

Amherst City Council met in a Regular Meeting under full compliance of State Law with President Wasilk opening the meeting at 7:00 P. M. Roll call: Mr. Dembinski, Mr. Cowger, Mr. Winiarski, Mr. Miller, Mr. Nahorn, Mr. Janik, Mr. Van Treuren. Also present were Mayor Costilow, Safety/Service Director Jeffreys, Treasurer Ramsey, Auditor Pittak – absent, Law Director Pecora, and three members of the Public. Mr. Cowger motioned to excuse Auditor Pittak as he had a letter on file. Seconded by Mr. Winiarski. Voice vote 7-0 to excuse. Mr. Dembinski motioned to waive Council rule #44 requiring the Auditor or Deputy Auditor to be present at the meeting. Seconded by Mr. Cowger. Vote 7-0 to waive rule #44.

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

Consent Agenda: The Clerk read the Consent Agenda. Mr. Cowger motioned to accept the Consent Agenda as read. Seconded by Mr. Winiarski. Voice vote 7-0 to accept the Consent Agenda.

Acknowledgement of the public pertaining to items on the agenda: Mr. Nick Yuhasz, 884 Birch Lane spoke pertaining to item Ordinances and Resolutions second reading (a). He read a statement, which is attached as part of the minutes. He provided a map of the area in question. A discussion ensued with Mr. Miller saying he wished he would have had the provided information earlier. He had not heard about some of these things prior to this evening. Being a big proponent of sidewalks, pedestrian friendly routes, so in this situation, he is not sure how we got to the situation where a community walk will be closed off. He spoke further to items Mr. Yuhasz read in his statement. Mr. Yuhasz said he spoke to Mr. Spellman, one of the property owners and spoke to what perhaps may have transpired, but he was not sure about all the details of Mr. Spellman purchasing part of this parcel. Mr. Janik asked Mr. Yuhasz what he would envision this property if the city were to re-do it. Mr. Yuhasz said he did not really care. He explained how the asphalt had heaved over the years. Mr. Janik asked if this walkway was being used by students or anyone. The answer from the public was a resounding “yes.” However, the grass is still growing on that property. Nancy Reichert, 886 Birch Lane, explained that the Spellmans did not wish to attend the meeting, but are worried that if the other party got access to that land, it would come right up their fence, which would not give him much access to his property. She believes that the person that owns that home is not an Amherst resident, but the home is a rental. She said that in the over 60 years this was used by everyone, not once has there been a threat of suing the City over anything. Mr. Nahorn noted that then Mrs. Reichert was saying that this property is much used. She agreed and described all who used it. Mr. Winiarski asked when this changed from asphalt to grass. Mrs. Reichert thought it was last summer. Mr. Winiarski felt that if you have a public walkway, it should look like one. Mr. Van Treuren asked if someone did put up “no trespassing signs.” That was answered in the affirmative.

ORDINANCES AND RESOLUTIONS FIRST READING:

- (a) An Ordinance authorizing additional expenditures in the amount of \$250,000 for the 2018 Street Rehabilitation Program, and declaring an emergency. (A-18-22)

Mr. Winiarski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Cowger. Mr. Miller said when suspending rules, he likes to explain his reasoning for voting for suspension. This money has already been budgeted and will not impact our budget or other departments adversely. This will just extend our street program because the money is not needed for other capital improvement projects. So he will support this emergency. 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 0-18-18.

- (b) An Ordinance authorizing the City of Amherst to enter into a depository agreement with First National Bank for the deposit of loan proceeds, and declaring an emergency. (A-18-23)

Mr. Winiarski motioned to suspend all Council rules so that this may be passed in its first reading. Seconded by Mr. Cowger. Mr. Dembinski asked if we can access the money if we don't pass this? Mayor Costilow said the money is in our accounts, but it was done on a good will handshake and this will transfer the money into the bank as quickly as possible. It could affect our negotiations and relationship in the future if we don't proceed as quickly as possible. Roll call vote 7-0 to suspend rules. Mr. Cowger motioned to adopt. Seconded by Mr. Winiarski. Roll call vote 7-0 to adopt. Becomes 0-18-19.

ORDINANCES AND RESOLUTIONS SECOND READING:

- (a) An Ordinance authorizing the City of Amherst Community Improvement Corporation to act as agent for the City of Amherst to enter into an agreement to sell a parcel of real estate owned by the City on Terra Lane subject to the further approval of Amherst City Council. (A-18-21)

Mayor Costilow explained that this is not a typical pathway or walkway within the city limits. This is a parcel of land that is very narrow and sits very closely between two houses. He believes that a renter lives in the one house, but that he does not believe that should be less of a concern to the people that live there. The property owners have expressed their concerns for a long while about the condition of that walkway. It was almost unrecognizable as a pathway as the grass had taken over. Times are different now, maybe 60 years ago you could have a pathway going that close to your house without kids playing during the night and throwing things up against the house. He did not make this decision lightly to bring this before Council. There is a road 1 ½ houses to the north, Fr. Martello Lane., 63 paces to walk a little further, to get to the parking lot. Perhaps a walkway could be put there. To put a walkway in this location, could be complications. It is far from our maintenance buildings to keep it shoveled. This pathway encroaches on the neighbors' driveways. You actually have to walk on their aprons to get to this pathway. He has seen no information that this was ever dedicated. This is not considered a sidewalk, as it was constructed out of asphalt. No variance allowed it to be built in that manner and dedicated as a public walkway or path. Speaking to people, there were apparently gentlemen's handshakes to agree to maintain that walkway. When complaints began about the condition of it, and kids falling and getting hurt – again, times are different – the maintenance stopped. No one was maintaining it. The Superintendent of Utilities talked to the resident and the church and they indicated they were done taking care of it. It's a unique situation. There are utilities in that area, so an easement would be kept. If council chooses to do something different, he'd be challenged to do something different. He feels this is the best decision and interest for the city. CIC will also be involved with this, and the residents could talk to them. Just because the people are renters, we should still see after their concerns and safety at night and privacy. Mr. Dembinski said he would support passing this on and continue to do some research. He did bring up the County Auditor's website and the Mayor is correct. There is no way to get on that walkway without going through one of the house's driveways. If he were one of those residents, he would not want people walking on his driveway. Mr. Miller said looking at the site, the driveway would be considered like an apron. The demarcation line runs through their driveway. He was looking at information that Mr. Nahorn had in front of him. There seems to be some confusion about the ownership of the right of way. Mr. Pecora looked at some maps passed to him. He would have to check, but it looks like it is the city's right of way so it would necessarily be a trespass. Mr. Miller said the way he reads it, you would not be trespassing on private property to use that walk from the street to St. Joseph's property. He would like to know the distance of that property because in that development off Dodge off 58, the design has some of those houses about 12 feet apart. So if they are willing to have their bedrooms 12 feet apart, he can't see a problem with temporary people walking across a walkway walking 12 feet between two garages. You then can't say it's too close. We are doing this the wrong way by taking away pedestrian friendly opportunity. This is going in the wrong direction. Mr. Pecora noted that the city does not have to give itself a variance. Mr. Miller voiced his concerns about if the aprons were considered to be in the city's right of way. Mr. Pecora spoke to this. The discussion with examples given regarding residents' aprons and the question as to liability continued. Mr. Janik asked about a floodlight that was in that area. The residents acknowledged that it was still there. Mr. Cowger said due to the additional information and looking at the map that was presented and speaking his opinion to the driveways, he motioned to send this back to committee, as Council floor is not the place to debate this. Seconded by Mr. Nahorn. Mr. Winiarski asked about the City's obligation to mow this property – the answer was that we are. Mr. Winiarski asked if asphalt could be placed there as a walk? Mr. Pecora said the city can do whatever it wants. Mr. Winiarski asked if it could be just a "summer walk." Mr. Pecora said it has to be maintained year round. Mr. Miller thanked the residents for coming out. This is a good reason for three readings of legislation. They have educated this Council by letting Council know there is a problem and we found out that there is more information available to us. We are pushing our residents for sidewalks and he feels this is going backwards by removing this walkway. Mr. Winiarski felt that the information provided by the Superintendent of Utilities after he spoke to the residents does not support what he has heard here tonight. He likes the idea of the walkway there. Mayor Costilow spoke to possible alternatives to get a walkway there, which would be much better. Mrs. Reichert asked if the City has mowed this property. Mayor

Costilow said it has been mowed. Mrs. Reichert said the walkway has been God sent with many people living in the area using it. Roll call vote 7-0 to send back to committee.

ORDINANCES AND RESOLUTIONS THIRD READING: NONE

Miscellaneous and acknowledgement of the public: Mr. Winiarski said the next day, Wednesday is Administrative Professionals Day and he thanked Mrs. Sivinski for her work and said he appreciated working with her.

Mr. Dembinski noted that yesterday was Earth Day. One of the things he has been working on and researching is algae growth in Lake Erie. There is not a lot of agriculture in Amherst, but we do have a lot of homeowners that put on fertilizer and whatnot and that could impact that also. There is a free seminar to explain the proper way to apply fertilizer, herbicides and pesticides to their lawns on Thursday, May 10 at 6:30 p.m. at the Amherst Historical Society. This is in conjunction of the Ohio University Lorain County Extension Office.

Mr. Miller spoke about receiving and providing proper and complete information for various subjects so that Council can make proper decisions.

Mr. Van Treuren said he does not normally bring up fundraisers and this may be the only time he will do so, but this Sunday there will be one for a beloved teacher and resident of Amherst, Todd Engle, who is suffering from Leukemia. He is a wonderful person and would appreciate having our support April 29 from 1-4 p. m . at St. Frances of Cabrini Hall in Lorain.

Agenda requests and committee meeting schedules:

COMPLETE as it was added after the last Council Meeting: A-18-24 Finance Add to the bid and award of the 2018 Street Program (0-18-12) of an additional \$250,000 from account 201-6001-52501 for Miscellaneous street improvements

Building and Lands May 7, 2018 - A-18-21 returned from Council floor - sell a parcel of real estate owned by the City on Terra Lane

The remainder of Committee Meetings for May 7, 2018 are cancelled

Reports of the Administration:

- Law Director Pecora: No report
- Safety/Service Director Jeffreys: No reports
- Treasurer Ramsey: Their office is processing the returns at this time.
- Mayor Costilow: No report

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

Mr. Dembinski motioned to adjourn, seconded by Mr. Cowger. Voice vote 7-0 to adjourn. The meeting adjourned at 8:04 p.m.

Olga Sivinski, Clerk of Council

Jennifer Wasilk, President of Council