

July 1, 2014

A meeting of the **Streets Committee** of the Village of Brooklyn Heights, Ohio was held on **July 1, 2014** at **7:45 pm** with Councilman Foote presiding.

The purpose of this meeting is to discuss the issue of erosion behind Don & Wally McGilvray's house.

Present at roll call:	Councilmen:	Black, Selig, Foote, Walsh, N.Hatgas
	Mayor:	Procuk
	Law Director	Dowling
	Engineer:	Henry
	Service Director:	Hatgas
	Comm. Service Dir.	Guilfoyle

Mr. Foote said that this has been an ongoing problem for many years. The property that is eroding is in Independence but it is creeping ever closer to the McGilvray property. This could pose a hazard to their property as well as decrease the value of the property.

The property in Independence is owned by Cleveland Urology Associates and was purchased as an investment. They currently have a party interested in building a medical building but it is not being well received by Independence.

We (Brooklyn Hts.) have taken the stand that this is a civil matter and that we cannot take any direct action. Mr. Foote hopes that we could serve as a liaison with other agencies.

Mrs. McGilvray said that this has been going on since 1995 and cited a memo from Independence City Engineer (at the time), Don Oleski stating the problems. He said that it was not impacting the dwelling at the time, but that it should be fixed.

Mrs. McGilvray said that over the years they have met with the engineers from Independence and Brooklyn Heights, the Dalad Group, property owners and builders to no avail. Mark Link from NEORSD could find no solution however she said that in 1995 a culvert was discussed to solve the problem. It would have required Independence, Seven Hills and Brooklyn Heights to work together to culvert it.

In 2004 when the McGilvrays came before council again, Mayor Procuk asked what they could do for them and Wally answered "plant a row of bushes". She said the bushes that are there were planted for the original owner and have been there more than 25 years.

She feels that back in the '80's when Lombardo owned the property, they re-routed the creek towards their property and this is what created the problem.

She said that she does not know how to approach the City of Independence. She said that Mark Link from NEORSD said that they also have issues with Independence. She stated that Mark Link told her that 25% of the Storm Water fee is returned to the City of Independence. She remembers that there was to be \$50,000 invested by the Dalad Group at the time of development (of the proposed nursing home) to fix the erosion problem but that the work was done only on the Independence side.

Don McGilvray spoke saying that the soil is all sand and the creek is an unnamed tributary of West Creek. He is here to request a line of shrubs to replace the initial shrubs planted for the first property owner.

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Law Director Dowling clarified that the law of the State of Ohio does not allow us to use public funds on private property.

Mayor Procuk asked who owns the property and Mrs. McGilvray said that Brooklyn Heights owns it. She said that Mr. D'Amico once told her there is a 7' buffer but the law director at the time (Mary Balasz) said it was a 3' buffer.

There is some confusion as to who owns the buffer between Independence and the McGilvray property. Mr. Dowling will have the engineer verify the ownership.

Mrs. McGilvray said she has notes from the late Mayor Tonne making promises and Mayor Procuk asked what was promised and they responded the development that never happened. Mayor Procuk also asked if the creek was re-routed when Mr. Potting lived there and they said yes. He asked if they had an engineer look at the creek before they bought and they said there was no need until about five years later when they noticed the trees leaning closer to the creek.

Mayor Procuk said he had just seen Mayor Kurtz and he told him about this meeting. Mayor Kurtz said that the city had purchased 33 acres but not the property in question and that the problem is not theirs. Mayor Procuk said that some of the problem is theirs since they allowed the creek to be moved. Mrs. McGilvray spoke with the Cleveland Mapping Dept. and was told Cleveland Urology now owns the property. Mayor Kurtz did not indicate that Independence would do anything to help. He said it is between the property owners.

Mrs. McGilvray said at this point the property is unrepairable. They are trying to keep their property up so that if they decide to sell it may be marketable.

Mr. Foote said they will try to resolve who owns the buffer zone. If they need to call another meeting they will. They will refer back to the June 2004 minutes. Mayor Procuk will have the Clerk/Treasurer pull the tape from June, 2004.

Mr. Foote stated that the Law Director will deem if this is legal. If so, council will move forward. If it is not legal, it will end here.

The Streets Committee meeting was closed by Mr. Foote.

Les Foote
Streets Committee Chairman

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