

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: Ms. Harmych, Mr. Wachholz, Mr. Nahorn, Mr. Janik, Mr. Winiarski, Mr. Dembinski. Also present were Mayor Costilow, Safety/Service Director Jeffreys, Law Director Pecora, Auditor Phillips, and Assistant Law Director Ward and many residents. Treasurer Ramsey and Mr. Heberling were absent and had letters on file. Mr. Nahorn motioned to excuse Mr. Heberling and Mr. Ramsey, as they had letters on file. Seconded by Mr. Dembinski. Voice vote 6-0 to excuse.

The Prayer was invoked by Chaplain Janik, which was followed by the Pledge of Allegiance to the Flag led by Sgt. At Arms Dembinski.

Consent Agenda: The Clerk read the Consent Agenda. Mr. Janik motioned to approve the Consent Agenda as read. Seconded by Mr. Wachholz. Voice vote 6-0 to approve 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 in the Building Department of the City of Amherst, Ohio to cover the cost of repairing a vehicle; and declaring an emergency (A-24-39)

Mr. Dembinski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Janik. Roll call vote 6-0 to suspend rules. Mr. Nahorn motioned to adopt. Seconded by Mr. Wachholz. Roll call vote 6-0 to adopt. Becomes 0-24-33.

- (b) An Ordinance authorizing the Mayor to spend funds from the Water Improvement Fund for certain repairs and improvements; and declaring an emergency. (A-24-40)

Mayor Costilow asked for suspension of rules on this so that parts can be ordered and we can upgrade our water system. Mr. Janik motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Wachholz. Roll call vote 6-0 to suspend rules. Mr. Janik motioned to adopt. Seconded by Mr. Wachholz. Roll call vote 6-0 to adopt. Becomes 0-24-34

- (c) An Ordinance authorizing an increase in appropriations for the Community Housing Impact and Preservation ("CHIP") Program to repay program income to Lorain County; and declaring an emergency. (A-24-41)

Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Roll call vote 6-0 to pass to second.

- (d) An Ordinance vacating an additional portion of North Dewey Road (A-24-42)

Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Roll call vote 6-0 to pass to second.

- (e) An Ordinance approving the final development plan for the Villas at Amherst Residential Development and rezoning and approving such development as a Planned Development District. (A-24-43)

Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Roll call vote 6-0 to pass to second.

- (f) An Ordinance authorizing the Mayor of the City of Amherst to enter into an agreement with Thompson Hine LLP to represent the City in the development of a Residential Improvement District related to the N. Dewey Road Improvements. (A-24-44)

Mayor Costilow asked for the emergency clause to be added. This ordinance gives us the opportunity to get the consultants on board to help develop a plan for funding those road improvements. This will make the road safer for everyone including school busses and etc. If this goes the entire three readings without the emergency, it will be mid to late spring before we can make those improvements. Mr. Janik motioned to amend the ordinance and add the emergency clause. Seconded by Mr. Dembinski. Roll call vote 5-1 with Mr. Winiarski voting no to add the emergency clause. Mr. Janik motioned to suspend all council rules so that this may be passed in its first reading. Seconded by Mr. Nahorn. Roll call vote 5-1 with Mr. Winiarski voting no to suspend rules. The motion dies. Mr. Dembinski motioned to pass this on to its second reading. Seconded by Mr. Wachholz. Roll call vote 5-1 with Mr. Winiarski voting no to pass to second.

ORDINANCES AND RESOLUTIONS SECOND READING:

- (a) Ordinance approving the form and authorizing the execution of Blue Creek Wind Schedule with American Municipal Power, Inc. and the taking of other actions in connection therewith; and declaring an emergency. (A-24-38)

Mr. Dembinski motioned to pass this on to its third reading. Seconded by Mr. Wachholz. Roll call vote 6-0 to pass to third reading.

ORDINANCES AND RESOLUTIONS THIRD READING:

- (a) An Ordinance authorizing and directing the Mayor to sell Lorain County Parcel No. 05-00-038-101-012 via competitive bidding at public auction and advertise such auction as required by Section 721.03 of the Ohio Revised Code. (A-24-33)

Mr. Nahorn motioned to adopt. Seconded by Mr. Dembinski. Mr. Dembinski said he has asked the Clerk to notify Council when this notification will be placed in the newspapers to advertise this. Roll call vote 6-0 to adopt. Becomes 0-24-35.

Miscellaneous and acknowledgement of the public:

- (a) Transfer of D1, D2, D3, D3A liquor licenses from Barra Restaurant at 105 Park Avenue to Sandstone Candle Works, LLC at 166 Park Avenue

There were no objections to this transfer.

Ms. Shelley Harmych of 134 Orchard Hill drive said she as well as her neighbors were here this evening to speak about storage units. Storage units were a big topic around 2020 and then that was pushed off. Last year in June 2023, Council approved to get rid of storage units, aka, PODS. We have had a POD on our street for years. What she is finding out is that they cannot do anything about it. Because when Council passed it, they did not do their due diligence and work to see that anything prior to June 20, 2023 would be included in it. They are grandfathered in so they felt they should not be a problem. However, it is a problem. They have to look at that POD every single day. Maybe they don't see it as a problem but she has lived there all her life and her street was always known as the street your wanted to live on. Now they have a POD. She has heard other people complain about having to look at that, not just the neighbors. She does not know what can be done. Can council bring it back up and encompass PODS beforehand. We are not the only street that has them. Something has to be done. She did not think council did what they were supposed to do. They all felt the ordinance was good but perhaps had not looked it over very well. She asked if anything can be done? She also believes it's a safety issue. It has begun to deteriorate on the bottom. She has talked to a police officer about the trailer, car and POD being there. The car is gone, the trailer is still on the lawn and the POD is still there. She knows the owners have received letters stating they are in violation. But nothing changes. She noted the neighbors have to look at it when they drive away and also out of their front window. It's there 24/7 365 days a year. She would like an answer. She has talked to her councilman and nothing has been done. Mayor Costilow said Council did do the right thing. They passed an ordinance and outlawed to a certain extent. But there is such a thing as a constitution whether we like it or not that protect certain property rights. This was something that was there before the law so it complicates our process. We did send out violation letters. Some people came to the Zoning Board Meeting. We are still working on it. He thinks we have an idea now how to honor the constitution and honor the essence of the law.

Government takes time. The Law Department has been working on this as well. He does not want them to think that Council did not do their job. Mr. Pecora said this goes back to high
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school civics laws – and ex-post facto laws which basically make a criminal act of something that was previously legal in the past. Laws cannot be made retroactive if they affect substantive rights. He explained further and explained substantive rights. This goes back to our founding fathers when they set up our laws. He and the Mayor have been discussing this POD situation. If this is procedural as far as Council passing this, they did the right thing. This is a temporary access structure. You have to do x and the process you have to go through to have a temporary access structure. That is the first good news for that POD. Can we make this retroactive? We may be able to. He does not think we maybe have to do anything. Our city has permanent structures rules and accessory building rules. Those are garages, sheds which are permanent but typically in the back of the house/yard. Our building department has strict rules pertaining to those. This POD by its existence is not a permanent structure. It's not a shed, not a garage, not something that's defined in our Amherst Codified Ordinances. He is thinking that it's not a permanent structure and by its existence, it's temporary in nature. If it's temporary in nature, then you need a permit. It's not finalized, but that's what he and the Mayor are thinking about. All our accessory buildings are always in the back and permanent in nature. There are reasons why we are not going to jump and cite somebody. We need to make sure that we are doing it correctly. Silly as it sounds, it's a constitutional issue. He referenced ORC 713.15 and explained it. But we are leaning more that it's a temporary structure. Mayor Costilow said he is used to private businesses, if you want to change something, you make it so. Government is different. It may seem like it's taking a long time, but we are working on it and will get to the bottom of this by figuring out a legal way of doing this. Mr. Nahorn asked if there was a rough timeline that he could provide to the people. Mr. Pecora said he hoped 30-60 days.

Mr. Dan Metelsky of 133 Orchard Hill said he did his due diligence thinking this situation would be wrapped up in the constitutional rights of individuals. This situation predates his living at Orchard Hill. He noted that he is living in his parents former house. The neighborhood has a lot of young folks there. There are other issues, such as the neighborhood is not lighted so it's very dark. He will do his due diligence and prepare to speak to the Chief of Police regarding this situation. The complaint about the POD predates the change in the ordinances which are being said that they are grandfathered in. Mr. Pecora said that was a misconception as the more we are looking at it, it's not a permanent structure. He said the structure should be viewed as temporary and does not fit within out permanent structures rules. Mr. Metelsky agreed with this and feels this is an opportunity to a pathway to resolve the issue. He feels there are other solutions to this matter but this problem may be universal to other areas in the community. He said if it's deemed that this is also a nuisance situation, this now gives you the teeth in current statues. He feels we are now on the same page.

Mrs. Cynithia Vandeweerd 142 Orchard Hill Drive asked if there was a limit as to how many vehicles are allowed to sit on property in a back yard. Mr. Pecora said they all need to have up to date tags on them. We have other ordinances pertaining to vehicles. State of Ohio has rules about vehicles needing to be tagged and registered. Mrs. Vandeweerd said there are four ATV's there. He suggested she speak to the Building Department and Mayor supported that suggestion. There is a long process, but start at Building Department.

Mrs. Mary Reagan of 141 Orchard Hill said the house next to hers is vacant so there are no lights on, and no street lights close by, leaving their area in the dark. This concerns her. She and he neighbors have lights around their home. She feels having the dark home is unsafe especially when it comes to all the kids around a vacant house. It has been empty since they moved there nine years ago. She understands it's their house and property, but wonders about getting some lights there. It's dangerous as far as kids liking to explore where they can get into all kinds of stuff. There is no one living in the home. It is detrimental to the neighborhood, not only in looks but safety.

Agenda requests and committee meeting schedules:

A-24-45 Finance Allow the Treasurer tp extend the depository agreement with Northwest Bank commencing January 1, 2025

A-24-46 Finance Re-appropriate funds in the Waste Water Treatment Plan to cover Expected costs for the remainder of the year; emergency

Finance – October 14, 2024 at 7:00 p. m. A-24-45. A-24-46

The remaining Council Committee Meetings for 10/7/24 are cancelled.

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Reports of the Administration:

Auditor Phillips: No report

Treasurer Ramsey:- absent

Law Director Pecora: No report. Requested an Executive Session to discuss pending legal litigation.

Safety/Service Director Jeffreys: No report.

Mayor Costilow: No report

Mr. Nahorn motioned to accept the Reports of the Administration. Seconded by Mr. Wachholz. Voice vote 6-0 to accept the reports of the Administration.

Mayor Costilow noted that the POD in Orchard Hill is not the only one around, but invited the residents to call his office in a couple of weeks to get updates.

Mrs. Wasilk noted the Executive Session would be closed to the public, but residents could stay if they wished – although we now only have the adjournment to take care of.

Mr. Wachholz motioned to go into Executive Session to discuss pending litigation. Seconded by Mr. Nahorn. Vote 6-0 to go into Executive Session. The council meeting recessed at 7:45 and reconvened at 7:54.

Mr. Wachholz motioned to adjourn. Seconded by Mr. Nahorn. Voice vote 6-0 to adjourn. The meeting was adjourned at 7:55 p.m.

Olga Sivinski, Clerk of Council

Jennifer Wasilk, President of Council