

This meeting was in Hybrid Form (Council members and visitors in Chambers and all others via ZOOM)

Amherst City Council was brought to order in a Regular Session with President pro-tem Janik opening the meeting at 7:02 p.m. Also present in Council Chambers were Mr. Van Treuren, Mr. Dembinski, Mr. Cowger, Mr. Wachholz, Mr. Nahorn, and Mr. Heberling and Mayor Costilow. Present via Zoom were Assistant Law Director Ward, Law Director Pecora, Treasurer Ramsey and Auditor Pittak. Mr. Nahorn motioned to excuse Mrs. Wasilk from council chambers she had a letter on file and Mr. Jeffreys as he had a letter on file. Seconded by Mr. Heberling. Mrs. Wasilk was present via Zoom. Voice vote 7-0 to excuse Mrs. Wasilk and Mr. Jeffreys. Also present were council elect Mr. Winiarski, Mr. Britt Lily, Mr. Steve Peel, and many members of the Public.

The Prayer was invoked by Chaplain Nahorn, followed by the Pledge to the Flag led by Sergeant at Arms Dembinski.

Consent Agenda: Mr. Heberling motioned to accept the Consent Agenda as read. Seconded by Mr. Dembinski. Voice vote 7-0 to accept the consent agenda as read

Acknowledgement of the Public pertaining to items on the Agenda: Mr. Leonard Gilles of 6050 N. Dewey Road spoke regarding Lily's Gated Community. He questioned Mrs. Wasilk not being present and said he did not recognize anyone from the last time he was here for expanding of the trailer park on Dewey Road. Mrs. Wasilk was here then and the whole way that was passed and got through and pushed down Amherst's throat and the Dewey resident's throats; it was not zoned for what they made it into. If you look at past records, he is almost sure that someone on Amherst's Board ended up going to jail for being a little deceptive. This trailer park was put in in the middle of the night, it was not zoned for that. There was some land there that was zoned for regular homes, and no one had a problem with that. They pushed for 100 extra homes on a road that has one ingress and one egress. Within 200 yards of coming into Dewey Road there is a pinch point. There is a trailer home with nice people living in it, but they usually have cars sitting there and coming from the other direction, you can't see what's going on as far as traffic. We realized it became our responsibility to slow down for safety's sake. When these 100 trailers, mobile homes, whatever you want to call them, went in, there were no improvements to the road. That area was not zoned for that and now we're in the same situation and still only have one egress and ingress. He feels there is a safety issue. There should be consideration of how things got done in the past; how everything was put in and take a look at that. He felt Mrs. Wasilk should have been here. The Clerk explained that Mrs. Wasilk was in California with her son, whose wife just had a baby and had asked to be excused even before the request was submitted for this item. Mr. Gilles then felt this should have been tabled until she returned. Mrs. Wasilk noted that she is observing from where she is at. Mr. Gilles brought up Mr. Sanborn and said he was here at that other time and had stated that if the Council did not let this go through, they would all go to jail. He asked if anyone remembered that? The Clerk said she did not and felt a Law Director would not make a statement like that. Mr. Gilles also brought up Mr. Stumphauzer's name. The Clerk said Mr. Stumphauzer was elected later, after Mr. Sanborn was gone and Mrs. Wasilk pointed out that Mr. Anderson was here prior to Mr. Stumphauzer. Mrs. Wasilk noted she was on council during Mr. Stumphauzer's tenure. Mr. Gilles felt the minutes from that time should be looked at, but felt Mr. Sanborn had a major role in that trailer park going in. He remembers talking to certain people with his father present, who said they could not do anything as their hands were tied. The extra 100 trailers should never have been allowed to be put in there. The issue then and now is one ingress in and out and the safety of the people there.

Mrs. Cynthis McGuire said her mother is Delores Gilles and she owns property at 6024 N. Dewey Road. As a homeowner, on a street that has one entrance and one exit and is not even a two lane road, this is not a safe situation for an additional development going in to an area that is not zoned for this at this time and was not zoned for this intentionally in previous years. She believes the information about the mobile homes that were put in there was not done correctly and legally. She asks that Council takes a look at this situation, and decline putting in these mobile homes in that area.

Mr. Chris Thomas at 6014 N. Dewey which is the same side of the street as these neighbors who are with him. He met Mr. Lily and knows some of the council members. He has safety concerns with the ingress and egress. He asked about the infrastructure – sanitary lines,

storm sewers and electrical will be upgraded? He feels there are too many power outages on his street, at least 3-4 times a year. Will this tax the sanitary and electrical grid even more? He wonders where the ingress and egress will be there, and hopefully, not across the street from his home. He agrees that with many people driving in and out of Amherst Village, it can be treacherous at times. The people that live there are expected to obey the traffic signs and stop signs than more the others do. With a lot more traffic, people who may not know, may think this is an outlet. He is concerned about the new family who has children and the vehicles fly up and down the road. He would like to get some of this information and perhaps council can table this.

Mr. Jim Dubois said he and his wife Megan just moved into 6140 N. Dewey Road this past November. His concerns are the extra traffic from 100 more homes, so perhaps two cars per home, or more if someone else is also living in there. It was mentioned, the cars do fly through there and they are not allowed to have a fence per city ordinances. There are not even any curbs on the street. Is there any consideration to putting curbs in? Also, his car was broken into this spring, right there, where everyone is going through. He heard the noise and thought it was teenagers carousing, but the next morning found his car broken into and some items missing. No one knows who's back there and no one knows their neighbor. He knows the people who are here with him, and some of the people in the trailers whom they got to know while they walk through there summer nights. But there are so many people, we don't know who does and who does not belong. The concern about one ingress and egress is pretty valid.

Mr. George Rolin of 6120 N. Dewey Road said the road is pretty broken up now and something needs to be done with that. It is a shame to see more of our woodland being destroyed. He knows there are some environmentalists and conversationalists here and he would like to see that preserved. He is concerned about fire safety and also the ingress and egress. Some people have already driven into the guard rail there while turning in.

Mrs. McGuire pointed out there are only five residential homes on that road. The homeowners are present at this meeting. Their yards are small and there is no additional room to widen the road on their side. The streets are not two lane streets and they are not graded properly.

Mr. Janik pointed out this is the first of three readings. It's good that the residents are here to make their concerns known, and they will also hear the presentation on the development.

Mr. Leonard Gilles said the first development went in in the middle of the night, and with the second they were promised a barrier wall of either a nice row of trees or nice fencing. They were not allowed to be part of the decision on the trailer park. They got lied to and bamboozled. Now it's like the next row of being treated like we don't have any feelings for the place that we call home.

ORDINANCES AND RESOLUTIONS FIRST READING:

- (a) An Ordinance approving the 2022 Interim Budget; and declaring an emergency. (A-21-44)

Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Roll call vote 7-0 to pass to second.

- (b) A Resolution requesting that the County Auditor of Lorain County, pursuant to Ohio revised Code Section 5705.03(B), certify to the City of Amherst the total current tax valuation of the City and the dollar amount of revenue that would be generated by one (1.0) Mill for the purpose of providing and maintaining fire apparatus, appliances, buildings, and sites therefor for the Fire Department of the City of Amherst, Ohio Pursuant to Section 5705.19(I) of the Ohio Revised Code; repealing all Ordinances and Resolutions in conflict herewith; and declaring an emergency. (A-21-45)

Mr. Dembinski motioned to suspend all Council rules that this may be passed on it's first reading. Seconded by Mr. Cowger. Roll call vote 7-0 to suspend rules. Mr. Dembinski motioned to adopt. Seconded by Mr. Nahorn. Roll call vote 7-0 to adopt. Becomes R-21-05.

- (c) An Ordinance re-appropriating funds in various departments of the City of Amherst, State of Ohio Per the attached appendix "A"; and declaring an emergency. (A-21-46)

Mr. Nahorn motioned to suspend all Council rules that this may be passed on its first reading. Seconded by Mr. Van Treuren. Roll call vote 7-0 to suspend rules. Mr. Dembinski questioned that the title of the ordinance is different than it was presented to committee. He asked if we are re-appropriating or moving funds around. Mr. Pittak said we are moving funds around, moving them from the General Fund to the funds listed in the ordinance to cover us until the end of the year. They are not appropriating new funds. Mr. Dembinski motioned to adopt. Seconded by Mr. Heberling. Roll call vote 7-0 to adopt. Becomes O-21-42.

- (d) An Ordinance authorizing the Mayor to enter into a contract for professional services with Bramhall Engineering & Surveying Company relating to the 2022 Street Rehabilitation Program; and declaring an emergency. (A-21-47)

Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Heberling. Mr. Cowger motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes O-21-43.

- (e) An Ordinance approving the final development plan and Owner's/Developer's Agreement for Lily's Gated Community and rezoning and approving Lily's Gated Community as a Planned Development District. (A-21-48)

The Clerk read the title and then discussion ensued. Mr. Lily explained in greater detail the plans for this development. He displayed drawings of the layout of the area of the proposed homes and explained how the property will be developed. Some residents asked some questions during this presentation. This was followed by a presentation by Mr. Steve Peel of Skyline Homes of the interior and exterior of the homes, with drawings of all. He provided packets to some of the residents. He spoke of their buildings and the building practices they use. He answered questions presented by the residents.

Mayor Costilow spoke at this time and explained tax laws regarding these modular homes. He explained that this has been through an extensive planning process. This has been through Planning Commission; and every department head gets a chance to ask questions and work with the developer and decide whether it's adequate or not. He spoke further. There are no plans for widening Dewey Road at this time. He said a study was done by the developer with TMS, a company that the city works with. The study is very readable and reliable. They talked about the road being adequate for the traffic, but there is a need for a turning lane and some site view clearances at that intersection. This is not just due to the new traffic, but existing traffic. So the city is willing to work with the developer and the developer is willing to contribute a significant amount of money for those improvements and allow the city to make those improvements so we know it will be a reliable project. He does not see the need for widening at this time, but look for improvements to be made; paving, some stormwater changes. But not widening. There are some needs in the area of adequacy of the sanitary sewer as they exist. Some studies that were done show that it's in the lift station itself. New developments with plastic pipes and the way they are sealed, is not really a huge burden on the system because you are getting nothing by the sewage from the house, not litter and leaves and such. He explained further. The developer will contribute funds for the improvement. He can provide residents a copy of the traffic study. Many of the same questions get asked with any new development. He is very proud of working with the concerns of the neighborhood and getting with the developer and address these concerns. He does support this project. He answered some of the concerns stated this evening. Mrs. McGuire said there was not enough room for vehicles to pass large trucks, such as a garbage truck. Mayor Costilow said we would work through all these concerns. He stressed that this is Planned Development District and nothing can be changed from the plans. He noted that there had been talk about storage units coming to this piece of property and it's zoned properly for that. As far as snow removal, he wished they would call his office if they feel they have an issue with proper snow removal; and with any other services provided by the city. Mr. Gilles stated additional complaints about the previous development and Mayor Costilow said it's different now with Law Department and tools and courts of law so that things are done correctly. Mr. Dubois would like to see these promises made in writing. The residents continued to comment on safety and other concerns. Mayor Costilow said if the road is ever widened, he could not say at this time which direction the road would be widened if it came to

that, but the traffic study does not state that the road needs to be widened at this time. There are contingency plans in case of fires or other emergency situations. Commenting to Council, he stated that they have seen him work with other developers. They know the effort that goes into this during Planning Commission. They know they have his commitment to work through these concerns of these residents. He promises that he will hear the concerns and do the best he can to make them the best situation possible. There are two more readings after tonight's meeting, and he invites anyone to come to his office to express their concerns and he will do his best to find a solution to the concerns. There are other uses for this land, but this is the best use. Schools and the city will benefit from these tax dollars. This is a form of bringing affordable housing to the seniors of the city. He supports this and hopes it goes on the next reading.

Mr. Nahorn said we have received quite a bit of information this evening and he heard many concerns. Community involvement is very, very important. When he was sitting where the audience is sitting, he remembers the similar situation with the development behind his home. That area had also been zoned commercial so they were very concerned about what might go in there. It eventually became residential. He had spoken many times to the Mayor about that development. He said speaking as a resident and now a councilman, Mayor will listen to their concerns. As Mayor said this evening, the residents may not like hearing what he says, but he will give them the facts of the situation. He will try to address all the concerns. This is a commercially zoned property so going from a wooded area to a residential project that has been proposed this evening is a major step. But at the same time, we have to remember that it is zoned commercial, so the possibilities of what could have been put there and the traffic that could have been coming in and out with a commercial development – this actually would be a relief to him. One of the major concerns brought up is the width of the road and the status of the road, so he would just continue to echo those concerns and work with the Mayor's office and street department to make sure that road would be adequate for any development there, and that it would be maintained properly.

Mr. Van Treuren motioned to pass this on to its second reading. Seconded by Mr. Cowger.

Mr. Dembinski thanked the residents for attending this evening. He said he was able to answer some of the questions brought up this evening. The property was purchased in 2018. We do not have an ordinance enforcing 55 and older communities because that is handled at the state and federal level. In order to get that designation, Mr. Lily will have to submit to the state some requirements, the state would have to approve it, and if the state approves it, he will get that designation. If he gets that designation, he or the management will have to report to the state explaining how many people live there and their ages. A 55 and over community is 80/20. So, 80% of the residents would have to be over 55 or older, per federal minimum. So 20% of the people have no restrictions. His concern is if we approve this tonight and Mr. Lily does not get the designation, what will happen? He does not know if the 55 and over is built into the PDD, he does not believe it is. If Mr. Lily is denied these, he believes he could build all these homes and they don't have to be 55 and older. This is his interpretation. Another concern is that he really does not know what is being built. When a PDD is submitted, there is required a sketch or elevation of the proposed buildings. The pictures submitted to the Planning Commission in January, do not match the ones presented to council this evening. When he asked the Building Department, he was told that there were five manufactures listed. Of the five, only four are manufactures, one is a retailer. Of the four manufacturers, there are 536 different models which could be built, because of the way it was presented to Planning Commission. That is a lot of variables for something that is supposed to be very tightly controlled. Another concern in – should these even be allowed? In 1987 Amherst prohibited trailer parks and mobile homes. There are a lot of definitions on what is a mobile home, manufactured home, or trailer. In 1976, HUD stepped in and set the standards that need to be met of what a manufactured home should be. So since 1976 is the manufactured home. Last week in committee we heard that Amherst Village is replacing mobile homes with manufactured homes – they have to as that's all they can buy. Then he checked the U. S. Department of Housing and Urban Development and it specifies what is a manufactured home. It says that a manufactured home is formerly known as a mobile home and lists specifications. HUD continually refers to them as mobile homes. He knows this is not a variance request but one of the things that is considered in a variance request is the spirit of the law. Considering HUD calls them mobile homes, the manufactured refers to them as mobile homes, and that we have an ordinance that says we don't allow mobile homes, to him, in the spirit of the law, this should not be allowed. His last concern is the

PDD. When the PDD was proposed and passed, "it would open the door to a lucrative mixed shopping and housing type development like Crocker Park." To him this is not a Crocker Park type development. Mr. Lily had stated when he purchased the property that he purchased it for a residential development. He thinks that's a dangerous and slippery slope. Developers are purchasing land in Amherst with the intention of ignoring our zoning code because we can just make it a PDD. He does not think this should be encouraged or done. Our zoning does exist as a safeguard to our residents and we should not encourage others to violate those.

Mr. Peel said when HUD changed the standards for mobile homes it changed the construction techniques. The difference between a mobile home and manufactured home – it's all in the same. It is the same thing. So as our industry progressed over the years, we found a new and different way of saying the same thing. It's a house built in a factory. So we can call it a manufactured home, a mobile home, an offsite built home. It's all the same. It's still the same house. He can provide specific drawings if they wish to see them. He can also provide a government approved systems manual for what they build, and there is no variance in that. He can provide all this information. Mr. Dembinski said it was not a question as to these are build to standard, but the fact of following our city ordinances that mobile homes are prohibited and no variances are allowed. Also what is being built has not been submitted to the Planning Commission. He also has issues with the 536 different models. Mr. Peel said the difference could be just that one home is one bedroom and another is two bedroom; one front door is here and another is there. Same house. If he took ½ the flips, it's 536 to 250, if he took side to side, now he is down to 125. It would take him no time to get down to 43 real floor plans that they have. Typically in the drawings, they have the same three models which they sell over and over. Mr. Lily said this C-2 property, he looked at putting in storage units, several hundred storage units, easy for him to do. No headaches, no people to deal with, no Council to deal with. He is a resident of Amherst and he does not like that over there; it is not good for the neighbors. He does like the affordable housing for the seniors. He sees a lot of affordable housing in other states, where residents can live in both places at the same time. They don't want to deal with steps, they want one floor housing. It's already zoned for storage units. Maybe that's what the residents want him to do? He does not want to do that. He wants something nice, creative and pleasant for people to live in. You are exaggerating about the models and the 500's. He submitted to Planning Commission maybe six or seven with garage options. Some without garage options. Because he did not want to pigeonhole himself when he wanted to pick from three units. The house footprint and the way it's built, does not change. It's not a mobile home – that's an exaggeration. Federal code even states how these are to be built. These are built with 2 x 6 walls, better than the stick homes that are getting built right now. 2 x 4 walls with 1/8" Masonite on the walls. His is a much better product, he is an engineer and has done his homework. The density is way less than what's going on right now. He likes this product and he will do a good job on this product. There will be three models, four at the most, not 500 choices. They have three colors to choose from. That was already submitted. He is telling everyone the clarity of it. Mr. Dembinski said he is using the definition from the U. S. Department of Housing, which defines manufactured homes and it's calling them mobile homes, and what the Building Department told him today, which was that any of the models that were manufactured that were submitted are approved. Mr. Lily said they went over this with the Law Director and these are not considered mobile homes. We did the research on the Federal Code. Let's stick with where we are at and not come up with something new.

Mr. Heberling said last week he seconded Mr. Dembinski's motion to kill this proposal. He also seconded and participated in the possibility to continue discussion this week. He also took it upon himself to visit residents of Amherst Village. He had stopped at the resident's homes while going door to door during campaigning but never to talk about issues they have in their community within their development regarding their homes and issues they may have with the management that's on the land. He reached out to some of the residents this past week to help solidify his position on Council. He feels it's in our best interest to represent our constituents. He compiled a presentation. One of the major concerns the residents had in that development was the three streets lights that are currently out and have been out over a years. Management has been contacted by several resident and nothing has been repaired. He also reached out to management and they still are not fixed. They are on Cesare's Circle. Streets are rarely plowed when there are major snowstorms. He heard this going door to door - no snowplows are going down their streets. His mother also lives there and he knows for sure that they do not see the street cleaning that they should see. Only when there is a major snowstorm do they have plows going through there. He has seen this in person

himself. Another issue, as especially related to this development – slabs that are settling over the years since they have been installed under the mobile, modular whatever you want to call them, homes. These homes are set on these slabs and they have been cracking which has been causing issues to the modular homes themselves. Management claims that it's on the homeowner to repair, not on management or the landowners. When a person purchases those homes in that development, they are purchasing the home itself and they do continue rent the land from the landowner. He would think that would be cause for the landowner to make those repairs. The homeowner can remove the home from the property if they wish. The slab that the house is placed on, either due to land issues or water erosion is now falling on the homeowner to repair those and incur the costs. So the homeowner is left not only with a mortgage but with lot rent fees, and the taxes on the property. Taxes are incurred half by the homeowner and half by the land itself. But the difference that makes up for that person that owns that home, that is set on that property, the lot rent that they pay on average right now is \$403 per month, far outweighs and is way more expensive than if they also were covering for the land taxes. So that is not a savings for the home that is sitting on that lot. The homeowner pays an estimated \$432 in taxes per year. The lot rent fees currently are \$403 a month. This does not include the home mortgage. Last year the rent increased by \$15. One of the issues that had been brought up is the fees and how they are imposed. On average, it has gone up \$5 to \$10 a month each year. One of the residents had all his bills and in 15 years it increased over \$100. So this increase is just in lot rent. That lot rent does not go away, even when the home is paid off. So the residents of Amherst Village are not happy with the management. Obviously, for this Lily proposal, it will be a different management. But this is what residents over there are unhappy with. Personally, for him, he does not feel this is the best option for the residents on N. Dewey, the residents of Amherst Village and the possible residents of Lily's proposed community. So for these reasons he will not support this ordinance. Roll call vote 4-3 with Mr. Dembinski, Mr. Wachholz and Mr. Heberling voting no. This passes on to second reading.

ORDINANCES AND RESOLUTIONS SECOND READING: NONE

ORDINANCES AND RESOLUTIONS THIRD READING: NONE

Miscellaneous and acknowledgement of the public:

Request for C1, C2, D6 liquor license for Celeste, LLC, (Nate's Marathon at 960 Leavitt Road.

There were no objections to this request.

Agenda requests and committee meeting schedules:

These were presented the following week:

A-21-49 Finance - An Ordinance authorizing and directing the Safety Service Director to solicit bids for the Milan/Cleveland Ave. road repair improvements and repairs; and authorizing and directing the Safety/Service Director to award the contract for such work to the lowest responsive and responsible bidder; emergency

A-21-50 Ordinance – Declaring the ward boundaries for the City of Amherst

Finance December 6, 2021 at 7:00 P.M. A-21-49

Ordinance December 6, 2021 at 7:05 p.m. A-21-50

No other committee Meeting scheduled for 12/6/21

Reports of the Administration

Auditor Pittak: No reports

Treasurer Ramsey: No report.

Law Director Pecora: No report

Safety/Service Director Jeffreys: No report

Mayor Costilow: Announced that the assessments for the Police Chief and Lieutenant were given over the weekend by the Ohio Retired Police Chief Association. This lasted for two days. Those results will be in tomorrow and in front of Civil Service for their certification. So tomorrow at 5:00 p. m. the announcement on our new police chief and new Lieutenant will be made. And again, any concerns about the Lily Development, please call or see him.

Mr. Cowger motioned to accept the Reports of the Administration. Seconded by Mr. Wachholz. Voice vote 7-0 to accept the Reports of the Administration.

Mr. Heberling motioned to adjourn, seconded by Mr. Wachholz. Voice vote 7-0 to adjourn. The meeting adjourned at 9:17 p.m.

Olga Sivinski, Clerk of Council

David Janik, President Pro-tem of Council