

March 14

22

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 Wasilk opening the meeting at 7:00 p.m. Also present in Council Chambers were, Mr. Janik, Mr. Winiarski, Mr. Dembinski, Mr. Cowger, Mr. Wachholz, Ms. Smith, Mr. Heberling and Mayor Costilow. Present via ZOOM were, Treasurer Ramsey, Law Director Pecora, Auditor Pittak, Safety/Service Director Jeffreys. Assistant Law Director Ward was absent and had a letter on file. Mr. Dembinski motioned to excuse Mr. Ward as he had a letter on file. Seconded by Mr. Cowger. Voice vote 7-0 to excuse Mr. Ward. Also present were Miss Bellla Dellipoala, Police Chief Cawthon, Patrolman Waryu, Mrs. Kim Haney, Mr. Shaun Brady and many residents from Jackson Street.

The Prayer was invoked by: Chaplin Janik, followed by the Pledge to the Flag led by Sergeant at Arms Dembinski.

Consent Agenda: The Clerk read the 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: There was no one speaking.

#### **ORDINANCES AND RESOLUTIONS FIRST READING:**

- (a) An Ordinance re-appropriating funds for the CDBG Kiddie Pool and Parking Lot Projects; and declaring an emergency. (A-22-15)

Mr. Winiarski 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. Cowger motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes 0-22-08.

- (b) An Ordinance transferring unused monies for the CDBG Kiddie Pool and Parking Lot Projects back to their respective originating funds; and declaring an emergency. (A-22-16)

Mr. Dembinski 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. Dembinski motioned to adopt. Seconded by Mr. Cowger. Roll call vote 7-0 to adopt. Becomes 0-22-09.

- (c) An Ordinance approving the amended final development plan for the Eagle Ridge Subdivision; and declaring an emergency. (A-22-17)

Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Heberling. Mrs. Beverly Salerno, 315 Pebble Creek Court which is in the Reserve of Beaver Creek. She is the newly elected president of the Homeowner's Association as of 2/17/22. She just learned today that the developer does not want to repair the streets; because they are cosmetic and they are crumbling. She thinks it's the same developer that is doing Eagle Ridge Subdivision. She felt it was important to bring that up to Council. She invited everyone to come to their neighborhood, where they will strive to be the best community in Amherst. But they will have to pay for those private streets, and the developer is not finished there yet. She does not even have grass seed on her lawn and she's been there since October. They have drainage and street problems. Mrs. Salerno has pictures that she will e mail to the Clerk of Council. Roll call vote 7-0 to suspend rules. Mr. Dembinski motioned to adopt. Seconded by Mr. Winiarski. Roll call vote 7-0 to adopt. Becomes 0-22-10

#### **ORDINANCES AND RESOLUTIONS SECOND READING:**

- (a) An Ordinance forming an advisory committee to Identify and assess annexation opportunities and make recommendations regarding such opportunities to the Annexation Committee of Amherst City Council. (A-22-03)

Mr. Winiarski thanked council for the opportunity to explore and learn more about committees and subcommittees and after attending a class this weekend, he learned that there is a better avenue to achieve what he is hoping to achieve here. That does not include the design that he has for City Council. He motioned to kill this item. Seconded by Mr. Dembinski. Roll call vote 7-0 to kill.

- (b) A Resolution recognizing and commending Geralyn Rice for her years of service to the City of Amherst, Ohio organizing and coordinating all parades within the city. (A-22-09)

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

- (c) An Ordinance authorization the Ohio Department of Transportation (ODOT) to perform maintenance work on SR 2 during the summer of 2023; and declaring an emergency. (A-22-14)

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

#### **ORDINANCES AND RESOLUTIONS THIRD READING:**

- (a) 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, 2022, repealing all ordinances in conflict herewith; and declaring an emergency. (A-22-07)

Mr. Dembinski motioned to adopt. Seconded by Mr. Cowger. Roll call vote 7-0 to adopt. Becomes 0-22-11.

- (b) A Resolution recognizing and commending Bella Dellipoala for her bravery and willingness to act calmly and quickly while assisting and helping an Amherst senior citizen in the City of Amherst. (A-22-08)

Mr. Janik motioned to adopt. Seconded by Ms. Smith. Roll call vote 7-0 to adopt. Becomes R-22-02.

Mayor Costilow immediately signed the Resolution. Mr. Janik said that we are here to honor and officially thank Bella Dellipoala for her act of bravery. He also thanked Ms. Kim Haney who was the instructor of the Med Tech program. She has been teaching for many years about medical and the background of medical and getting them started on those ways. She also teaches them about how to care and helps them shape their ethics. Mayor Costilow thanked everyone for being here and he read the Proclamation and presented it to Ms. Dellipoala. There were pictures taken of the two of them. Then Police Chief Cawthon spoke and said Bella did a phenomenal job that day. He presented Bella with an envelope with an award from an anonymous citizen. Chief Cawthon introduced Officer Jacob Waryu who responded to this incident when an older citizen fell and could not get up and Bella helped her and he kind of kicked this recognition off by sending an e mail to Mrs. Haney. They were here to support Bella. There was large rounds of applause. The resident that Bella helped could not be present this evening.

Miscellaneous and acknowledgement of the public: There were many residents here to speak to a derelict home at 167 Jackson Street. Mrs. Kelly Post of 321 N. Lake was representing her father, James Todhunter of 171 Jackson Street. She said that the neighbor, Mr. Sherwood Smith of 167 Jackson, lives north of her father's house and the home has been allowed to get into in a deplorable manner. They have documentation back to 2013 to bring this to attention with phone calls, speaking to council representatives. She has presented a packet of information documenting the issues. (on file) Her elderly parents have to worry about their dog going out as there are so many rodents in and around the house. They are now looking to Council for guidance as nothing has been resolved in the past 10 years. Mr. Bukovac provided the ability so the pictures on their flash drive can be shown on screen. Mrs. Susan Conkle of 161 Jackson St. and lives to the north of the property. They felt they needed to come to Council, especially since Sherwood Smith spent \$20,000 to get his property out of the Sherriff's sale that was going to happen this month. They thought this would be a solution to this problem and get the property cleaned up and taken care of. The front of the property only looks perhaps mess, but when you walk around the back and see

what's back there, and inside (doors are missing), you see a hoarder house. There are cats and rats going in and out and who knows what else. She described the caved in roof and water pouring into the house. She spoke of the awful smells coming from the house. She said the homeowner is not around. He had promised to clean it up, a dumpster sat there for some time and nothing was discarded. The garbage in front of the house was never moved. The property is overgrown with grass and weeds and piled up garbage is visible through the windows. This environment does not even allow you to sit outside in your own yard. She asked if council would put up with this as they have done? Mrs. Conkle spoke to the slides of the house being shown on screen. She provided description of the pictures. After viewing the slides, Mrs. Post asked what they can do? She has worked with colleagues and friends from Lorain and is aware that if this house was in Lorain, it would have been gone, for sure. They just don't tolerate it, and she does not understand how we can. Mrs. Conkle invited everyone to drive by and look around and implored for the city to help. Amherst can do better for the citizens of Amherst

Mrs. Linda Turley, 111 Jackson Street, being a former Clerk of Council was requested to check on some ordinances regarding the situation. Concerning vehicle storage, 1121.07. It is very specific about how long tags can be expired. Those vehicles sat there since 2019 without proper tags. Mrs. Turley went on what she considered a goose chase or procedures she needed to follow. Once he is charged into court, he pays these little fines and the cars continue to sit there. Someone finally came and bought the vehicles and that's how they were removed from the property. 5570.03 provides that grass needs to be cut. Once it reaches the point where the City mows the grass, the grass is not being mowed properly by the City, there are still weeds growing, and they are also not mowing the back of the property, just the front. Another concern in 5570.03, which speaks to litter, waste and garbage in the yard. That should be a no brainer. Again, it's very specific as to how to take care of the problem. She had talked to Patrick Ward about this, but he felt the mowing of the grass was government overreach. So she does not have much hope that we will take care of 5570.03. The other ordinance maybe we can go after is 1353.04 regarding fire hazards. She believes Dave Macartney told her they cannot go inside the house, but they saw the slides showing the interior of the house and the house is a fire hazard. If it ever catches on fire, both neighbors will have problems. There are so many ordinances on the books, there is even one about having insect screens in your doors. She can't believe we live in this city and pay all these taxes and can't follow any of these ordinances. It does not make sense to her.

Mr. Heberling thanked them for coming this evening. He said he had been contacted last summer about this issue. He did not know what to expect but did not think it would be as bad as it was. He took some pictures. While they were talking, they could something going on in the window, and it was not a cat. They were telling him about the situation, but actually seeing this in person, he was quite surprised. Part of the roof is caved in. He believes some of the floorings are deteriorating as well. It's bad. He contacted Safety/Service Director Jeffreys and they have had back and forth conversations. He has expressed concern and we need to do something if we can.

Mayor Costilow thanked them for coming and said they are aware of the situation. The biggest hope was when it went up for Sherriff's auction. These things all take time. Property Owners also have rights. The owner makes promises, pays his fines, we charge him again and it continues. It is a constant revolving door with this property. We were looking at some other processes, there is a way to get receivership. We were in that process when the county was going to do the Sherriff's sale. So we stopped that, and now have to begin that process again. Every time we get to a point, we fine him, he pays the fine and we have to begin all over again. The receivership looks promising. It's more of a county court than municipal court. With getting the receivership, we make the repairs and it goes on the tax bill. We put in a lot of dollars already to take care of this. Unfortunately, landlords have rights too and sometimes they use them like this. Most people take care of the issues right away. They get the letter and take care of the issue.

Mr. Pecora said the owner is current on his taxes, the house is not legally abandoned under Ohio law. Neither can the city blight the property and seize it via its land bank, even after all this time of complaints. The Municipal Court's power to order repairs is also limited by statute and the Constitution. The city can only tear down the house with a court order. It needs to be a public safety hazard. He spoke about the individual rights of property. The property owner has a right to make the repairs. The city has to dot their i's and cross their t's to

ensure that the property owner's rights per the constitution were protected. They will do whatever they can to fix this problem.

Mrs. Wasilk said it has been brought to her attention that the City of Lorain has ordinances in place that allows them to tear down homes and clearing the lots in this type of situation. She wondered if this is a different situation because those home are abandoned in the City of Lorain and this home is not abandoned? Mr. Pecora said we need to be very careful to avoid lawsuits if you violate constitutional laws.

Mrs. Turley noted that the city was ok by going onto his sidewalks and repairing those and putting those on his tax bill. Mr. Pecora said we are not taking his property, we have ordinances pertaining to sidewalk repairs as this is safety issue. Mrs. Turley felt that this was also a safety issue. They are not asking to take his property, but to get it fixed up. Mr. Pecora said the sidewalks are in the public right of ways. The question is whether this is a public nuisance. Whether this is a safety issue. He said the city cannot make a decision to tear this home down. A court has to establish and order that. We need to follow the correct process and statutory schematics. The city understands the issue here, but like the Mayor said, we need to follow the process. The owner has due process rights. We have to allow him to appear in court and explain the situation.

Mrs. Wasilk noted that the reason the city was able to take care of the sidewalks is because they are in the city right of way. So the city has some owner privileges of them. The other question about the abandonment of the property, which this is not. The taxes are paid, so actually this property is not abandoned.

Mr. Heberling asked if there was any finding when the Board of Health came to view the property as he has not heard anything. Mr. Pecora said he was not sure of the findings as he does not have the information.

Mrs. Conkle asked about the letter posted on the door of that home last year in regarding to keeping up with grass mowing and if that will be enforced by the city? And that the total property be mowed? Mayor Costilow said typically that is handled by the street department and works well. It follows procedures but he will make sure that the total property is mowed. For some reason it has fallen through the cracks in regard to the mowing.

Mrs. Post said she understands his rights, but what about the rights of her parents when the temperature increases and the smell does as well. What is their rights to take care of that? Mr. Pecora said the city will be looking at this with the Building Department. There will be determination to see if this property is public nuisance. He spoke further to address what course of action the City can take. Mrs. Post asked how she will be informed on any progress. They are not allowing this to go away. Mr. Pecora said they will look at this at a more serious level. Mayor Costilow asked them to pick one person to be the contact and he will get the information and keep in touch. Mr. Heberling said again how bad the smell is. You do not have to be at the house, it is noticeable even standing in the neighbor's driveway.

Mr. Janik said he would have to agree that the smell could be an issue from a safety standpoint. There was a house on Princeton Circle that had extreme mold in it and it was proven that the safety of others in the neighborhood was being compromised due to the mold. Maybe someone can go in and actually do a mold reading. We do not want the neighbors' safety and health to be affected. For the adjacent property owners, this is ridiculous. From the pictures, it's evident that the property is abandoned. He does not care what description of abandonment you want to go with; there is no one living there except for critters and animals that are probably dead and the smell is in the air all around them. This needs to be taken care of as quickly as possible. There was a discussion about the home on Princeton Circle. Mrs. Wasilk said that home just changed ownership She appreciated everyone that came.

Agenda requests and committee meeting schedules:

Assigned this evening:

A-22-17 Police/Fire Renewal of Fire and EMS First Responder agreement between the City of Amherst and Amherst Township expiring May 31, 2022

Assigned later in the week:

A-22-19 Finance Resolution authorizing the Safety/Service Director to participate in the Ohio Department of Transportation winter contract for 2022-23 with emergency

Police and Fire – March 21, 2022 at 7:00 p.m. A-22-18  
Finance - March 21, 2022 at 7:05 p.m. A-22-19

The remainder of Council Committee Meeting for May 21, 2022 are cancelled.

Reports of the Administration:

Auditor Pittak: Reported the February reports have been distributed. He is happy to report that Paul Jackson is our new Deputy Auditor in training. His position will be effective June 1.

Treasurer Ramsey: The February reports have been distributed. Taxes are due April 18 this year. The website has been updated to explain any extra costs.

Law Director Pecora: No report

Safety/Service Director Jeffreys: No report.

Mayor Costilow: Reminded the residents of Jackson Street to provide the Clerk with one contact person, and he prefers to have their phone number. Reported the State of the City report will be presented at the next council meeting.

Mr. Cowger motioned to accept the reports of the administration. Seconded by Mr. Dembinski. Voice vote 7-0 to accept the reports.

Acknowledgement of the receipt of Auditor and Treasurer February 2022 reports:

Mr. Cowger motioned to acknowledge the Auditor and Treasurer February 2022 reports. Seconded by Mr. Dembinski. Voice vote 7-0 to acknowledge the reports.

Mr. Heberling motioned to adjourn. Seconded by Mr. Dembinski. Voice vote 7-0 to adjourn.

The meeting adjourned at 8:00 p.m.

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Olga Sivinski, Clerk of Council

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Jennifer Wasilk, President of Council

