

**THIS MEETING WAS HELD REMOTELY VIA ZOOM:**

Amherst City Council met in a Regular Session under full compliance of State Law with President Wasilk opening the meeting at 7:00 P. M. Roll call: Mr. Dembinski, Mr. Cowger, Mr. Wachholz, Mr. Nahorn, Mr. Heberling, Mr. Janik, Mr. Van Treuren. Also present were Assistant Law Director Ward, Mayor Costilow, Auditor Pittak, Law Director Pecora, Treasurer Ramsey, Safety/Service Director Jeffreys.

The Prayer was invoked by Chaplain Nahorn, followed by the Pledge to the Flag led by Sergeant at Arms Dembinski. Mr. Nahorn asked for a moment of silence per the Governor's request, for all those that have passed due to COVID.

Consent Agenda: The Clerk read the Consent Agenda. Mr. Dembinski spoke to the Ordinance Committee Minutes and A-21-05 and said that as Chairman of the Ordinance Committee, when the motion was made to send this to the floor of council, the ordinance itself did have the emergency on it, but the motion did not. So he motioned to amend the minutes and the motion to include the emergency clause. Seconded by Mr. Nahorn. Roll call vote 7-0 to add the emergency clause to the motion. Mr. Dembinski motioned to accept the Consent Agenda as amended. Seconded by Mr. Wachholz. Roll call vote 7-0 to accept the Consent Agenda as amended.

Acknowledgement of the Public pertaining to items on the Agenda: Mayor Costilow noted that under item 11 that the State of the City report be removed as it will not be read this evening but will be read two weeks from now.

**ORDINANCES AND RESOLUTIONS FIRST READING:**

- (a) An Ordinance to approve current replacement pages to the Amherst Codified Ordinances and declaring an emergency. (A-21-05)

Mr. Janik motioned to suspend all council rules so that this may be passed in its first reading. Seconded by Mr. Dembinski. Roll call vote 7-0 to suspend rules. Mr. Janik motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes 0-21-05.

- (b) An Ordinance authorizing the Mayor to enter into a contract for professional service with Bramhall engineering and surveying company related to the road improvement project on Milan Avenue and Cleveland Avenue; and declaring an emergency. (A-21-06)

Mayor Costilow asked for suspension of rules on this item so the engineering can begin on this improvement. Mr. Nahorn motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Cowger. Roll call vote 7-0 to suspend rules. Mr. Nahorn motioned to adopt. Seconded by Mr. Heberling. Roll call vote 7-0 to adopt. Becomes 0-21-06.

- (c) An Ordinance to make appropriations for current expenses and other expenditures of the City of Amherst, State of Ohio, During the fiscal year ending December 31, 2021, repealing all Ordinances in conflict herewith; and declaring an emergency. (A-21-07)

Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Van Treuren. Roll call vote 7-0 to suspend rules. Mr. Dembinski motioned to adopt. Seconded by Mr. Heberling. Roll call vote 7-0 to adopt. Becomes 0-21-07.

- (d) An Ordinance authorizing and directing the Safety/Service Director to solicit bids to trim trees (on a unit basis) in the city for the year 2021 at a cost not to exceed \$80,000.00; and authorizing and directing the Safety Service Director to award the contract for such work to the lowest responsive and responsible bidder; and declaring an emergency. (A-21-08)

Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Heberling. Roll call vote 7-0 to suspend rules. Mr. Nahorn motioned to adopt. Seconded by Mr. Wachholz. Roll call vote 7-0 to adopt. Becomes 0-21-08.

- (e) An Ordinance approving plans and granting a certificate of occupancy to Zappas 350 LLC for a servicing, warehousing and distribution use for the premises known as 350 Rice Industrial Parkway, Amherst, Ohio; and declaring an emergency. (A-21-09)

Mr. Dembinski motioned to send this on to its second reading. Seconded by Mr. Van Treuren. Mayor Costilow said the gentleman who owns this business, his business burned down. His occupancy permit will be held up by this. It's council's pleasure, but he wondered if there was any way Council would suspend rules so this business which has been here for 50 years could just be moved across town into another building. Mr. Van Treuren said he withdraws his second. Mr. Dembinski said he feels for the gentleman, but usually when we suspend rules, it's something that has a time box, it's in the best interest of the public safety, like the tree trimming we just did. He is hesitant to do this just to be nice; but he supposes we can. This is not a habit we necessarily should be setting ourselves up for. Considering the building just burned down, it's probably not safe for him to be in there anymore, so Mr. Dembinski withdrew his current motion and motioned to suspend all council rules so that this may be passed in its first reading. Seconded by Mr. Van Treuren. Mr. Van Treuren said thinking not only of the safety of the business owner, we need to consider that making his business close down could put his entire business in jeopardy, could close down his business. This would cause the city to collect less tax revenue which could put our own safety services to a certain extent at risk as there would be less revenue coming in. So he thinks it's well worth the emergency passage. Roll call vote 7-0 to suspend rules. Mr. Nahorn motioned to adopt. Seconded by Mr. Cowger. Roll call vote 7-0 to adopt. Becomes 0-21-09.

- (f) An Ordinance authorizing the City of Amherst Community Improvement Corporation, acting as agenda for the city, to negotiate the terms of the city's sale of a portion of parcel No. 05-00-041-110-031 to Clovervale Farms, LLC and purchase of Lorain County Community College's contingent interest in such a split parcel. (A-21-10)

Mayor Costilow said there had been some concern about the parcel number and the name "Tyson" vs. Clovervale and he checked on this after conversation with Assistant Law Director, so those are ok. He noted that the title of the agenda request had the emergency request on it. He had not had time to go over the minutes or the meeting, to review the discussion on this, but this was meant to have the emergency clause. He said this is good for the tax base, good for the parks, good for everyone involved. He was hoping to get this into CIC hands as quickly as possible. Then it will come back to Council for a final decision. That's the point where we could go more readings and have more discussion. Mr. Dembinski understands that this is the first step in the process, however, he believes this is something he would like the public to hear more about before it disappears to the CIC. He motioned to send this to the second reading with the emergency. Mr. Janik said he believes his minutes reflected the emergency clause. The Clerk checked and it did not. Mr. Janik seconded the motion. The Clerk pointed out the ordinance itself needed to be amended to add the emergency clause to the ordinance. Mr. Janik withdrew his motion. Mr. Dembinski modified his motion to add the emergency clause to the ordinance. Seconded by Mr. Janik to add the emergency clause to the Ordinance. Roll call vote 7-0 to add the emergency clause to the ordinance. Mr. Dembinski motioned to send this item to the second reading. Seconded by Mr. Janik. Mayor Costilow wished to discuss the timeliness of this legislation. Mr. Pecora said he understands there could be concern about disposition of property. He feels Mr. Dembinski needs more time before this goes to the CIC, but he knows that Tyson and LCCC are anxious to conclude the matter. They would like to enter into negotiations with the city as soon as possible. Mayor Costilow did not know much he could talk about this due to negotiations, litigation and deed restrictions and maybe other things without hurting negotiations. He said Tyson is looking to expand and they are a large employer and they need space to grow. This has been their home for quite a while and with these deed restrictions, it's been difficult. It's very important to get this into the hands of CIC to see if Tyson can negotiate with the city or go on to another option to other properties nearby. This is their first choice and if goes on too long he's afraid it won't work out and won't be good for anyone. Mr. Pecora said that he would like to discuss only very little in executive session and as much as possible in public. There will be opportunity at the CIC to hear all the information to alleviate any concerns Mr. Dembinski may have. Mayor Costilow said he thought Tyson's capital budget is due soon and they need to know as soon as possible of this outcome. Mr. Dembinski said he understands wanting to be expedient. He believes this came before the Park Board last year. Last year was weird with COVID and there was a lot of back and forth going on with all the people involved. He does not think waiting two weeks will derail this. He will keep his motion as is. Mr. Pecora said having a special council meeting would be an option. Mayor Costilow said the sooner

the better to get this into CIC's hands. Time is truly of the essence at this point. Mr. Pecora emphasized that at CIC he will limit Executive Session to one issue and the rest of the project will be open to the public.

Mr. Cowger said he did not see the need to wait, this is just to get this to CIC so that some information can be worked out and this will come back to Council. This is just putting it into CIC's hands for negotiations. This will not dispose of the property, it still has to come back to council. Right now council has no detailed information and can't get any detailed information until this goes through the CIC. So he will not be voting to send this on to its second reading. He believes rules should be suspended so we can get this to the CIC so we can get our information back and start thinking about how this should be disposed of. Mr. Pecora feels that Mr. Cowger is right. Any decisions CIC makes has to return to city council for discussion in public. That would include many of the terms we can't discuss now because we don't have the terms. We are looking at disposing a little under six acres to Tyson but we need the CIC to do this properly and in a way that benefits the city. CIC can negotiate that and then return the recommendation to council which would provide a better opportunity for the public to voice their opinion.

There was a discussion on how to proceed with the correct motions. Mr. Janik agreed with Mr. Pecora and Mr. Cowger and the mayor has expressed that time is of the essence and considering all that we have been through with COVID that this business is ready to expand. He is very impressed with that as well. He feels there should be no hesitancy in suspending rules on this. Mr. Janik withdrew his second. Mr. Dembinski declined withdrawing his motion. There was no second by anyone. The motion to send on to the next reading dies for lack of a second. Mr. Cowger motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Wachholz. Roll call vote 6-1 to suspend council rules with Mr. Dembinski voting no. Mr. Cowger motioned to adopt. Seconded by Mr. Nahorn. Roll call vote 6-1 with Mr. Dembinski voting no. Becomes 0-21-10.

**ORDINANCES AND RESOLUTIONS SECOND READING: NONE**

**ORDINANCES AND RESOLUTIONS THIRD READING:**

- (a) An Ordinance establishing the wage rate, benefits, and other conditions of employment of the permanent part-time payroll and accounts payable clerk for the years 2021 and 2022; and repealing all ordinances in conflict herewith.  
(A-21-03)

Mr. Dembinski motioned to adopt. Seconded by Mr. Wachholz. Roll call vote 7-0 to adopt. Becomes 0-21-11.

Miscellaneous and acknowledgement of the public: There was no one speaking.

Agenda requests and committee meeting schedules:

A-21-11 Building and lands – Accepting Amchester Drive's existing storm sewer infrastructure and roadway improvement and dedicate for public use.

A-21-12 Streets/sidewalks/sewers/drains/creeks - Replacement of existing Chapter 138 Floodplain Management ordinance to comply with the updated Flood Insurance Study (FIS) and Flood Insurance Maps (FIRM) effective March 9, 2021 through the Ohio Department of Natural Resources (ODNR) Suspension of council rules is requested to avoid interruption in the City's participation in the National Flood Insurance Program (NPIP)

Building and Lands – March 1, 2021 at 7:00 p.m. A-21-11

Streets – March 1, 2021 at 7:05 p.m. A-21-12

The remainder of Council Committee Meetings for March 1, 2021 are cancelled.

Reports of the Administration:

Auditor Pittak: Their office continues to search for a replacement for Carol. They are in final rounds of hiring someone.

Treasurer Ramsey: Reminded residents that tax filing date is April 15.

Law Director Pecora: No report

Safety/Service Director Jeffreys: No report

Mayor Costilow: Noted that in two weeks we are going to possibly open the Council Chambers to meetings. Plastic guards have been put up, along with spacing. Being that we will be in Council Chamber, the Mayor's annual state of the city report will be provided that evening, which will be March 8. The Administration will still be remote. It could still be voluntary for Council members. They are still working on that with the IT Director.

Mrs. Wasilk said if anyone has any questions or suggestions about protocol, or anything, regarding this change to go back to meeting in Council Chambers, please let her know.

Mr. Janik motioned to accept the reports of the administration. Seconded by Mr. Heberling. Roll call vote 7-0 to accept the reports of the administration.

Mr. Dembinski motioned to adjourn. Seconded by Mr. Heberling. Roll call vote 7-0 to adjourn. The meeting adjourned at 7:50 p.m.

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Olga Sivinski, Clerk of Council

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Jennifer Wasilk, President of Council