

## Regular Meeting of Bethesda Village Council

August 27, 2020

Mayor Samantha Burkhead called the meeting to order, Samantha led the Pledge of Allegiance.

### Roll Call

Present: Mayor Samantha Burkhead, Administrator Dirk Davis, Solicitor Jeffrey Menoski, Fiscal Officer Ricky Burkhead, Ruth Saffell, Jay Van Horn, Jordan Castello, Rod Miller, Cindy Foose

Absent: Carol Merritt

### Guest(s)

Stephanie Castello, Pete Busack, Phil Castello, Mike Flowers, Larry Taylor, Carol Kirkbride, Robert Defrank, Dick Quinlin, TJ Whiteley, Brenda Russell, Jeannette Lucas, Bob Orr, Lana, Orr, Debora Adams, Linda Grub, Fred Thompson, Scott Blake, Derek Roby

### Reports

The Fiscal Officer E-Mailed Fund Status, Cash Summary by Fund, Fund Ledger, Payroll, Receipt Register & YTD Appropriation status reports to Council Members, Administrator, Fire Chief & Mayor. Jordan Castello made a motion to approve the August meeting minutes, seconded by Ruth Saffell, Jay Van Horn - Yes, Ruth Saffell - Yes, Jordan Castello - Yes, Rod Miller - Yes, Cindy Foose - Yes.

### Regular Council Meeting Minutes

Mayor Samantha Burkhead presented council with the list of questions that were submitted to her and Dirk by Erin Russell regarding the alley parallel to North 26. The questions and answers are on the last page of these meeting minutes.

Administrator Dirk Davis presented his monthly report to council.

- The Virginia Street Ext project that was approved by council is waiting to be permitted by the EPA.
- The Gail Avenue paving and storm drain project is third in line to be done and Dirk hopes that this is something we can do this year before winter.
- The alley paving between Maple and Chestnut has work ongoing. Six hundred feet of drainage was installed along with new catch basins at a cost of \$5,500. Pike Paving is working on the paving today. Dirk stated that we are going to keep large truck traffic off of the alley for a few weeks.
- We are waiting on two estimates for the Liberty Lane drainage replacement.
- Dirk asked council to approve the surveying of the alley behind the fire house and the alley across from the Masonic lodge. The estimate is \$1,500 to have this done. Cindy Foose made a motion to approve the surveying, seconded by Jay Van Horn, Jay Van Horn - Yes, Ruth Saffell - Yes, Jordan Castello - Yes, Rod Miller - Yes, Cindy Foose - Yes.
- The USDA Grant/Loan has been approved. We are waiting on Joe Miller at Doan Ford to order the vehicles. We hope to receive them by November.
- The alley beside TJ Schultz needs 200 feet of drain pipe and three catch basins at a cost of \$2,050 and TJ has offered to use the \$1000 road bond that he paid to help with the cost of the project. Dirk stated that this will be worked on in the next two weeks.
- Dirk thanked Mike Edwards for operating a bull dozer for the village at dump road below the ball fields. Mike also cut a ¼ mile stretch where our sewer main is located across Able's farm.
- The public works crew cleaned up around the salt shed and Mike also pushed all of the materials back away from the salt shed to make room for future supplies.
- The public works crew has mowed the reservoir dam three times this year and we will hopefully do it once more.
- Oak Street from Able's to the reservoir was chipped and sealed by Goshen TWP. Dirk offered a big thank you to the Goshen TWP Trustees.

Rick presented resolution 2020-4 which accepts the county tax rates for 2021. The general fund will receive \$34,787.49, street levy fund \$16,892.60, police levy fund \$36,989.11, and fire levy fund \$43,278.43. Jay Van Horn made a motion to approve Resolution 2020-4, seconded by Ruth Saffell, Jay Van Horn - Yes, Ruth Saffell - Yes, Jordan Castello - Yes, Rod Miller - Yes, Cindy Foose - Yes.

Mayor Samantha Burkhead thanked everyone who has donated time, equipment, and labor to making the park a better place. Samantha stated that thanks to a donation by Dirk, we are putting together 200 hygiene kits for the kids to go back to school. Samantha stated that the items should be here Monday and we will need assembling them.

Jordan Castello made a motion to change the police patrolman pay rate to \$13 an hour, seconded by Rod Miller, Jay Van Horn - Yes, Ruth Saffell - Yes, Jordan Castello - Yes, Rod Miller - Yes, Cindy Foose - Yes. Rod asked to advertise on Facebook that we are accepting applications for a part time police officer.

Ruth Saffell stated that on Saturday, the fire department is giving out hot dogs and sloppy joes at the firehouse and accepting donations towards the fire truck purchase.

## Regular Meeting of Bethesda Village Council (Continued)

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Police Chief Pete Busack stated that there were 12 complaints responded to, seven citations, and three warnings issued last month. Pete stated that the building committee met and he went around town with them and made a list of issues and citations will be forthcoming. Pete stated that we got new tires on the Charger and Mike donated the labor. Pete stated that Dave Schafer signed a letter for the police department to allow us to use his property to monitor traffic on the west end of town. Pete stated that firearm qualifications for the department are scheduled for September 12<sup>th</sup>.

Dirk asked for a moment of silence to acknowledge Robert Lewis from Belmont who passed away recently. Dirk stated that Robert was an upstanding person and he will be missed.

Larry Taylor from volunteer energy who administers the village's gas aggregation plan stated that the gas plan is up for renewal. Larry stated that we have had this plan for 11 years and that we receive a 5% discount and a .5% rebate for the village to put towards the community. Cindy Foose made a motion to renew the gas aggregation plan, seconded by Rod Miller, Jay Van Horn - Yes, Ruth Saffell - Yes, Jordan Castello - Yes, Rod Miller - Yes, Cindy Foose - Yes.

Solicitor Jeff Menoski discussed placing speed bumps on the alleys. Jeff is going to give Dirk what he found after his investigation. Jordan stated that we want to put them on the alley behind Maple and on Lake Street. JR stated that there are a lot of stipulations on putting speed bumps on roads. Council discussed this issue. Council is going to postpone any decision and discuss the issue with residents on these streets. Dirk stated that he was mainly looking at having speed bumps on alleys where kids play. Samantha suggested that we try them on the alley and look more to see if we really want to put them on Lake Street. Larry proposed that the village look into having an electric aggregation plan. Larry stated that this would be an opt out program and that the program would have to be voted on by the residents of Bethesda before it could be approved. Jay Van Horn stated that he was a person who got messed up the last time we put an electric aggregation plan into effect. Jay asked if letters would be sent to residents so that they could opt to not participate. Larry stated that yes people would receive letters. A resident asked that the envelopes read that the letter is from the village so it is not perceived as junk mail. Larry agreed. Samantha stated that she does not want anyone put into the program if they do not wish to participate. Jordan asked if the electric rate would fluctuate. Larry stated that the price per KW would be locked in for 12 months. Larry stated that he hoped to offer a community reinvestment plan for the electric as well. Jay asked when it would start if it were voted on. Larry stated that it would take a few months for the ordinance and then another 4-6 months to be placed on the ballot to be voted on. Samantha asked when the pricing would be set. Larry stated that it would be set after all documents are formally approved. Jeff asked for a copy of the agreement to review before next council meeting.

Jeff presented a new ordinance for dilapidated unsafe and insecure structures. Jeff stated that a resident would be given written notice, and then there would be a hearing by an ordinance review board. Jeff stated that the board would be able to inspect the property and present evidence at the hearing. Jeff stated that then a time frame would be established and if they issues were not corrected the board would decide on whether to fix the issues, or to demolish the building and then assess the taxes for the costs. Jeff stated that he reviewed this with Jordan's committee tonight and asked if anyone else had any comments. Sam asked if they removed mayors court from the process. Jeff stated that yes the Mayor has been removed from the process. Debora Adams asked if a house has to be up to code before utilities are turned back on and for people to live in the house. She stated that this is in regards to a house that has been condemned on her street. Jay asked if the house on Washington Street has been condemned. Jeff stated that it has not been condemned. Jeff asked if anyone had concerns with the ordinance. Jordan stated that she liked everything in the ordinance. (copy of the ordinance attached)

Council and the audience discussed the issues with this legislation. Issues discussed such as:

- The ordinance allowing any members of the board to enter a resident's house to inspect it.
- The review board having the ability to cite residents, hears the case, and then executes the orders.
- The board having the ability to determine the integrity of a house and choose to demolish it.

Jay Van Horn stated that this ordinance gives any one member of the board the ability to enter someone's house and inspect it for any reason that they choose to. Jay stated that there are obviously houses with issues but this language says for any reasons determined by the board. Dirk stated that only the fire chief would be able to go into duplexes and apartments and not single family homes to inspect them. Residents and the mayor agreed that the board should not have to power to enter someone home. Dick stated that this language is opening up a Pandora's box. Pete stated that is people refused them he would just go get a search warrant. Dick stated that he would suggest that the village go by the Ohio building code and the Ohio fire code. Rick asked the question of who on the board is certified to inspect someone's house. Rick stated that if anybody should be allowed to inspect someone's house and that it should be someone who is certified and actually knows what they are looking at. Pete stated that we should look into having a building inspector who is certified and he knows a guy who lives in Flushing. Jay stated that this needs a lot of work and that he doesn't feel that this should be voted on this evening. Jay stated that we need to get language in here about an inspector amongst other things. Jeff proposed that we hold a first reading on this ordinance. Debora stated that residents should have to have insurance on their homes in order to occupy them. Debora stated that the property in question ran a generator during the winter to heat the place. Dirk asked if he had to turn water back on to this house. Jeff stated that he would look into it. Debora stated that a person should have to be certified to work on their foundation. Jay stated that he agrees that things need to be done properly, but some people have the ability to make improvements to their home. Pete stated that the health department already has a file on this property and they don't have the power to condemn the house. Pete stated that we can condemn it but they can't. Jordan stated that we need the fire chief to sign off on a letter of condemnation.

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Jordan made a motion to declare tonight the first reading of Ordinance but stated that we would obviously need to make some changes to it, seconded by Cindy Foose, Jay Van Horn - No, Ruth Saffell - Yes, Jordan Castello – Yes, Rod Miller – Yes, Cindy Foose – Yes. Jay stated that he doesn't want there to be a three member committee to have to be the ones to take the heat on making determinations such as this. Pete agreed. Jay stated that people have the right to try to improve their home if they want to. Derek Roby asked if people would need a building permit. Jay stated that building permits are not needed for replacement of existing structure.

Jay Van Horn stated that it was brought to his attention that Pete did not use a curse word during the incident that was discussed at the last meeting. Jay stated that he apologizes for accusing Pete of cussing, but that he still doesn't feel that the incident was professional.

Mike Flowers addressed council. Mike asked if we have building committee. Jordan stated that we have a building/ordinance committee. Mike asked who is on that committee. Jordan, Rod, and Ruth are the members. Mike stated that he was told today that the building committee is responsible for him receiving a citation for his dogs. Mike asked what evidence that the committee have to give him a citation. Ruth stated that she didn't come look at his situation. Rod stated that he did. Rod stated that he was at Mikes house numerous times and he drove by several times. Rod stated that he agreed with the citation and that he saw a bunch of video of it. Jordan stated that she signed off on the notice for Pete to give him a citation. Mike stated that he knows the police situation is a hot topic recently. Mike stated that coming to address council is the last thing he wanted to be doing tonight. Mike stated that he understands why some people voted against and why one voted for Pete to be chief. Mike stated that everyone from the village that he has spoken with has not had good things to say about Pete. Mike stated that the main thing he is being told is that we can't find anyone else and that some people are afraid of retaliation from Pete. Mike stated that he has spoke to other people no in this room who are afraid of retaliation. Mike asked what kind of town do we have that we have people who live here who are afraid of the police chief. Derek stated that they are cowards. Mike stated that is true but he isn't a coward and that is why he is here. Mike stated that there is a lot of information on social media pertaining to the past of the chief and a lot of it is troubling. Mike stated that there are people out there who have done their homework and see the truth. Mike stated that if anyone thinks he is a cop hater they should speak with Dirk. Mike stated that last year when there was an incident at Belmont with Pete, Mike stated that he stated the facts and defended Pete against accusations. Mike stated that he had been to police meetings and told them of facts that he has found out about Pete and for some reason there are still people here voting for him. Mike stated that the fact that the vote isn't 6-0 in favor of termination is absolutely ridiculous. Mike stated that people are mad that she was not able to break the tie at the last vote when there was a tie. Jeff stated that she is not allowed to break the tie. Jeff stated that the statute states that her recommendation is with the advice and consent of council which implies that it takes four votes. Mike stated that this isn't the mayor not doing her job, this is her not being allowed to. Mike stated that this whole situation with him is over barking dogs. Mike stated that he has had several issues with Pete deliberately lied to him. Mike stated that at the last meeting Pete admitted that it was a liar by stating, "yeah so." Mike stated that this person is your village police chief and that is his attitude. Mike asked if this is ok with council, this on top of all of the other stuff people have been telling them. Mike stated that just because people don't come to the council meeting, doesn't make their issues any less valid. Mike stated that the people who voted in favor of him seriously need to go home and look in the mirror. Mike stated that he told Pete he needed a search warrant to come onto his property. Mike stated that during that incident Pete taunted Mike several times to physically throw him of his property. Mike stated that Pete told him "Come on Mike throw me off your property." Mike stated that Pete was up in his face at this time. Mike stated that the police committee has seen this video of Pete doing this and still they vote in favor of him. Mike stated that he would not have handled this as well 20 some years ago but he has grown up since then. Mike stated that he has heard of many other complaints from around town since this happened at his house. Mike stated that he feels that Pete thinks he can do whatever he wants. Mike stated that people say we can't hire anyone else for \$14 an hour. Mike stated that the question be why does Pete drive from Bellaire for \$14 an hour. Mike stated that it is because no one else wants him. Derek stated that nobody want that job for \$14. Mike stated that people should look into his history. Mike stated that he had a Belmont County Sheriff tell him to lock his doors when we started dealing with Pete. Derek asked if there is proof of that. Mike stated that it is just what the person told him. Derek asked Pete if he did this kind of stuff. Mike stated that he won't answer and if he did he couldn't tell the truth. Mike stated that Pete even lied under oath in court today. Dirk asked who the sheriff was. Mike stated that he isn't going to say a name. Jordan stated that it is "hearsay" then. Mike stated that the experiences that he has had is enough. Derek stated that he has seen Pete be a little out of context. Mike stated that some people will stand up and say they like Pete because he waved at them once. Mike stated that when something eventually happens with Pete, council can't sit there and say that they didn't know because people have been coming and telling them. Mike stated that if council votes to keep him in any capacity, and something happens, that it will be on those who voted for him. Mike stated that he has warned council and incidents keep happening.

Rick stated that if anyone wants a copy of meeting minutes they can request to be on the email distribution.

Jordan stated that she did call all of his previous employers and they all stated that they couldn't tell her anything. Mike stated that they wouldn't say anything because they can't or they don't want a black eye or in the middle of anything. Mike stated that when employer and employee situations happen the employer usually gives the option to resign or they fire you. Mike stated that when the person resigns it just screws over their next employer.

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Pete stated that he had a recommendation from the Yorkville Police Chief. Derek asked if Pete thought he was probably not the most professional when dealing with Mike. Pete stated that no he was well in line when he went to Mike's house. Jordan stated that she saw the body cam footage and Pete did not get in Mike's face. Jordan stated that she did think he got a little mouthy. Mike stated that a little mouthy doesn't cover an officer inciting someone to cause violence. Jordan accused Mike of starting the argument. Mike stated that he just asked to see a search warrant. Cindy stated that Mike said it in anger. Pete stated that he was radioed to go assist BCARL. Mike stated that BCARL was at his property the week before the incident with Pete and he didn't assist them then. Mike stated that Lisa was there and no one assisted her. Mike stated that a police chief should not be trying to incite someone to cause violence. Mike stated that again this person says "so what I lie." Derek asked Pete if he said that. Pete stated that he didn't remember saying that. Samantha stated that body cam footage is a public record. Mike stated that he is lying about that and he will continue to lie.

Motion to pay bills by Jay Van Horn, 2nd by Jordan Castello, with a unanimous vote.

Motion to adjourn by Jordan Castello, 2nd by Cindy Foose, with a unanimous vote.

**The next meeting will be Thursday September 24<sup>th</sup>, 2020 at 6:30 P.M.**

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Mayor Samantha Burkhead

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Fiscal Officer Ricky W. Burkhead Jr.

Exhibits #1(Russell Letter) and #2 (Ordinance)

Exhibit #1

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### Questions regarding disused alley parallel to North Main Street

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1. The alley has been unused for traffic for 30+ years. What has changed that necessitates re-opening now?  
-The alley was never closed, so it is not being "reopened", it is simply going to be maintained. A resident has requested that it be maintained so they can have access to their property.
2. Why exactly is it being proposed that the alley be refurbished for traffic again after so much time of the alley not being maintained and effectively closed to traffic?  
-See answer to question 1
3. Who benefits?  
-Everyone who lives on the alley. This will give the access to the back of their properties.
4. Are there other disused alleyways being considered for re-opening? If so, which ones?  
-We only consider maintaining alleys when a resident on that alley requests it. Alleys within the village are either closed/vacated or open/maintained. At this moment, to our knowledge, this is the only alley that is being requested to be maintained. Most recently we have started maintaining the alley parallel to Summit Street.
5. How much of the alley is being proposed to be re-opened to traffic- all of it or just a portion?  
-Originally it was requested to open up the entire alley but opening to the back of Bob Styles property was also suggested. At this point, we are not sure which route we will take, council will make that final decision.
6. We've heard that is to help Mark Stiles with his development plan of his parcel. Why should the town taxpayers be financially responsible for supporting his project?  
-Opening the alley is to provide access to the properties along the alley. If any resident along any unmaintained alley asks for the alley to be maintained, we will always look into it.
7. Why should me, my mother, Brenda Russell, and brother, Scot Russell, sacrifice our property value and privacy to benefit someone else's business venture from which we will gain nothing?  
-Your property has always had the alley dividing the two parcels. The property value will not change because there will be no change to what has always been.
8. Will we be compensated in any way for the disruption and loss of privacy?  
-No.
9. Has there been a study or exploration of alternatives to opening the alley? If so, what were the results? If not, why?

-We have no zoning or ordinances in Bethesda that call for studies. Alternatives are not necessary because this alley serves its purpose.

10. How much traffic can my family expect to be subjected to on a daily and weekly basis? Has there been a traffic study?

-We cannot do a traffic study on an alley that is currently not maintained. Traffic would be minimal, mainly the residents on those adjacent lots.

11. There is a (roughly) 35-45 degree turn in the driveway/alley from the north of our house to the west (back) side. That is a tight turn for even large pick-up trucks. Will even larger vehicles, like construction vehicles, ambulances or fire trucks, be expected to negotiate that turn?

-Emergency vehicles will have access to the road in case of emergencies. We can put up signs that say no larger trucks.

12. If large vehicles are expected to make that turn in order to use the alley, what's the plan? That will certainly impact our existing property use.

-See question 11 answer

13. Can the Village and/or Mark Stiles guarantee that our property (including but not limited to trees, landscaping, possessions and existing structures) will not be damaged during the process of refurbishing the alley, or by traffic in the alley once it's in use?

-That would be up to the companies that will be refurbishing the alley. We cannot make any guarantees for things that are out of our control.

14. What's the plan to deal with/compensate my family for the inevitable damage large vehicles will do to our driveway and existing landscaping?

-The driveway of which you speak is actually the alley, and any damage to it would be damage to village property.

15. Has the impact to our property even been considered?

-If at all possible, the village tries to avoid any damage to non-village properties.

16. If Stiles' building project is so extensive that it requires separate ingress and egress, is it really an appropriate project for that lot? Should it be subject to commercial zoning review?

-We have no zoning. It is his property to do with as he pleases. But he must submit a building permit which has to have council's approval.

17. Stiles' property already has two curb cuts. Why is additional egress necessary, and why does have to be through our property?

-Necessity is not a factor, and the egress is not through your property, it is on the existing alley on village property.

18. What is the benefit to the Village to justify refurbishing the alley at taxpayers' expense? This seems to benefit just one property and one property owner. Isn't this the equivalent of using public dollars to subsidize private enterprise?

-We maintain the alleys as the residents need them. No, it is not the equivalent of using public dollars to subsidize private enterprise.

19. What are the immediate (near term) costs associated with opening the alley to traffic?

-The grading work is being done for free. Slag would be around \$1000 for the entire alley.

20. What are the long-term costs?

-It would just be to maintain the slag as needed.

21. Is there a plan and budget for annual maintenance (mowing, grading, gravel, snow removal, etc.)? If so, what is the estimate for the annual costs to keep the alley open to traffic?

-We currently have 6 miles of alleys that we maintain. Monies are not budgeted to them, we just maintain them as needed.

22. When the alley was open to traffic, particularly in the 1970's and 1980's it was oiled/tarred and chipped every few years. Occasionally, new gravel or slag would be spread along the alley in between those years. Is it the Village's plan to maintain the alley at that level again? If so, will those costs be borne by Mark Stiles or passed on to all the taxpayers of Bethesda?

-All alleys maintained are paid for by the street fund and used as needed.

23. What is the timeline of the alley refurbishment?

-Possibly this fall, if not, then next year.

24. What is the timeline of Stiles' building project?

-That is a private venture and the village is not involved.

25. It would appear that Mark Stiles' needs have been taken into consideration regarding the refurbishment of the alley, and even appear to outweigh everyone else's. Why weren't our (not just the Russell family, but all the residents along the alley) needs/desires taken into consideration at the same time?

-Just as we are doing with you, we are open to answering any questions that residents have. Because of possible future developments with the adjacent properties, we cannot vacate this alley and create land locked properties.

26. Why weren't we properly informed that this was going to happen? What about the other property owners along the alley?

-It was discussed at an open council meeting. Also, the village isn't required to give any legal notice because the alley in question is in the village's property.

27. What is the Village policy on informing residents of town activities that directly impact their property and day to day lives?

-It is the village's property that is being impacted.

28. Why do the Russell's once again have to bear the brunt of development? We were treated very badly by Joel Braido and were forced to accept a catchment system on our property to

Submitted by Erin Russell-Story on behalf of Brenda Russell and Scot Russell of 415 North Main St., Bethesda, Ohio - July 31, 2020

facilitate his development. In addition, we were forced to accept a septic line across our property or else the flooding issue would probably not have been resolved. The placement of that septic line directly benefits Mark Stiles' development. Now we are being "asked" to put up with loss of privacy and damage to our property to accommodate another development. We have been in that house for 65 years, far longer than the Stiles' have owned the empty parcel and much, much longer than Joel Braido has owned the properties associated with "Memory Lane". Why does our family and property not take precedence?

-The easement for the lines was signed by everyone listed on the deed. The village is not responsible for what people do with their properties, this includes projects by Stiles and Braido. If you have an issue with their ventures, that needs to be taken up with them.

The alleys in the village were mapped out prior to any of us being around. Alleys were used for sewer pipes and access to them, as well as access to residents' properties. Most village streets do not have street parking for an adjacent property. This is one reason for alleys to be maintained so people can have access to their property and parking. Another reason that we do not vacate alleys is because most properties, such as yours, is divided into two parcels with the alley between them. If, in the future, a property owner decides to sell the second parcel and the alley was vacated, this would leave that parcel land locked. To prevent this from happening, the alley cannot be vacated and, if needed, will be maintained to allow access to those parcels.

Exhibit #2

Ordinance No. 2020-2

**ORDINANCE PROVIDING FOR INSPECTION, REPAIR OR REMOVAL OF UNSANITARY, UNSAFE, INSECURE OR DILAPIDATED STRUCTURES WITHIN THE VILLAGE OF BETHESDA, OHIO AND DECLARING AN EMERGENCY**

WHEREAS, Article XVIII, Section 3, of the Ohio Constitution provides that municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with the general laws; and

WHEREAS, Sections 715.26 and 715.261 of the Ohio Revised Code provide for the repair or removal of unsanitary, unsafe, insecure or dilapidated structures and recovery of the total cost of abating dangerous property conditions; and

WHEREAS, the Village of Bethesda declares that dilapidated structures within the Village be considered a public nuisance and is of great importance to the health, safety, and welfare of the citizens of the Village of Bethesda; and

WHEREAS, the Village of Bethesda desires to repeal and replace Chapter 1341 of the Building Code with this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY COUNCIL OF THE VILLAGE OF BETHESDA, COUNTY OF

**BELMONT, AND STATE OF OHIO:**

Section 1. Definition of Nuisance.

All buildings are structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life or which in relation to existing use constitute a hazard to health by reason of inadequate maintenance, dilapidation or obsolescence, are for the purpose of this Ordinance, “unsafe buildings.”

An “unsafe building” shall include, but is not limited to the following deteriorating conditions:

1. Loose bricks falling from exterior walls or chimneys;
2. Cornices and gutters sagging or falling from the structure;
3. Windows containing broken and/or jagged glass;
4. Open holes within the structure caused by the removal of fixtures and/or stairs, and any open holes upon the exterior of the structure whereby the interior can be viewed;
5. Vacant structures containing any of the above and with electric and/or gas service still connected;
6. Unsound Foundations and/or retaining walls caving in;
7. Rotted stairs, porches, balconies, and/or steps;
8. Any detached structures collapsed and/or falling in;
9. Accumulations of rubbish and/or trash upon the premises;
10. Any structure which is vacant and does not have windows, doors, and/or openings properly secured.
11. Any structure by reason of continued vacancy thereby resulting in lack of reasonable or adequate maintenance of the structure and grounds causing deterioration and having a blighting influence on nearby properties, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful, dangerous, or injurious to the community in which the structure is situated.

All such unsafe buildings are declared to be public nuisances and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure of this Ordinance.

Section 2. Notice to Owner.

The Village Review Board, hereinafter referred to as the “Board,” shall consist of the three members of the Village Ordinance Committee. The Board shall examine or cause to be examined every building or structure or portion thereof reported as or believed to be an unsafe building as defined in Section 1. Any member of the Board is hereby authorized to enter, examine, and survey at any reasonable hour, all buildings and structures within the Village. The owner or occupant of any structure or person in charge thereof shall give the Board members access to such building or structure at any reasonable hour for the purpose of inspecting, examination, and survey. If refused, the Board may apply to competent authority for a search warrant. The Board shall give written notice to the owner or owners of record, and to the persons occupying said building, if they are not the owners thereof. The written notice shall specifically state the defects that cause the building to be unsafe. The notice shall state that a hearing will be held before the Board at a place therein fixed not less than ten days nor more than 30 days after the serving of the notice; that the owner and parties in interest may file an answer to the complaint and appear in person or otherwise, and give testimony at the place and time fixed in the notice that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

Section 3. Procedure upon Notice

If, after the notice and hearing, the Board determines that the structure under consideration is unfit for human habitation, occupancy or use, or is an unsafe building, it shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order requiring the owner:

(a) Within the time specified in the order, to repair, alter or improve the structure to render it fit for human habitation, occupancy or use, or at the option of the owner, to vacate and close the structure if the repair, alteration or improvement of the structure can be made at a cost that is not more than 50% of the value of the structure; or

(b) Within the time specified in the order, to remove or demolish the structure if the repair, alteration, or improvement of the structure cannot be made at a cost that is not more than 50% of the value of the structure.

Section 4. Service of Notice.

Proper service of such notice shall be by personal service, residence service, or by registered mail; provided, however, that such notice shall be deemed to be properly served, if a copy thereof is sent by registered mail to the last known address of the owner of record. If any of the parties cannot be located, nor can his/her address be ascertained, this notice shall be deemed to be properly served if a copy thereof is placed in a conspicuous place in or about the building or structure affected by this notice. If such notice is by registered mail, the period within which such owner is required to comply with the order of the Board shall begin as of the date he received such notice.

Section 5. Posting of Signs.

The Board shall cause to be posted at each entrance to such building a notice, which reads: "DO NOT ENTER, UNSAFE TO OCCUPY. VILLAGE OF BETHESDA, OHIO." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without permission of the Board or for any person to enter the building except for the purpose of making the required repairs or of demolishing the premises.

Section 6. Right to Demolish

In case the owner of record shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or demolish and remove such buildings or structure or portion thereof, such party shall be subject to the penal provision of this Ordinance and the Board shall proceed to have the building or structure or portion thereof demolished and removed from the premises, leaving the premises in a clean, safe, and sanitary condition and the cost of such work shall be paid by the Village. If the Village is not immediately reimbursed for such costs, the amount thereof shall be certified to the County Treasurer and levied as a special assessment against said property on which the building or structure is located and shall be collected in the manner provided for in Section 715.261 of the Ohio Revised Code.

Section 7. Unsafe Conditions; Reports.

Any owner, manager, lessee or occupant of a building who discovers or who has reason to believe that there exists, on the premises, a condition which may endanger other property or the life or limb of any person, and such condition cannot be immediately remedied so as to remove any danger therefrom, shall, within twenty-four hours after such discovery, report the existence of such dangerous condition to the Board, who shall forthwith take such steps as may be necessary to protect the public safety and welfare. If the Board cannot be located, such report shall be made to the Mayor. No person who is an owner, manager, lessee, or occupant of a building or premises which a dangerous condition exists and who knows or should know of such dangerous condition shall fail to make such report to either the Board or the Mayor with twenty-four hours after such knowledge is obtained or should have been obtained.

Section 8. Appeal.

Any person, firm or corporation which feels aggrieved by any order or finding hereunder may appeal the same to the Village Council by filing with the Clerk of Mayor's Court a written notice of appeal setting forth the grounds therefore. Said appeal shall be filed within 20 days of receipt of the order under Section 3 hereof. Said appeal shall then be heard by the Village Council at a regular meeting of council within sixty (60) days of the filing of an appeal. The Village Council, after hearing, may alter, revoke or amend any order or finding previously issued.

Section 9. Penalty.

A violation of this Ordinance shall constitute a fourth degree misdemeanor. Each day's violation after notice has been given to the owner of record shall be punishable as a separate offense with a maximum daily fine in the amount of One Hundred Fifty Dollars (\$150.00).

Section 10. That this Ordinance is hereby declared to be an Emergency Ordinance necessary for the preservation of the public health, safety, and welfare of the citizens of the Village, for the further reason as set forth in the preamble of this Ordinance and as a result thereof, this Ordinance shall become effective immediately upon its proper passage by Council and approval by the Mayor; otherwise, it shall take effect and be in full force at the earliest period allowed by law.