

BEFORE THE CITY OF WHEELING, WEST VIRGINIA  
PLANNING COMMISSION

In re:

GC&P Development, LLC - Bethany Pike, WV 88

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TRANSCRIPT OF PROCEEDINGS

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Monday, April 6, 2020  
5:55 p.m. - 6:38 p.m.

All Attendees Appearing Via Zoom Teleconferencing

Planning Commission Members in Attendance

James "Jeff" Mauck, Jr., Chairperson  
Martha Wright, Vice Chairperson  
Christina Schessler  
Wendy Scatterday  
William Schwarz  
Russell Jebbia  
Howard Monroe  
Thomas Conner  
Jeremy West

Also in Attendance

Rosemary Humway-Warmuth, Esquire, City Solicitor  
Thomas Connelly, AICP  
Michael Hooper, Esquire

P R O C E E D I N G S

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CHAIRPERSON MAUCK: Unfinished business.

Let's call forward Mr. Hooper, which is right there.

Mr. Hooper, give us a brief overview of where you are with the Traffic Impact Study, your dealings with the West Virginia Department of Environmental Protection, and your geotechnical analysis by Thrasher. It's your turn.

MR. HOOPER: Thank you.

Can you hear me clearly enough now?

CHAIRPERSON MAUCK: Yeah. You're good.

MR. CONNELLY: Yes.

MR. HOOPER: wonderful.

well, actually, I spoke with our traffic engineering company probably about a half an hour before we started this meeting, and they have advised me that they believe that because of the obvious delays, they're not in a position to have a final report until -- their words -- the end of the month, which I take that to be April 30th or May 1st. So we have that issue. That takes care of the traffic status report.

As far as the geotech side of things, we did see some comments that were submitted to the City that we would like our geotech to respond to specifically. Obviously there

1 are plenty of references online in terms of GC&P and  
2 stormwater which are very misplaced, inaccurate, and each one  
3 will need to be rebutted.

4           Just to make it very clear, the bulk of the  
5 flooding actually happened over on the Edgington Lane side,  
6 which is beneath property owned by Oglebay and I believe  
7 50 percent by the City of Wheeling, which I think very  
8 clearly is a cause of the lack of the separation of  
9 stormwater and sewer and has nothing to do with any of the  
10 tree removal that was done on the other side of the hill by  
11 GC&P. So that's an important issue and something that we'll  
12 be talking about.

13           COMMISSIONER WRIGHT: Can I interrupt you just for  
14 a minute? This is Martha.

15           I do have a little bit of a concern, which I don't  
16 know if it fits in here. When we had received the traffic  
17 study on the Edgewood Lutheran Church building, there was  
18 concerns by citizens that said, well, that's not really a  
19 fair traffic study because it was Martin Luther King Day, so  
20 there was no school traffic there. I'm a little concerned, I  
21 guess maybe on your behalf, that there will be some pushback  
22 and they will say, well, this was during the pandemic, so  
23 there was not -- that doesn't really represent the adequate  
24 -- the usual amount of traffic on that route. Not that I

1 want anything else delayed, but that's just a thought that I  
2 had.

3 MR. HOOPER: Well, I can assure you that it was  
4 done before -- the initial traffic study counts were done, at  
5 least the ones that we have so far, were done before the  
6 pandemic.

7 COMMISSIONER WRIGHT: Okay.

8 MR. HOOPER: A fair number of them, we are trying  
9 to get from the West Virginia DOH. I'm advised that our  
10 traffic engineering company has been in touch with them, but  
11 we're still missing some important data for that.

12 Once we have that, we also need to adjust for  
13 Oglebay events and that sort of thing because that is  
14 sporadic traffic but on a very regular basis. It's amazing  
15 how accurate Oglebay is, but it doesn't happen all the time.  
16 So that certainly needs to be factored in.

17 So this is a very, very complicated traffic study.  
18 It takes into account a number of variables. The DOH had us  
19 expand the number of intersections that were to be surveyed.

20 So I can assure we are in as much of a hurry as you  
21 are to get this done, but it also needs to be done right. As  
22 you said, it needs to be adjusted so that we don't have  
23 variables such as pandemics and that sort of thing. We want  
24 it to be a good product for everybody.

1           As far as West Virginia DEP, we are working with  
2 our engineering company there. We have lots of engineers,  
3 pretty much full employment right now, working with DEP in  
4 terms of the proper way to move forward. We're going to rely  
5 on them to tell us, be that a quarry permit or be it whatever  
6 they advise us to do. They have the experience in that, and  
7 we're going to do what they tell us so do. It's going to be  
8 done properly. It's going to be done in conjunction with all  
9 applicable rules and regulations.

10           MS. HUMWAY-WARMUTH: Mike, can I come in for a  
11 moment?

12           Tom, I talked with you earlier. I did receive the  
13 information from you from the legal department as to --  
14 although it wasn't you, there were other persons from either  
15 the developer or Thrasher, and they said the City is going to  
16 be sending out communication so that we can be within the  
17 loop to provide that information to the Commission and to the  
18 City in general in regard to what those communications have  
19 been.

20           MR. HOOPER: Okay.

21           MS. HUMWAY-WARMUTH: Thank you.

22           MR. HOOPER: Yeah. I don't recall that we  
23 specifically spoke about that, but if that's what the City  
24 requires, that's what we're going to do.

1 MS. HUMWAY-WARMUTH: well, we've talked about that  
2 at several meetings in regard to assurances about what the  
3 communication is because the developer has stated -- you have  
4 stated, on behalf of your developer, that you believe that it  
5 was simply site plan development, but removing that vast  
6 amount of overburden that might take five to whatever amount  
7 of years, is that not mining? So I think that's probably a  
8 pivotal concern. So I'm just -- I have talked with you about  
9 that, and we have talked about that within those commissions.

10 I didn't want to interrupt, but I want it on record  
11 as well to state that this has been an ongoing concern so  
12 that we are in the loop for what information has been  
13 supplied to the DEP so that we are knowledgeable enough to  
14 comment back.

15 MR. HOOPER: I understand. I understand that. And  
16 from our standpoint, in addition to that, we are going to be  
17 submitting additional reports from them. We also spoke about  
18 -- we want them to have the opportunity to explain their  
19 reports in front of this body and to also have the  
20 opportunity to field questions at the meeting as well, but I  
21 was told this meeting was going to be short, sweet and  
22 casual. So that's why --

23 (indiscernible cross-talk)

24 MS. HUMWAY-WARMUTH: Thank you. That's wonderful.

1           CHAIRPERSON MAUCK: Do you have any more to report,  
2 Mike?

3           MR. HOOPER: I think that really pretty much gets  
4 us up to date. Again, I can summarize our position on  
5 stormwater, and I can talk to you in detail about anything  
6 you want, but I don't think that was the intent of the  
7 meeting as I was advised. So we can save that for another  
8 date.

9           I do apologize for the delay. We want to get this  
10 done just as quickly as you do, but prudence in the current  
11 situation just dictates that that's not going to happen.

12           CHAIRPERSON MAUCK: Well, let's see what the  
13 commissioners say.

14           Questions, Commissioners?

15           COMMISSIONER SCATTERDAY: I have a question. This  
16 is Wendy.

17           Mr. Hooper, you mentioned supplying additional  
18 reports. So what is the schedule for those additional  
19 reports?

20           MR. HOOPER: They will be in long before the  
21 traffic study is complete. I don't have a specific date.

22           COMMISSIONER SCATTERDAY: Well, would it be -- I  
23 would say -- and others can comment -- in terms of having an  
24 idea of the day in terms of -- we're trying to assess the

1 information and the materials that are going to be available  
2 ahead of the public hearing and the timeline. So I'm trying  
3 to understand what all you're going to still be providing and  
4 when those things are going to fall into the queue knowing  
5 that we've got to have 30 days ahead of the public hearing.

6 MR. HOOPER: well, in terms having things submitted  
7 30 days in advance of May 11th, that's probably not going to  
8 happen, especially for the traffic study.

9 Again, as the mayor said I think most recently said  
10 in the Intelligencer report, we've having hundred-year rains  
11 pretty much every year now. So there have been assertions  
12 and there have been references that GP&C had something to do  
13 with that flooding. We want to make sure that we  
14 specifically address that. That's something that is pretty  
15 acute and certainly in the public eye, and we want to make it  
16 very clear that that has nothing to do with GC&P or anything  
17 that they have done on their property.

18 So what I can tell you is from my standpoint, they  
19 are moving as quickly as they can. If you want me to solicit  
20 dates and more specifics on that, I'll have to do that, but  
21 I'm not going to -- I can't speak off the top of my head for  
22 when that's actually going to happen.

23 COMMISSIONER SCATTERDAY: Okay. The reports we're  
24 talking about I thought were in reference to the DEP's



1 information. That's what I was asking about.

2 MR. HOOPER: That as well. That as well. We are  
3 working with the engineering company, and I have not received  
4 any report or recommendation from them yet. They are aware  
5 of May 11th being the next possible date, and we're trying to  
6 do everything we can to get everything in on time.

7 But as I said, this is a complex issue. We don't  
8 want to shoot from the hip. We want it to be accurate, and  
9 we want it to be complete, and that's what has to be done.  
10 At least that's what we want to do.

11 COMMISSIONER SCATTERDAY: Sure. I appreciate all  
12 that. These aren't questions that are critical. These are  
13 questions that are practical, and I'm just asking for  
14 information.

15 MR. HOOPER: You know all that I know.

16 COMMISSIONER SCATTERDAY: Right.

17 So my question is to the extent that there is a  
18 expectation or targeted date for these additional  
19 materials -- that's the question that I'm asking is targets.

20 MR. HOOPER: I thought I answered that, which is as  
21 soon as we possibly can.

22 COMMISSIONER MONROE: Tom -- or Mike -- I'm sorry  
23 -- you said the traffic study you hope to have done by the  
24 end of the month?

1 MR. HOOPER: Yes, sir.

2 COMMISSIONER MONROE: Since you said you thought  
3 these other reports would be in before the traffic study, you  
4 hope they will be in by the end of the month as well if I'm  
5 understanding you correctly?

6 MR. HOOPER: Yes. You're absolutely correct.

7 COMMISSIONER MONROE: I didn't mean to interrupt,  
8 Wendy. I'm sorry.

9 COMMISSIONER SCATTERDAY: No. That's all I'm  
10 trying to get to is some kind of actual point on a calendar.

11 CHAIRPERSON MAUCK: Other questions, Commissioners?

12 COMMISSIONER SCHWARZ: Yeah, I have a question --  
13 this is Bill -- for Mr. Hooper.

14 If I'm understanding correct, did you say the DEP  
15 will provide some analysis or reports of their own after  
16 evaluating the site or the property, and that's what you'll  
17 be providing prior to the meeting this month? Am I  
18 understanding you correctly there?

19 MR. HOOPER: No, sir. I don't know what they are  
20 going to submit yet or how they are going to submit. We are  
21 waiting for our engineering company that is working with DEP  
22 to analyze the situation and give us the best advice on how  
23 to practically proceed.

24 COMMISSIONER SCHWARZ: I see. So that being

1 Larson?

2 MR. HOOPER: Yes.

3 COMMISSIONER SCHWARZ: Correct?

4 MR. HOOPER: Correct.

5 COMMISSIONER SCHWARZ: Okay.

6 MR. HOOPER: My non-relative, David Hooper, who is  
7 our contact there.

8 COMMISSIONER SCHWARZ: Okay. I understand.

9 CHAIRPERSON MAUCK: Any other comments? Go ahead.

10 COMMISSIONER MONROE: Tom or Rose -- and I think,  
11 Rose, you may have sort of implied this earlier -- have we,  
12 as a city or as a commission, received any kind of comments  
13 officially on this from the DEP?

14 MS. HUMWAY-WARMUTH: Tom can address this because  
15 we have started sending e-mails. Well, my goodness. We did  
16 them a few years ago, but for purposes of this initial  
17 Planning Commission action in August, Tom, I think you can  
18 address the e-mails that we have sent through your office,  
19 and now I'm going to obviously have to step it up to find out  
20 perhaps some more communication.

21 MR. CONNELLY: Yes. Howard, I have not heard  
22 anything. The last few times I checked in with a gentleman  
23 out of -- I think it's Philippi -- they had not received any  
24 of the paperwork. So in March --

1           COMMISSIONER MONROE: I'm sorry. I don't mean to  
2 interrupt. Any paperwork from whom?

3           MR. CONNELLY: From the applicant.

4           COMMISSIONER MONROE: Okay.

5           MR. CONNELLY: So in March, Mr. Hooper provided a  
6 contact name to the City, and so that's who we will be  
7 following up with to determine what's all being reviewed.

8           MS. HUMWAY-WARMUTH: Tom, correct me if I'm wrong,  
9 but I believe our initial threshold step was that you had  
10 communications with them that stated that if they were going  
11 to -- if there was going to be some form of a review period,  
12 it would be triggered by an application that would -- and the  
13 ultimate decision upon whether or not a permit for quarrying  
14 and mineral extraction lied within the State.

15           MR. CONNELLY: Yeah. They really didn't want to  
16 comment on anything that I had provided. They simply said  
17 they were withholding comment until an application had been  
18 submitted. So I shared with them the information available  
19 on the project website we have. Their response was just we  
20 really don't know which direction this is going to go. We  
21 need to look at an application, and then once we review the  
22 application, we'll make a determination as to what permits  
23 and processes would be required.

24           MS. HUMWAY-WARMUTH: I believe, through your

1 office, we also made it very clear that we wanted our  
2 comments and concerns to be heard at which time they received  
3 an application.

4 MR. CONNELLY: Yes. I sent an e-mail -- I forget  
5 if it was from December or January -- that just said the City  
6 has an interest in this project and so whatever opportunities  
7 there are for input --

8 MS. HUMWAY-WARMUTH: Right. I believe that there  
9 was also a follow-up from this Planning Commission's various  
10 meetings if I am correct.

11 MR. CONNELLY: All those e-mails are on the project  
12 website, if you go to -- whether you look at the Department  
13 of Highways or the Department of Environmental Protection,  
14 any of the e-mails back and forth, but there hasn't been  
15 anything official because the DEP simply said until we get an  
16 application, we don't have any comment.

17 MS. HUMWAY-WARMUTH: Right. And I know that you  
18 have included them in all of the information and transcripts.

19 CHAIRPERSON MAUCK: Go ahead, Mike.

20 MR. HOOPER: Yeah. I just wanted to make it clear,  
21 we're also working with DEP on anything having to do in that  
22 realm with Ascent Engineering. I just wanted to make sure  
23 that you understood that we're doing that as well.

24 MS. HUMWAY-WARMUTH: Okay.

1           COMMISSIONER MONROE: Excuse me. Mike, you have  
2 not yet -- your client has not yet determined what kind of  
3 permit they want to apply for; is that correct?

4           MR. HOOPER: That's correct.

5           CHAIRPERSON MAUCK: Jeremy, did you have a  
6 question, or are you swatting flies?

7           COMMISSIONER WEST: Just changing my views.

8           CHAIRPERSON MAUCK: All right. Other comments,  
9 Commissioners?

10          COMMISSIONER MONROE: With Mr. Hooper there, I'm  
11 wondering if this is an appropriate time to talk about the  
12 thought that some of us have had that we should ask for an  
13 independent review of that geotechnical report.

14          CHAIRPERSON MAUCK: would you like to weigh in on  
15 that, Wendy?

16          COMMISSIONER SCATTERDAY: well, I had suggested  
17 that an independent analysis would benefit the Commission,  
18 benefit the City and benefit the citizens so that there would  
19 be an objective review of the materials from an engineering  
20 consultant that would be an expert in the type of work that  
21 is being proposed, and that way having that outside objective  
22 assessment of the materials provided and really to help guide  
23 the Commission and the City, in general, all the City and the  
24 staff --

1 COMMISSIONER MONROE: She froze.

2 COMMISSIONER WRIGHT: This is Martha.

3 Tom, I think long ago I sent you a long and  
4 exasperated e-mail trying to sort out this complicated issue.  
5 At that time, I expressed that I was in favor of having an  
6 independent review. I think for everybody's sake, that  
7 that's a good step.

8 COMMISSIONER MONROE: Tom, that is something  
9 that falls within our purview; is that correct?

10 MR. CONNELLY: You can request it, and then the  
11 authority would come from the City Manager.

12 COMMISSIONER MONROE: But you've had conversation  
13 with him? Do you feel that he would be amenable to that?

14 MR. CONNELLY: Yes.

15 COMMISSIONER MONROE: I know you can't speak for  
16 him, but your sense is that he would be amenable to that?

17 MR. CONNELLY: That's correct.

18 COMMISSIONER MONROE: I certainly concur with  
19 Martha and I think what Wendy was saying before she froze.

20 COMMISSIONER SCATTERDAY: All right.

21 COMMISSIONER MONROE: That's all right.

22 To me, it's a very good thing. I read the report,  
23 and I analyzed it the best I can. I see a lot of comments  
24 from people who seem to have credentials via e-mail and so

1 on. I really would feel very much more comfortable with  
2 seeing an independent analysis of that.

3 MS. HUMWAY-WARMUTH: Okay. I'm going to break in  
4 for a moment. It's very similar to an outside opinion for  
5 counsel that is well-versed in very particular areas.

6 Also, Tom and I have spoken with this, that it's  
7 also very similar in the technical areas, like  
8 telecommunications and cell towers, which we did insert that  
9 language in regard to the expert reviews for that.

10 So as far as that goes, that is something that  
11 should the Commission want to move forward with -- and I've  
12 spoken with Assistant Director Connelly on that -- it would  
13 be something that this board would recommend.

14 Obviously City Manager Herron would be the ultimate  
15 person holding discretion in regard to any contract and  
16 analysis, but I know that Assistant Director Connelly has  
17 talked about that and has looked at the potential for such  
18 expertise to assist us and knowing that it is also on a  
19 short-term basis what we received from the geotech from GC&P  
20 Development.

21 COMMISSIONER SCHWARZ: I have thoughts on this. I  
22 understand providing -- this is Bill. Sorry. I understand  
23 the idea of providing some analysis to break this report down  
24 into laymen's terms so to speak to provide a collective



1 summary of it, and if there is any questions that the  
2 Commissioners have regarding the technical jargon and so  
3 forth that's in there, that it can be explained.

4 But I guess the problem that I have is we're  
5 talking about an independent expert. I guess my question is:  
6 who is to say an independent, as a third party, any smarter  
7 than Larson as far as who is right? Say we bring a third  
8 party in and they have some disagreement with what's  
9 presented in Larson's report. Then who is correct? Is that  
10 what we're looking for? I'm saying that may introduce some  
11 more confusion into the matter, but I do agree with the fact  
12 -- or the idea of providing a breakdown of this into laymen's  
13 terms so we can all understand what it's saying.

14 CHAIRPERSON MAUCK: Go ahead, Howard.

15 COMMISSIONER MONROE: It would seem to me that  
16 actually if an independent -- it's kind of getting a second  
17 doctor's opinion. I'm not implying the first doctor isn't  
18 really good. I just want to hear another good doctor's  
19 opinion. And if they concur, life is good, and if the second  
20 opinion gives us some additional issues to probe into, that  
21 to me is important information to have. So to me it makes  
22 some sense.

23 Apparently, to answer the direct question, who  
24 would make the determination, clearly that's the City

1 Manager's decision. But to me it's a tool that would be very  
2 helpful, I think, for us to have. Hopefully they say, boy,  
3 this report is perfect and there is no real concerns that we  
4 have. If we have two people saying the same thing, that's  
5 good. I feel better. Maybe they will raise some questions  
6 which we then could ask both sides to help us understand  
7 more. That's my take on it at least.

8 CHAIRPERSON MAUCK: Rosemary, do you have any  
9 comments here?

10 MS. HUMWAY-WARMUTH: No. That's pretty much what  
11 that is. It is an independent decision. We want someone to  
12 take a look at that, basically put it in plain English for  
13 our Commission, review that. If there's some of the areas of  
14 the geotech that they find are over and above, we want them  
15 to note that. If there are some areas where they think maybe  
16 there could be some other things or they question some of the  
17 outcomes -- they may also give us some recommendations. I  
18 would suggest that if the plan for the development comes to  
19 fruition, then what are the outcomes? Like how long will it  
20 take to remove that overburden? what will that take, et  
21 cetera? These are types of recommendations you can ask.

22 But basically to review the initial geotech is well  
23 going to -- it will lead to some further questions, but the  
24 independent decision and opinion is really, from the

1 Commission's side, due diligence.

2 CHAIRPERSON MAUCK: Wendy?

3 COMMISSIONER SCATTERDAY: Thank you, sir. This is  
4 Wendy Scatterday.

5 Commissioners, just on a -- just as a reminder, the  
6 Commission and the City, the City staff, this step has  
7 already actually been engaged and already been taken on the  
8 part of the water department staff and also the water  
9 pollution control staff. In each case, both of the directors  
10 of both departments, and obviously under Mr. Jebbia in his  
11 direction, they, each independently, reached out to their  
12 outside consulting design firms that facilitate the work of  
13 the sewer and stormwater systems, as well as the water supply  
14 systems.

15 In our packets and in our materials, we already  
16 have information provided from an outside independent  
17 engineering firm called CT Consulting. The City has an  
18 ongoing contract with that firm for civil engineering and  
19 other engineering work associated with the water and sewer  
20 and stormwater systems.

21 So we've already done that. So really this is --  
22 the idea of the analysis of geotech falls in line with what  
23 we've already done. It's just a different expertise, the  
24 fact that we don't -- the City doesn't have an ongoing

1 contract with a geotech consultant at this time because it's  
2 not part of their regular course of work on a day-to-day  
3 basis.

4 Do I have that correct, Mr. Jebbia?

5 CHAIRPERSON MAUCK: I can't hear you, Rusty.

6 COMMISSIONER JEBBIA: Sorry. I was muted. I was  
7 trying to stay quiet.

8 Yeah, you're absolutely right, Wendy.

9 CHAIRPERSON MAUCK: Any additional comments, Rusty?

10 COMMISSIONER JEBBIA: No, sir.

11 COMMISSIONER SCATTERDAY: I think the question  
12 would be is if CT Consulting would be the appropriate entity  
13 that could also provide that. I'm not familiar with all the  
14 services that they provide with their firm or if an outside  
15 -- a separate and different engineering firm that has an  
16 expertise in mining and geotech -- there's a variety of firms  
17 that does that type of work and other soil-related type of  
18 work.

19 MS. HUMWAY-WARMUTH: The legal department's opinion  
20 -- and we've talked a little bit about that in regard to the  
21 question -- is that the reports from CT and the information  
22 that CT has been provided would certainly be provided to a  
23 geotech, but it would be an independent consultant, because  
24 the reports that we do have, that we have had and that are

1 part of the record and will continue to be -- that's a  
2 continuing thing. An independent consultant at the top of  
3 the pyramid can then talk with persons from the developer, as  
4 well as our consultants, to mesh the report.

5 CHAIRPERSON MAUCK: If we approve this, we would  
6 leave it up to Tom and Rosemary and the City Manager and  
7 whoever else in the City has knowledge to contract with one  
8 of them. We wouldn't be a part of that process?

9 COMMISSIONER SCATTERDAY: Correct.

10 MS. HUMWAY-WARMUTH: And I will only approve the  
11 legal documents, not the policy.

12 CHAIRPERSON MAUCK: Go ahead, Howard.

13 COMMISSIONER MONROE: First of all, I want to be  
14 real clear so nobody misunderstands, especially Mr. Hooper  
15 and his clients. I'm not criticizing any of the work that  
16 has been done, nor am I suggesting anything is incorrect or  
17 inappropriate about it. I'm just looking for something to  
18 layer on top of that for my perspective. I hope it doesn't  
19 come across, at least from my perspective, in any way as a  
20 criticism.

21 If Mr. Hooper is still with us, I'm wondering if he  
22 has any thoughts on the idea of the Commission doing an  
23 independent analysis.

24 CHAIRPERSON MAUCK: He is.

1                   Go ahead, Mike.

2                   MR. HOOPER: Sure. I can tell you that we've got  
3 some of the top geologists in the country working on this, as  
4 well as four of the best engineering consulting firms. So we  
5 feel pretty comfortable with who we have. I absolutely  
6 understand where you're coming from. And if nothing else, I  
7 think it may actually help to have a better overall  
8 understanding. So that's fine by me.

9                   CHAIRPERSON MAUCK: Okay. Does that answer your  
10 question, Howard?

11                  COMMISSIONER MONROE: It does.

12                  would it be appropriate to make a motion here?

13                  COMMISSIONER SCHWARZ: Just one more question. So  
14 the report that Larson provided right now is a preliminary  
15 report. So I'm assuming that means that there will be future  
16 further detailed reports provided. So I'm wondering would we  
17 follow the same procedure with the future detailed reports  
18 that Larson would provide as far as having them evaluated by  
19 our independent engineer? I don't know that we can really  
20 tell at this point, but I'm just wondering for --

21                  CHAIRPERSON MAUCK: Rosemary? Tom?

22                  COMMISSIONER SCHWARZ: -- for future reports that  
23 they do.

24                  MR. CONNELLY: My thought would be to review this

1 report because that's what we have in front of us, and if  
2 future reports come our way, if we need that next level of  
3 explanation or clarity, we can pursue that likewise.

4 MS. HUMWAY-WARMUTH: Yeah. That's a similar  
5 process like within environmental consultation, especially  
6 because this is environmental consultation on a different  
7 plain. But when our review would come back and that  
8 independent evaluator takes a look at that, then there may be  
9 parts of their geotech that they question, they provide to us  
10 in plain English why they are questioning it, and there might  
11 be more either tests or explanations. So it is a little bit  
12 of an ongoing process. There would be an end point to that,  
13 but there is a little bit of a give and take back because one  
14 opinion might be -- like our -- the opinion from our  
15 consultant may come out. There may need to be some  
16 explanation that then could be communicated through basic  
17 writing, et cetera, and telephone calls with their expert.  
18 So there is going to be some give and take on that.

19 And there may need to be some further excavations  
20 and further testing. There may need to be that, along with  
21 the explanation. Maybe not.

22 CHAIRPERSON MAUCK: with that said, could we go  
23 ahead -- and I don't know where we're going, how fast we're  
24 going, but could we go ahead and schedule a public hearing

1 before we get this report back?

2 MS. HUMWAY-WARMUTH: Tom, we talked about that.  
3 You might want to handle that one.

4 MR. CONNELLY: Yeah. I mean, there is two topics  
5 there. One is the scheduling of the public hearing and, two,  
6 waiting on this report. Our idea was this information is out  
7 there. We requested this, the traffic study, and some DEP  
8 information. That was kind of the line that we had waiting  
9 to scheduling a public hearing. Now, to say we need the  
10 secondary report before we continue that, I think you just  
11 keep pushing that and then they come back with another, and  
12 when do you wrap up the hearing?

13 I think the three pieces of information we were  
14 awaiting, DEP, Department of Highways, and some geotech, we  
15 still don't have those. So if we're talking about April 30th  
16 for a Traffic Impact Study, that's 10 or 11 days before the  
17 public hearing. And at this time, we don't even know if that  
18 public hearing is still going to go on as scheduled just  
19 because of travel restraints and meeting in groups and those  
20 types of things.

21 So the first thing that -- two things I wanted to  
22 get accomplished tonight was whether or not the Commission  
23 wanted to proceed with having that secondary review or that  
24 review of that report, and once that was out of the way, then



1 looking at scheduling a meeting, running a public hearing ad,  
2 and having a disclaimer in there that -- because we need to  
3 run it. I need to get it in the newspaper tomorrow so that  
4 it runs in Saturday's paper. But just having a disclaimer  
5 that pending certain current events, it could be postponed or  
6 moved. One, as of now, Northern is no longer having events  
7 in their building, and come May their semester will likely be  
8 over. I'm not sure if we need to look for another facility,  
9 and, two, I don't know if we'll be able to meet.

10 So the idea was to advertise that we would meet on  
11 May 11th and then change if necessary. Knowing we don't have  
12 the Traffic Impact Study -- I understand the reason why, but  
13 knowing we won't have it until April 30th -- and I think that  
14 is one thing that a lot of people would like to look at  
15 before the hearing is knowing what the outcomes of the  
16 traffic study are.

17 You know, that information was just gained tonight.  
18 So maybe we automatically push that meeting back from  
19 May 11th. But if we could separate the two issues, one, take  
20 a vote on whether or not the Commission agrees to get a  
21 second look at the --

22 MS. HUMWAY-WARMUTH: On the geotech.

23 MR. CONNELLY: Then we can talk about whether we  
24 want to schedule a meeting.

1           June 8th is our meeting in June. That would  
2 definitely give 30 days -- give 38 days. We can call a  
3 meeting special meeting for May 30th or May 29th or wait  
4 another week. I know members of the community want to have  
5 their input. We've been waiting on information. We have  
6 this unbelievable incidence of a lockdown. So those are the  
7 two things that we need to determine tonight.

8           COMMISSIONER WRIGHT: Tom, this is Martha. If it  
9 is a matter -- if we need to put a motion on the floor for  
10 the second review of the geotech study, I am happy to make  
11 that motion right now.

12           MR. CONNELLY: Okay.

13           COMMISSIONER MONROE: You beat me to it. I was  
14 going to try to and somebody interrupted me. That's okay. I  
15 will second that motion.

16           CHAIRPERSON MAUCK: It's been moved by Martha and  
17 seconded by Howard to delve into an independent study on the  
18 geotech. All in favor, raise your hand. One, two, three,  
19 four, five, six, seven, eight. Eight, Tom.

20           MR. CONNELLY: Okay. I got it.

21           CHAIRPERSON MAUCK: Zero opposed.

22           MR. CONNELLY: I'll work with the City Manager and  
23 the legal department on that.

24           Then the next topic is what do we want to do about

1 our meeting date. Knowing that April 30th deadline is the  
2 target date, we can discuss that.

3 CHAIRPERSON MAUCK: Howard?

4 COMMISSIONER MONROE: Tom, I will concur with you  
5 that we don't necessarily have to have the geotech review  
6 done by the public hearing. There's enough information out  
7 there or hopefully will be coming out there to continue with  
8 it.

9 However, I think there is an awful lot of question  
10 marks around that public hearing, that if we don't get that  
11 traffic study done -- and I'm not criticizing anyone. I  
12 understand why nothing is getting done right now. Will there  
13 even be a way to have a meeting on May 11th? I tend to think  
14 that particular public hearing will need to be open -- I  
15 don't think we can do that by Zoom. I mean, I think there's  
16 going to be a long comment period on that.

17 If I was a betting man, which I'm not, but if I was  
18 a betting man, I would bet that we will not have access to  
19 that building on May 11th, even if we wanted to. I'm not  
20 really sure what the recommendation I have here is, except I  
21 think it's very iffy. I hate like heck to keep pushing this  
22 back. I really, really do, but, again, who would have  
23 guessed we were in the midst of a worldwide pandemic and be  
24 under orders to stay home.

1                   COMMISSIONER WRIGHT: I'm sorry, Howard, to  
2 interrupt. This is Martha. My tradition.

3                   I am inclined -- I understand people are impatient  
4 and I understand people want answers, but on the other hand,  
5 I'm sort of the mind that if we do go to June 8th, which is  
6 arguably a safer bet, it's a good chance that we would not  
7 only have the traffic study with adequate time for the public  
8 to look at, but there is a possibility that we would have  
9 some kind of secondary review study.

10                  COMMISSIONER MONROE: I don't disagree. It makes  
11 sense to me -- again, I hate to make it sound as if we are  
12 continually dragging this out. I don't want to do that, but  
13 I think full information is important, and more importantly,  
14 I just don't think we're going to be able to hold a public  
15 hearing on May 11th. That's just my best guess.

16                  COMMISSIONER WRIGHT: I don't think so either.

17                  I think there it will be an expectation from the  
18 public that we do have some review of that. I remember  
19 clearly and was honestly a little surprised that even during  
20 the Edgewood Lutheran Church traffic study, that there were  
21 people that called into question the validity of that study,  
22 which I did not because certainly those contractors take  
23 their reputation and the licensing very seriously. I think  
24 that this is a very charged issue, and I think that we are

1 going to have to take that step.

2 MS. HUMWAY-WARMUTH: For the purpose of the record,  
3 the Planning Commission has always, always done traffic  
4 studies. A geotech study is a horse of a different color, if  
5 you will. It is a different beast, and it is something that  
6 may merit that extra layer.

7 COMMISSIONER WRIGHT: I concur, Rose.

8 COMMISSIONER MONROE: Tom, what is your thought  
9 about the public hearing, your personal opinion? What do you  
10 think is the smartest move?

11 MR. CONNELLY: Well, yes. Knowing that April 30th  
12 is when we can expect the traffic study, I think at the  
13 earliest if I'm not mistaken, I think that then that having  
14 it at the regular meeting in June would make the most sense.  
15 If the college is out and we can't use that room, there's  
16 facilities, possibly the arena, whether the meeting room  
17 downstairs. There are other large venues that are bigger  
18 than city council chambers. It's just a matter of finding  
19 that.

20 COMMISSIONER WRIGHT: Tom, I also note that -- did  
21 we not change the start time for that meeting, for that  
22 public hearing, to 6:00?

23 MR. CONNELLY: We were going to advertise that,  
24 yes.

1           COMMISSIONER WRIGHT: I think that if we are moving  
2 towards the June meeting, I feel that we should do that same  
3 thing in order to make sure that the people feel like they  
4 are being accommodated as much as possible.

5           MR. CONNELLY: The more I think about it, the white  
6 Palace might even work, too.

7           MS. HUMWAY-WARMUTH: Right. Right.

8           COMMISSIONER MONROE: Again, I would like to get  
9 thoughts from Mr. Hooper since he is listening in.

10          Mike, do you have any thoughts on this?

11          MR. HOOPER: I really think that's up to your  
12 discretion. We're going to move as quickly as we can. We  
13 want to some get some finality to this, but I do agree it's  
14 going to take time for your person to review things, and they  
15 may very well have questions. So from that standpoint, I  
16 defer to you-all for that decision.

17          MS. HUMWAY-WARMUTH: Mike, if I can, Counselor  
18 Hooper, you wish to, on behalf of the developer, to also  
19 prepare for the date of the public hearing, a full  
20 presentation in regard to the development in regard to your  
21 expert, and the information that has been supplied by  
22 documents?

23          MR. HOOPER: Correct.

24          CHAIRPERSON MAUCK: So we're in agreement on that?

1 MR. HOOPER: Yes, sir.

2 COMMISSIONER MONROE: If there is no other  
3 objections, Commissioners, I recommend that we cancel the  
4 plans for the May 11th public hearing and go with June 8th at  
5 6:00 p.m.

6 CHAIRPERSON MAUCK: Could we have a vote on that?

7 MS. HUMWAY-WARMUTH: Sure.

8 CHAIRPERSON MAUCK: Do you have a second? How  
9 about a second?

10 COMMISSIONER SCATTERDAY: Second.

11 CHAIRPERSON MAUCK: Wendy seconds to move the  
12 public hearing to June 6th.

13 MR. CONNELLY: June 8th.

14 CHAIRPERSON MAUCK: June 8th.

15 All in favor, raise your hand.

16 Eight to nothing. No opposed.

17 Are we done with that item?

18 MR. CONNELLY: Yes.

19 I have two people that have been texting, waiting  
20 still in the waiting room for the next application.

21 CHAIRPERSON MAUCK: Thank you, Mike. I appreciate  
22 it.

23 MS. HUMWAY-WARMUTH: Thanks, Mike. See you in the  
24 future.

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Are we ready to move on, Tom?

MR. CONNELLY: I'm bringing them in now.

\* \* \*



1 STATE OF WEST VIRGINIA:

SS: C E R T I F I C A T E

2 COUNTY OF OHIO:

3  
4 I, Susan Sommer LeCron, Registered Professional  
5 Reporter and Commissioner within and for the State of West  
6 Virginia, duly commissioned and qualified, do hereby certify  
7 that the foregoing Transcript of Proceedings is a transcript  
8 of verbatim stenotype notes taken during the proceeding and  
9 said Transcript of Proceedings constitutes all the testimony  
10 taken during this proceeding.

11 I do further certify that this hearing was taken at  
12 the date and time in the foregoing caption specified.

13 I do further certify that I am not a relative,  
14 counsel or attorney of either party, or otherwise interested  
15 in the event of this action.

16 IN WITNESS THEREOF, I have hereunto set my hand and  
17 affixed my seal of office at St. Clairsville, Ohio, on the  
18 20th day of April, 2020.

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Susan Sommer LeCron, RPR  
Commissioner within and for the  
State of West Virginia  
My commission expires: 6/7/2022

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