies will work negatively going forward for whatever future people are having/like the same problem I am having. But I think also establishing that the City will if they have to condemn properties to take necessary pieces of a study that is within that context. It might motivate future portions of this to say well maybe we should sign our easement because if we don't then they are going to take it from us. At least establish that the City is willing to do that within the study that they have done to complete the study that the experts have recommended. I think that precedent would be important to set as well.

Scott Lambers-Just the opposite. Once the word gets out that we are buying easements, we won't get any in the future. That is the concern again for this project I think it's worth the risk but I think that the Council needs to be made aware that we may get into this situation again and we will decide "no", we're not going forward. If people are just being obstinate like that. Here we have a ridiculous case, but in the future if people they see they are going to get a paycheck, they are going to take it.

Frank Loeffler-Tying into what David said when I was out at 3 in the morning. The overflow from south to the north over 127th Street. I don't think it exceeded 7 inches. Not from what I was seeing.

John Kahl-We have identified two issues here. Based upon what has been presented here today it appears to me that they are endeavoring to follow the standards and I know from my experience in with Kansas City Missouri and Johnson County and Wyandotte County pretty much everyone in the Metro Area follows these exact same standards. The standard is that the 10 year design is what you are trying to convey in pipe. Anything above that after the 100 year, you have to check to make sure and that begins to flow overland and does not flood any houses or flood roadways to the depth of greater than 7 inches or any of the other things that you are trying to prevent. It appears to me that those are the standards they are endeavoring to follow and I do not see any reason why we ...the exception to something like that comes into a situation where you don't have a way to convey it overland. There's just no way. If it flows overland then it is going to flood some house or a street or cause a problem. In those circumstances then you upsize the main trunk up to the 100 year. But I don't see that being the case in this particular situation. It would appear to me that Leawood is following the design standards and in my personal experience I know Leawood is following the design standards that everyone in the Metro Area are following.

James Azeltine-There is a reason for that too. Everybody doing it the same.

John Kahl-Yes everyone has used the American Public Works Association Design Standards and they all adopt them. The point behind all of that is that you design up to the 1% chance of the 100 year storm and the concept is that anything great than that unless there is an extraordinary loss of life or property, if that were to be exceeded like in a major reservoir or damn, if we exceed the 100 year, people start dying. So in those circumstances you do extraordinary things.

James Azeltine-When the County considers these projects they are looking at the exact same thing.

John Kahl-They will only fund up to the APWA Standard basically. So if we wanted to design for a half percent chance, SMAC would not-that is not within their financial responsibility, for the difference in cost. It looks like what is being done is appropriate and the design standards are being followed.

James Azeltine-What about the easements?

John Kahl-I've worked with a lot of these projects over the years and I have seen this come up once or twice where there is one hold out that can kill a project. Particularly where the hold out might not be receiving much benefit or they may not perceive they are. Stormwater is a funny thing because none of us create it, it just falls out of the sky and we cannot control too much where it goes. You can do things within your yard but no control over what comes to you. You have no control of it after it leaves you. So in those circumstances, I would support going through and doing condemnation to obtain specific certain individual easements that are critical to the overall project. In unique and special circumstances and I think when the City has done this before it has been in unique and special circumstances. If we had half the easements that were saying no then maybe we would say oh well, guess we will not do anything. But when it is just one or two (a small percentage of the overall number) I would be in support of recommending going through condemnation to obtain those particular easements.

Skip Johnson-Also adding kind of what Scott and John were both talking about. I think there is a degree of reasonableness when you talk about condemnation. Whether that makes sense or not, here it is pretty obvious that a particular homeowner is not being very reasonable. That needs to be taken into account.

Jim Rawlings-In looking at the map on the blue portion you mentioned while we are there doing the project in getting an easement if we cannot get one. Does it make sense would the City save money to go ahead and take this other portion too? In a condemnation to redo the corrugated pipe with new pipe. It eventually is going to happen anyway. At 12532. If this owner says he does not want to sign. We will be there later with our corrugated pipe project. As long as we are tearing up the neighborhoods should we go ahead and look at that? Would it save us to do it now?

David Ley-That one is a Temporary Easement.

John Kahl-Do we know what the reservation of that individual is?

Michelle Sherry-They do not want to have the loss of trees. Although the trees they are concerned about are not on their property they are on the Homes Association Property in the back on the corner.

Lisa Harrison-There are a lot of trees back there.

Resident-Half of them are dead.

Jim Rawlings-They need water. *(laughter)*

Chair Azeltine-asked Scott Lambers if he had any other comments on this.

Scott Lambers-The caveat at the Council needs to be clear that this is a case-by-case basis and that again I think the Council needs to be aware that it will probably lead to more people not agreeing to the easements and there may be circumstances where if that is the case, we walk away from doing a project.

Curt Talcott-And we have a bigger issue coming with the Metal Pipe Replacement. If people are not willing to give the easements are we going to walk away from that? We have 60 miles of metal pipe.

Scott Lambers-We will be doing that through bonding and what we may decide to do is to acquire all

the temporary easements that we need and then just absorb that cost in order to expedite the project. Given the magnitude compared to this, I think that is probably where we are headed just to make it equitable for everybody so we do not have individuals giving and others not. And make those costs as part of the project.

David Ley-Has one question. The resident at 12528 did sign the easement on the south side of the lot for the metal pipe replacement. So do we want to approve part of that as payment or strictly the north side?

Lisa Harrison-No.

James Azeltine-What I am hearing is we are either going to do this project or we are not. And it sounds like we are recommending to move forward and use condemnation if necessary.

Curt Talcott-Yes.

John Kahl-But after all other avenues have been exhausted. I understand we have reached that point. Intent is we ask for the easements to be donated because the property owners will be benefited by the project.

ACTION: John Kahl made a Motion to recommend the City move forward with the Project as designed and advising that the City should on a case by case basis continue with the possibility of using condemnation proceedings if needed if staff is unable to obtain all necessary easements.

Skip Johnson seconded the Motion. All members in attendance were in favor. Motion passed.

David Lindley-I think we need to confirm about the 7" going over 127th. If we do that, I'm convinced based on what the numbers were I'm hearing in the size of those pipes, that it will take it.

John Kahl-Sometimes stormwater calculations do not make a lot of sense. If you don't understand what is going on. Similar to a situation where you have a pipe that has an open end and then if you try to pick up the discharge again. It takes a lot bigger pipe to pick it up again than if you just run the thing through an area and never let it go. Because we have entrance losses that can really inhibit how much water we can cram back into the pipe again. To the lay person looking at it they may think we need a bigger pipe. But if we connect the two we don't have that entrance loss and now the pipe is big enough. There are a lot of things like that when you are talking about hydraulic design.

Skip Johnson-Also there are safety factors that are built into the calculations.

James Azeltine-One last thing I will say as a lay person in this whole thing and a member of the Governing Body, we have to rely on our experts and in turn our volunteer experts. You can argue all day long but somebody did a study and at some point we have to have a standard and be willing to accept something. And I think that is what we are doing.

Lisa Harrison-**Regarding the Cul-de-sac issue.** We received all the email regarding the cul-de-sac.

Chair Azeltine-That has already been decided at the last Council meeting. Staff was going to put together some information and then we were going to talk about it again at Council.

Scott Lambers-I thought unfortunately it was coming to you all. The Council pretty much confirmed that they wanted to have the pipe go straight through the cul-de-sac as opposed to going around and spend the extra money. But they wanted some sense of cost sharing and I would say it probably is best just to take that back to the Council and have them work it at the Council level. They wanted some cost sharing formula so clearly they are expecting that the Homes Association will participate. Now David has gotten estimates where replacement of the island is about \$35,000 to \$40,000.00. It is a little more

expensive if you save the stone and then put it back in. When we had the other meeting, we did not know those costs. So I think that if we are talking \$40,000.00, I think that is what you go back to the Council with and have them say. The cost sharing numbers that were thrown out were 25% or 50%. We now have the numbers. I came here prepared to say that if we are talking \$40,000.00, and the fact that the monument was installed without City permission. As opposed to something that had been, we would address the issue- if it had been part of a permit to work in the right-of-way. But because it was not, there is no provision in there that would say if the City had to go in then it's 100% homeowner association would be typical. Again I am willing to recommend that we would say in this case it would be a project up to \$40,000.00 and have the City participation capped at 50% or \$20,000.00. And it would be a good faith effort with what some of the council members talked about recognizing at the same time that it was installed illegally.

Tom Messenger-I do not think we are quite on the same page. I read in here somewhere that the rules in terms of how that stuff has been approved. Really only the current rules have only been in place for about 20 years.

Scott Lambers-Not to work in the right-of-way.

Tom Messenger-In regards to the monument going in. The monument on the Plat. The one the Developer submitted back in 1984 that the Mayor signed and the City signed and accepted the property and gave you your easements by the way. That is the only easement document on file at the court house. If we are going to argue about easements, all your pipe projects are going to come back because a lot of people are going to say you do not have that easement. You can't take the easement on one line of the document and then refuse to accept them on.

Scott Lambers-I think where the misunderstanding is that we accepted the rights of way and easements and then the construction took place.

Tom Messenger-No. The construction occurred before the City accepted them. When the City, when the development was developed. Before the monument was built. The example that was given at the Council Meeting was the main entrance monument. The developers put those in as they were dealing with the Cities in Overland Park and wherever else because they want to sell their property. So those go in right away. This did not come in after the project was developed by the home owners association. This was part of his development. He put the streets in, he put the monuments in. Okay?

Scott Lambers-But there is no record of that.

Tom Messenger-Well because the records predate all of us. Except the documents that we do have on file at the Johnson County Courthouse at the Register of Deeds Office; which shows the Mayor accepting the property and the monument. We don't have a picture of what the monuments looked like but John here was an original owner of his property. He can attest to the fact those monuments were there when he bought his lot in Leawood back in 1984. We are getting into a grey area. I don't want to fight the gray area. The point is at the City Council Meeting, we talked about \$40,000.00. I think I used the number \$35,000.00. That is the estimate I have. The question was-What percentage is going to be home owners and what percent is going to be City? That is where we want to focus. I do not want to agree that we don't have or didn't know about the other. I'm just saying hey, we can argue another day about it if you want to.

Scott Lambers-I'd just soon we get past this quite frankly.

Tom Messenger-I would like to say- submit something to us from the City and I'll take it to the Board and ask formally. I think the Boards position is somewhere around 75%. We are not disagreeing that we have to contribute something okay? We have to agree on a number and the important thing of the association is we want the project so our home owners are protected.

Scott Lambers-And the issue that has been resolved is how much money are we actually talking about. Was because we were talking about percentages of an unknown amount. And it is the dollar amount not the percentages of home owner association is going to pay.

Tom Messenger-We're saying \$40,000 and you are saying half and I'm saying go back to the City Council and say no let's say 75% and the other part of that option was the way you were going to have it done or if you were going to write us a check. And we would prefer you write us a check. We think we can get it done as well as and satisfy more home owners than you can.

Chair Azeltine-The charge of the committee is to decide whether we should share in this cost and if so, how much. Scott has just suggested 50%. Concerns of how that is handled administratively, we have a City Administrator, so thank you.

Tom Messenger-I get it. As a City Manager, I know what he has to do. I'm not arguing with him I need to know the share and who is going to do the contract.

Chair Azeltine-Well I'll let you guys work that out then. For purposes of this meeting and out of respect of everybody's time those two questions. Staff originally came to us and said they were going to take this out. For some back ground. There about six of these. We will call them monuments. You may not like that term. They have some pretty nice walls and they have in most cases pretty mature trees in them and they have been there for a long time.

Julie Stasi-Like a "tree well".

Chair Azeltine-Yes. And so the question is suggesting we do basic landscape around there. So the question is: Are we willing as a City given that at one point 35 years ago this development was going in and there is no way the City (in my opinion) didn't know that these things were going up. I think a different standard existed at that time. But the question on the table now is do we participate in the cost of replacing that? And if so, how much? And other details we will leave to our staff.

John Kahl-has a question and I suppose this has been looked at. I know we have gone through this with my HOA in the past in Leawood Estates. Where in some particular cases the cul-de-sac monuments or islands or whatever you call them create a situation where the fire trucks can't get through. Can the fire trucks get around this? We have to put the pipe in, there is no argument about that.

Group-Yes.

David Ley-Yes it meets our current standard for our designs.

Lisa Harrison-One of the proposals was to bend the stormwater drain around the island so that we didn't have to destroy the island and cul-de-sac and wall.

John Kahl-That would cost more than replacing the whole thing. Although that is not a stormwater issue.

James Azeltine-Another option is to tell the Council that we think the Council should handle this.

Curt Talcott-The Public Works Committee recommended that the storm sewer be built straight through there and go back to curb and island and it can be up to the HOA to do whatever they want with it.

Scott Lambers-The issue that came to Council was one the concern of the advocacy in the storm drainage design; which was then said that needs to go to Stormwater Committee. Which you have resolved, the other issue was also the bending around the cul-de-sac as opposed to going straight through. And the Council said we are going straight through and then we had a conversation about okay replacing the monument and cost sharing. And again I think it was intended to come back here and I agree with you James it's probably best to say, that is not really within your prevue; just have the

Council decide. I can make my recommendation. The Minutes can reflect my recommendation and the Home Owners Recommendation. We are both at a point of agreeing to share, it's just a matter of how much.

James Azeltine-Any further questions?

John Kahl-This is all funded under SMAC, is it not?

Group-No. The box and pipe going in the ground is a SMAC Project.

John Kahl-Okay, so why wouldn't SMAC participate in the demolition and replacement of whatever is there? There ought to be a cost share for the City's Share. If SMAC will pay 75% of the cost of that removal and replacement I think any cost shares could be the City's share of what we are splitting.

David Ley-It is not in the overall budget.

ACTION: The City Administrator offered that the request could go to Council to offer the City pay for 50% of the cost. Homes Association representative Tom Messenger advised the HOA would like to ask the Council for 75% from the City. Staff will ask Council to decide on the amount of the City's reimbursement for the island.

Councilmember Rawlings also added a note that if the HOA eliminates the wing walls in the design that currently extend off of the tree well monument (that really are not doing much of anything) the cost for replacing the monument may be much less and reduce costs for both sides. I can mention that at Council.

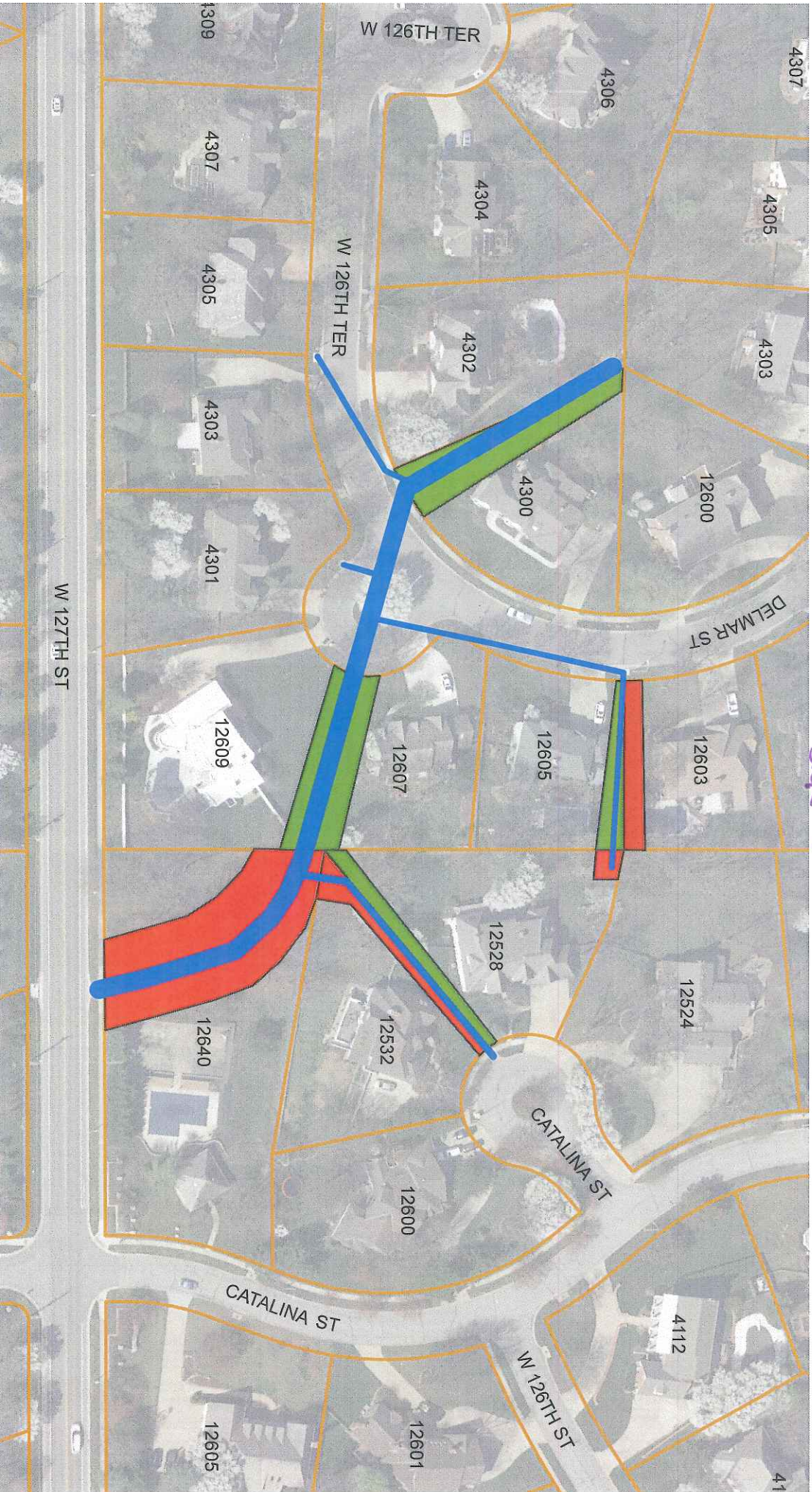
Scott Lambers-And also provide some replacement rock to have some available. There was anticipation that stuff would be damaged. Basically just use a circular area, maybe there would be enough to do the wells.

Tom Messenger-The HOA may also come back and ask about putting in a four inch piece of plastic pipe to the street. The only way we can keep trees growing out there is to water them when they are new. The previous trees we planted we had to buy homeowners hoses so they could run them across the street and water the trees for 2 to 3 years to keep alive. Our landscape people suggested if we want to make this work to put some sort of water system out there to help the trees in the first few years of growth. It takes about 5 years to get them established. So you could pass that on and ask, but we'll pay for that piece of it.

Chair Azeltine adjourned the meeting at 8:35 AM.

Minutes transcribed by: Julie Stasi, Leawood Public Works Department

attachment (1 map)



Patrician Woods Area Side
Aimtree side

EXHIBIT A to Minutes
10-27-2017