

February 26

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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. Nahorn, Mr. Janik, Mr. Heberling, Mr. Winiarski, Mr. Dembinski, Ms. Harmych, Mr. Wachholz. Also present were Mayor Costilow, Safety/Service Director Jeffreys, Auditor Phillips, Treasurer Ramsey, Law Director Pecora, a member of the police department, Mr. Richard Sommers, Mr. Greg Sommers, Attorney John Monroe, Mr. Aaron Appell from Bramhall Engineering, Mr. Andrew Comer of TMS Engineers, Inc., and many residents.

The Prayer was invoked by Chaplain 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 approve the Consent Agenda. Seconded by Mr. Dembinski. Voice vote 7-0 to approve the Consent Agenda.

Acknowledgement of the Public pertaining to items on the Agenda: There was no one speaking.

ORDINANCES AND RESOLUTIONS FIRST READING:

- (a) 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 2024 at a cost not to exceed \$90,000.00; 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-24-12)

Per the Mayor's request, Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Wachholz. Roll call vote 7-0 to suspend rules. Mr. Nahorn motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes 0-24-06.

- (b) 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, 2024, repealing all Ordinances in conflict herewith and declaring an emergency. (A-24-13)

Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Mr. Winiarski went over the proposed budget and commended the Treasurer, Auditor, and Mayor for the great work in keeping our finances in such good order. There was a discussion on carry-over funds, general and other funds. Mr. Winiarski asked about the Park Funds and Mayor Costilow explained. Roll call vote 7-0 to pass to second reading.

- (c) An Ordinance authorizing and directing the Safety Service Director to solicit bids for the 2024 Street Rehabilitation Program 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-24-14)

Per the Mayor's request, Mr. Nahorn 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. Wachholz. Roll call vote 7-0 to adopt. Becomes 0-24-07.

- (d) An Ordinance authorizing and directing the Safety Service Director to solicit bids for the OPWC State Issue 1 – Round 37 North Ridge Road Improvements Project 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-24-16)

Mayor Costilow said this project is ready to be bid. This is for the construction of N. Ridge and Dewey Road. Mr. Nahorn 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. Nahorn motioned to adopt. Seconded by Mr. Wachholz. Mr. Dembinski clarified that this is resurfacing of the whole road, not just the small portion at the corner of N. Dewey and N. Ridge. Mr. Appell said the total length of the project is 6,500 feet, from Rt. 58 to the city limits

of Oberlin Road. Mr. Tom Lyman of 45610 N. Ridge Road asked if the curbs will be removed to install sewers or just the resurface. Mr. Appell of Bramhall Engineering said this is predominantly a resurfacing project. Some storm water improvement will be done at S. Dewey. Then at N. Dewey, they would modify and replace some of the storm sewers out there. Curbs will be replaced and some minor driveway work will be done and traffic signage. Mr. Lyman said the trailer park has issues with water coming down the hill. Will this stop this from happening? Mr. Appell said they are not going to be working with N. Dewey except for this intersection. Once the develop finishes his project, there may be some additional improvement that may help that problem. Roll call vote 7-0 to adopt. Becomes 0-24-08.

- (e) An Ordinance approving the Final Development Plan for the Quarry Creek Residential development and rezoning and approving such development as a Planned Development District. (A-24-15)

Mayor Costilow spoke about sprawl. Typical sprawls will become a thing of the past. He spoke about the positive effect on the environment with these newer developments. He spoke on effects from roads and the water retention, and the sewers needed. Those kind of things end up in the creeks and rivers. He spoke about the amount of sewer pipe you put in the ground and then maintained by the city. As far as Home Owner's Association (HOA), it's almost impossible to build a development without HOA. He explained further. Developments of these communities are also a benefit to the city as far as the maintenance of the streets. The people who build these communities like to manage the streets the way they want. Another benefit to the city is that we don't have to put any more dollars into these streets. They are taken care of by the residents that live there. If these 170+ homes were built on typical lots, you would have four times more streets that the city has to take care of and repave in the future. We just passed a million dollars road improvement ordinance for our streets and if you had to add these, the cost would be so much higher. There are a lot of benefits to this development. There have been studies done on various aspects of this project.

Mr. Aaron Appel of Bramhall Engineering, they are consulting engineers for the City of Amherst, said this project was begun a few years ago as a mobile home park community. Then it was resubmitted earlier in 2023 as a town home high-density development. There were traffic impact studies done for both options. The September 2023 is the latest copy with some minor items they do want to address but feel they won't impact the results of that study. That study required at 150 foot long left turn lane on N. Ridge Road at Dewey. That is designed for a 35 mph speed and that is the speed posted there and that is the minimum requirement. The improvements they are doing on N. Ridge Road will be as if it were a 40 mph speed limit so the (but the speed limit will remain at 35 mph) to provide for additional safety and the left turn lane will be 215 feet.. Additional signage will be provided out there for safety, warning of the South and North Dewey roads. There is a reflectivity that goes into the signs as well. A member of TMS is present to speak of additional safety measures. More information will be coming shortly. He spoke of removing additional vegetation to improve sight lines as well as regrading that intersection. He spoke further about improving the sight line at the intersection.

Mr. Andrew Comer of TMS Engineering, Twinsburg, Ohio spoke and said they are currently in the process of conducting a traffic study to analyze the traffic at the intersection of N. Dewey and N. Ridge Road. It's currently controlled by a stop sign on the minor street approach. The traffic study showed from a capacity and level of service that this was an adequate control. They are going to look at it from a standpoint of safety as well as requirements found in the Ohio Manual of Uniform Safety Control. He explained further what the study will provide as far as requirements. Mayor Costilow hoped this shows that they are doing everything to keep this intersection as safe as possible.

Mr. Winiarski asked about the different kind of traffic studies. Mr. Comer explained the present traffic impact study and what it entails, including for upcoming years. Mr. Winiarski discussed the various "known" and "unknown" acreage and asked if those have been incorporated into the study. Mr. Comer said those specific ones have not. Their study will try to account for additional development by including a projected growth rate. He spoke further. Mr. Appell also explained further.

Mr. Dembinski asked about the possibility of connecting N. Dewey and Spruce Tree Lane. It would alleviate some of the concerns of these residents and provide our safety services another ingress and egress to both of these developments. Mayor Costilow said that has been tried before and all of Rock Creek Run came in and opposed that. The developer has brought up the possibility of a walking bridge. He explained what that involves. Mr. Dembinski and Mayor agreed that this could be a positive thing, but our police and safety forces do not believe this development will cause any problems. Mrs. Wasilk thought this road was vacated. Mayor explained that this developer owns the road. Mr. Janik said in relation to the safety/services, when Dodge Drive was being opened to Northpoint Subdivision, the residents of Dodge Drive did not want to open it up. He feels from the safety and services perspective it was important to open it up. With these proposed buildings so close together, worries him and he thinks having two points of exit/entrance would be great. Mayor Costilow explained that with Dodge Drive, there was always a breakaway gate. He explained further.

Mr. Richard Sommers of 10585 Sommerset Drive, Chardon said they were many questions by the public and council that they would like to address. He said they are willing to work on creating a public access, if it's warranted and the community feels it would be an asset. They own the land abutting Spruce Tree Lane and they are willing to discuss an emergency access. This is a new idea and they are willing to talk about it down the road. He introduced Mr. John Monroe, Attorney at Law from MansourGavin, 1001 Lakeside Avenue, Cleveland, Oh who explained how this development is proposed. He explained the steps of the declaration of convenience and restrictions. He explained how HOA rules are to be followed in subdivisions. Working with many national homebuilders, they have the HOA down to a science. They make the rules enforceable, strict, so that everyone knows the rules of the game before you buy the house in that development. He explained how PUD's work and what needs to be done, including the funding for the developments. This development will have four phases. This is a very controlled subdivision. 5312.01 through 5312.16 was adopted by the Ohio legislature which described what HOA's can legally do which is backed by the legislature. He spoke further on this topic as well as the process of PUD's.

Mr. Winiarski asked what assurances they have that the HOAs will continue. That they just won't walk away. Mr. Monroe said the streets, once completed, they will be deeded over to the Association. The city will make sure they are built to specs. By that time the project is complete, the HOA should be very well funded to take over the responsibilities. He explained further. Mayor Costilow said somewhere in the language of the deed, it explains that if the HOA goes defunct or does not follow its responsibilities, the city can go in and make all the improvements and assess each individual homeowner. The city will accept the sewer, the water and electric. Not the streets. They belong to the HOA. The city has used this process before in another development, but that HOA chose to make repairs on their own. Mr. Winiarski said he got the latest update and he believes it speaks to the storm water, but not to the streets. A discussion ensued. Mr. Sommers said this is still a proposed agreement, subject to items like this. He has no problem over the streets as discussed. They will continue to "tweak" the developer's agreement. Mayor Costilow said Mr. Winiarski's question is answered per section 24. Mr. Winiarski asked what would happen if the HOA goes defunct. Mr. Monroe explained how the budget for the development is figured out. There should be adequate funds to address most issues. A professional management company will be brought in. They will set aside money for large ticket items. He continued to explain. Mr. Winiarski asked what keeps them from going belly up and telling the city to take over the streets. Mr. Sommers said there have been thousands of developments put in the city of Cleveland in the last 20 years. He is not aware of any one that has failed. It is in the best interest of the homeowner to continue to fund this to protect their interest. He said that is not a likely event. They use third party management that is bonded and insured. He does not think this is in the realm of possibility. Mayor Costilow said the city would be allowed to come in and do it and charge the homeowners for it. The law allows them to do that. Groups have come to him and asked for the city to accept their streets and they were told "no." Mr. Monroe said ORC 5312.01 through 5312.16 covers these questions.

Mr. Nahorn said his long term concern is that this property could be developed as a commercial entity. Having moved this item from committee to council floor, it gives council the ability to continue these discussions and to have to say in the way this area is developed. This is currently zoned commercial. There are other areas of town where commercial development abut residential properties. We are seeing some issues in a couple of particular areas. He does not want to see those issues continue. He named potential commercial businesses that could be built there. A developer would not have to come to council and have a discussion like we are having presently. An HOA is important as it does add that

extra level of governance. Mayor Costilow said it was mentioned about having a flashing speed sign for that area and he is looking into it. Mr. Dembinski concurred with Mr. Nahorn and does not feel this should be zoned commercial. Any development that would go in there would have to go through Planning Commission. So there would be a spot for public comments. Because this is coming over as a PDD, it is before Council and we can have this discussion.

Mr. Janik motioned to pass this on to its second reading. Seconded by Mr.

Dembinski. Mr. Winiarski asked about the set back and if Planning Commission waived that. And if it was waived, when did that happen? With offering extra help to the residents, we could attach such a list to Section 14. He asked if there is on street parking in this development? Mr. Sommers said at this time they are not proposing on street parking. Mr. Winiarski asked about the WWTP study. High end is 352,000 gallons a day with an anticipated daily 71,000 gallons a day. He understands that this not an issues. He asked if he was reading this correctly. This is specific to the development. Mayor Costilow said we have a large capacity. Mayor Costilow said there are improvements in line with the pump station. With the money the developer is bringing in, we are going to upsize the pipes and improve the station. Mr. Winiarski said we are voting on the plan and subdivider's agreement? That was correct. Mr. Winiarski said the study does not show the dates of the Planning Commission Meeting and he would like those dates. He asked about 1107.02 (b) (2) (8) as he does not see the (8) or if it was supposed to be the letter (B). Mr. Pecora will correct this. He asked about the Subdivider's Agreement where things cannot be done without prior consent of the city. He read the second part of that. He questioned the word "city" where prior it read "city council." Mr. Pecora said this references the city as a whole and would go to whichever authority of the city it would entail. The verbiage will be changed to reflect the answer to the question. Mr. Winiarski asked about the sunset clause – if building does not begin within a year. That directly conflicts with our ordinance. 1128.06. He questioned whether Planning Commission or City Council has the power to grant those extensions. Discussion, with Mr. Winiarski asking about the three year warranty and assumes that was for anything built underground? Mr. Sommers explained. Mr. Dembinski asked in the Subdividers Agreement, in Section 3, letter H, what is the definition of "construction." Mr. Sommers explained and Mr. Dembinski asked that a definition be put in there. Mayor Costilow spoke about a better description that will be included.

Mrs. Johnna Lyman of 45610 N. Ridge said she has a hard time with the words "adequate safety." When discussing adequate safety, it does not work for that intersection. She and others moved to Amherst because it's a safe community. In the last six months, there have been three accidents in that vicinity, one of the accidents involving her husband. She spoke further on the aspects of safety in our community. The development is too dense for that particular piece of property. She suggested the Rock Creek Run access become available. She asked when the property is graded in the back, will excess water come to their pond? Mr. Sommers explained that the plan shows the plans and they are not allowed to discharge onto anyone's property and won't be doing that. Mayor Costilow said he had requested the additional study by TMS so that the improvements at the intersection are better than required.

Mrs. Ali Scott of 45450 N. Ridge Road said she was bothered by the statements that everyone knows about this development and meeting so she contacted her neighbors and not everyone knows. Maybe the people touching that property know, but not everyone. This concerns her and that the information is not readily available. She asked how much the HOA fees are. Mr. Sommers explained it is \$350 for capital improvements and reserves. The HOA fee is projected to be \$1700 per year. Mrs. Scott said she used to be a real estate agent in Las Vegas. She is not a realtor in Ohio. Her concern is that they are putting 174 units in a very small spot. She does not know anyone who will pay \$280,000 to live next to a mobile home park, on the other side of a highway and pay at least \$150 in an HOA. She agrees that HOAs are more common and we need them but many people in Ohio are refusing to buy in an HOA. She is not saying not to buy there and may look at it as an investment. Her concern is that it is not going to be an entry level it's going to be for the investors. People wanting a ranch home will not go there. She is very concerned about if people will buy these. This is not a house with 1/3 acre of property. She suggested the lot size be increased for this proposed development and be true to Amherst.

Mrs. Megan Dubois of 6140 N. Dewey and her primary concern is the safety of N. Dewey Road. With the 150 homes in the mobile home park and additional 174 units, that's a lot of cars. N. Dewey is skinny, it has no curbs, she has two young children and it's her job to keep them in their yard, but she is concerned about cars going off the road. Mr. Sommers has told them he will work with them, but she is still concerned about the road. She wanted to know

what will be done about the right of way. Their house is very close to the road. If they take much, they will take the pine tree that keeps their house cool in the summer. She asked if these plans have been discussed. About 1 ½ years ago on July 4 their family was stopped on N. Ridge Road for two hours as they could not get through due to an accident. She asked to imagine if someone in the trailer park or one of the new proposed homes had a heart attack while no one can get through. She does not think it's responsible to have one entrance and to build all these units. She asked that the two other entrances be considered. She spoke about the drop offs at the proposed turning lane. She asked if there was enough land to put this turn lane in? Did anyone contact ODNR if the stream is going to be affected? Fish spawn in that stream.

Mr. Len Gilles of 6024 and 6040 Dewy Road said he has talked about the practicality of this development. He was here when the people from Rock Creek Run were here objecting to opening up their street because it was hard enough to get out of there right now. He does not feel that's a great idea. Then that would become a speedway between the two roads. It was mentioned that the HOA will cover mowing, but at the beginning it was said it was only going to cover snowplowing. They seem to be adding more and more. They keep talking about the future, but to speak of the present and he spoke of his big truck at Mrs. Wargo's driveway and how much room it takes. He feels with additional 99 cars, she would not be able to get out of her driveway. 149.00 So we need to talk about the present. He apologized to Mr. Nahorn for his outburst the last time and feels that as his councilman, Mr. Nahorn ran on the premise of working with nature and within the confines of good ideas. He spoke to Mr. Lily's promise of building a buffer. He spoke to the wetlands which is now a little puddle. It will not be a place for frogs and toads, but for salt from the roads. He spoke further against the holding pond. He spoke of nature that has grown there. He spoke against the sprawl idea. Mayor Costilow said these developments save more nature and allows more property to stay green. This is actually better for the environment. He explained further.

Miss Sophia Scott of 45450 N. Ridge Road said at the last meeting it was brought up that there would only be 99 cars traveling down the road. She personally felt that it was much more than that. On Wednesday the 21st, she went out from 4:00 p.m. to 5:00 p.m. and counted every car in five minute increments on N. Ridge Road. She asked if anyone wanted to guess how many cars had passed? The guess was 30? She said there were 609 cars. Mrs. Ali Scott had pictures she distributed of the traffic on N. Ridge and said there is not much visibility on their road. They also have deer crossing the road and she is concerned about the added traffic causing the deer to be forced to come up their hill and cause more accidents. Mayor Costilow said the 99 cars per hour that was mentioned was the new number of cars that would be generated. But thanks Miss Scott for a job well done and he appreciated her effort.

Mr. Wachholz moved the previous question. When Mrs. Wasilk called for the roll call vote, there was a protest by Mrs. Dubois that not all the questions were answered. Mr. Wachholz withdrew his motion. Mrs. Dubois asked when her questions would be answered. Mayor Costilow said he would try to get her answers by the next meeting. Mr. Wachholz moved the previous question. Roll call vote 6-1 with Mr. Winiarski voting no to pass this on to its second reading.

ORDINANCES AND RESOLUTIONS SECOND READING:

- (a) An Ordinance amending Section 913.02 of the Codified Ordinances of the City of Amherst, Ohio regarding Sanitary Sewerage Rental Rates; and declaring an emergency. (A-24-05)

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

- (b) An Ordinance authorizing and directing the Mayor of the City of Amherst, Ohio to enter into a Real Estate Purchase Agreement for the purchase of certain property located at 350 Tenney Avenue for the sum of \$70,000.00 plus reasonable and customary closing costs. (A-24-07)

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

- (c) An Ordinance authorizing an increase In appropriations for Planning Commission Capital Outlay; and declaring an emergency. (A-24-08)

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

ORDINANCES AND RESOLUTIONS THIRD READING:

- (a) An Ordinance amending Chapter 192 of the Codified Ordinances of the City of Amherst, Ohio to align with Chapter 718 of the Ohio Revised Code (A-24-02)

Mr. Nahorn motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes 0-24-09.

- (b) A Resolution for ACH and Electronic Transactions (A-24-03)

Mr. Heberling motioned to adopt. Seconded by Mr. Dembinski. Roll call vote 7-0 to adopt. Becomes R-24-01.

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

Agenda requests and committee meeting schedules:
(requested after the council meeting):

A-24-17 Bld. & Lands Consideration of proposed self-storage facility on Rice Road Industrial Parkway located in n an I-1 district pursuant to Section 1141.07 of the Codified Ordinances

A-24-18 Bld. & Lands Consideration of proposed self-storage facility on S. Leavitt Rd. north of 300 Industrial Parkway located in a C-2 Commercial or General Business District pursuant to Section 1137.01 of the Codified Ordinances which requires approval of the I-1 District Board of Review for storage and warehousing within a C-2 zoned district

Bld & Lands - March 11, 2024 at 6:30 p. m. A-24-17, A-24-18

Reports of the Administration

Auditor Phillips: No report

Treasurer Ramsey: Spoke to CIC funds – Mr. Dembinski requested a copy of those.

Law Director Pecora: No report

Safety/Service Director: No report

Mayor Costilow: Thanked Council for suspending rules on certain Ordinances so projects can proceed. He noted that our City will be working with Elyria on a new water contract.

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

Mr. Wachholz motioned to adjourn, seconded by Mr. Nahorn. Voice vote 7-0 to adjourn.

The meeting adjourned at 9:11 P. M.

Olga Sivinski, Clerk of Council

Jennifer Wasilk, President of Council