

**BUILDING & BUILDING CODES COMMITTEE MINUTES
JUNE 17, 2014**

The Building & Building Codes Committee meeting was held on June 17, 2014, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 6:10 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dan Kasaris, Larry Antoskiewicz; Council: Dan Langshaw, Paul Marnecheck, Steve Muller, Gary Petrusky; Administration: Mayor Robert Stefanik, Law Director Thomas Kelly, Asst. Law Director Donna Vozar, Finance Director Eric Dean, Safety Director Bruce Campbell, Community Development Director Thomas Jordan, Building Commissioner Dan Kulchytsky.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the May 20, 2014 minutes** as received.

Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. **City Hall update/project**

Mr. Jordan said he has the finished design development documents in his office and they are ready to go out to bid for all the major packages for the project. He said the initial packages were smaller in nature, less than \$100,000 each, and they have come in under budget so there will be some savings. The major packages will be reviewed tomorrow morning with Krill Co. He said there might need to be an add on to the project for a dumpster and enclosure. They are finishing the design and trying to get pricing. He said that the fiber optic legislation is on Council's agenda this evening. The IT part of the project continues to evolve. The RFP on the phone system is currently out and we are also exploring a joint purchase with the school district and the savings opportunities that may exist. Mr. Jordan said we have a written agreement and a time line on the construction of City Hall. We have to get the same on the IT network as well. He said that the last component is the furniture. It should be under \$150,000. We asked the architect to competitively solicit proposals with state contract pricing. He said that he should be receiving recommendations on this tomorrow. He said that they have met with the Recreation Board regarding the playground and developed specifications. The proposal is to bring the playground closer to the parking lot to make it more accessible, but if it turns out that we cannot do this due to the terrain we may have to reconsider putting it back on its current location. The bathrooms are also a part of the project and we are trying to keep them open as long as possible during the summer. He said the interior demolition at the library has begun and the landscaping in front has been removed. Mr. Nickell asked about the parking lots. Mr. Jordan said that the lot directly behind the building will be reconstructed. The rest of the parking lot will be resealed and striped. Mr. Kasaris asked about the entryway. Mr. Jordan said the entryway from State Road will have a new sidewalk that stretches from the front door of the building around the side and down the front. The driveway will also be resealed and new signage will be placed out front. Mr. Kasaris asked if the skate park will remain. Mr. Jordan said that there are no plans to move it at this time. Mr. Kasaris asked if any plans have been made for the three parcels north of the building. Mr. Jordan said they are working to integrate these parcels into the park setting by removing things such as utility poles and landscaping.

2. **Charity Donation Drop Boxes**

Mr. Nickell said that Parma just passed legislation regarding this issue. He said that Sagamore Township has contacted him as well saying that they are looking into doing this. He said that the Law Department has shared some information regarding a federal case that deals with the freedom of speech issue regarding these bins. Mrs. Vozar said they have provided Council with a draft Ordinance that will take into consideration all of the concerns that protects the first amendment rights of the charity and business owners while at the same time making sure that we are keeping our neighborhoods safe and aesthetically beautiful and making sure that these are not being placed in the right-of-way. She said that there may be a few items in this legislation that Council may wish to alter. She said that they are requiring that there be a minimum of

one acre for each bin, and no more than two bins total regardless of the size of the parcel. Mrs. Vozar said that all industrial, business and public facility buildings have approved site plans, so no one can just place something on the parcel that isn't already approved. This is what we are trying to do with regulation of the placement of these bins rather than requiring all of these businesses to come back to the city to revise their site plans. She said they wanted to support first amendment rights and make the process as easy as possible. She said there is a 10 day permit determination period that will allow for a quick turnaround. Mrs. Vozar said that the legislation draft uses the dimensions for the size of the bins that Parma's ordinance used. Mr. Kulchytsky said that he went out and measured the paper recycling bins and determined that the dimensions Parma used would not accommodate these bins, so he is recommending that we change our draft ordinance dimensions from 78 inches in height, 60 inches in width and 60 inches in depth to be 84 inches in height, 84 inches in width and 84 inches in depth. He said that these dimensions would accommodate most bins that exist currently within the city. Mrs. Vozar said that by limiting the number of bins per parcel it won't overwhelm the business and cause safety issues. She feels that this draft ordinance meets all the criteria that we think is out there. Mr. Antoskiewicz said that the requirement stating that the bins must be located within 10 feet of the building envelope would create problems because the bins need to be visible from the street. How many will be seen if they are 10 feet from the building. He felt that we would lose some of the bins if we adopt this requirement. He also questioned if the building owners would want this requirement. Mrs. Vozar asked if we would allow an accessory structure to be located close to the roadway. She said probably not. We want to look at this and determine if this is how we want to develop the business in the industrial areas. She said one of the reasons for not wanting this so close to the roadway is so that people are not distracted by them while driving. People in the area will know where the donation bins are by visiting the businesses and will go there to make their donations. She said that the colors of the bins make them visible from a distance. We want to avoid them from becoming unsightly and we don't want them placed in the right-of-way. She said that some of them are so close to the roadway that if a car pulled in they would obstruct the line of sight of someone who would be leaving. If you have several cars parked there, you are now preventing not only vehicular, but pedestrian traffic to the business as well. She said that if a parcel is unique and cannot comply, they can always seek a variance. She said that we have crafted this ordinance in such a manner that it addresses the city as a whole. Mr. Muller asked if item (a) which states that "*no person shall place or maintain and or property owner or tenant shall permit or maintain any donation bin in any location that obstructs the sight lines of vehicular traffic or within 30 feet of a sidewalk of right of way*" takes care of a lot of these issues without requiring the placement within 10 feet of the building. Mrs. Vozar said that it would depend on the parcel. She said that we were just trying to do whatever we could to ensure that it was not a safety hazard or obstruct the main use of the parcel. Mr. Nickell said that the bins at Drug Mart may have to be moved to comply. Mr. Petrusky said that according to this legislation, Drug Mart is still liable for those bins and he felt that they shouldn't be. He said no property owner should be held responsible for the bins; the owner of the bins should be responsible for it. He felt that the business was doing their part for the charity by donating the land. He said that if we make the property owner responsible, he will not vote for this legislation. Using Drug Mart as an example, Mr. Kelly said that some corporate entity owns the parcel and they are leasing space to Drug Mart and the other tenants located on the parcel. Ultimately if we have enforcement issues with maintenance or upkeep, we may approach the tenants to rectify the situation, but if we have to cite somebody and/or take someone to court, it would be the owner because they are the party legally responsible for the maintenance of the property. Mr. Kelly said there are legal difficulties associated with national companies such as those that own the bins, who have offices all over the country, and don't have the same vested interest in our community that the local businesses do. He said that from the Law Department's point of view, the property owner bears the final full responsibility for the maintenance of his own property regardless of how many tenants he has or the nature of his relationship with the license arrangement. Mrs. Vozar said that if you look at our exterior maintenance code, it always puts the obligation not only on the owner of the property but also on the occupant so we would hold the property owner and bin owner responsible. Mr. Petrusky said the problem he has is if these are charitable organizations and if the property owners allow them to put the bins there at no cost, we are then penalizing somebody who is doing something good. It's not like they are making money off of the bin being on their property. Mr. Kelly said that we don't wish to penalize anyone. All we wish to do is to try and maintain these bins in some good order, and if they get out of order and the bin owner will not respond to us, then we

will have to talk with the property owner. Mrs. Vozar said that they would not be penalized. All we are going to do is send a letter asking them to get their tenant to fix the problem, and if the tenant won't fix it, then the property owner needs to take action to fix it. It's their property and it reflects on them. Mr. Kelly said that these bins are in violation of the law. There is no permission for them at all. The Planning Commission has not approved them, the Building Department has not approved them. None of these bins have any right to be where they are. What we are trying to do here is find a way to regulate them in a way that makes sense and keep these bins orderly. Mr. Kelly said that this ordinance does not just allow charitable companies to place bins, but any tax exempt nonprofit. Mr. Antoskiewicz said if the company is legitimate and a good, well run organization, then no law or ordinance will really matter because they do it the way it is supposed to be done. What this ordinance addresses are the companies that are not the good, solid organizations that follow the rules. Mr. Kelly said that it comes down to either we are going to regulate them or outlaw them all together. Mr. Langshaw asked if this falls under accessory use or secondary use. Mr. Kelly said at best, it's an accessory use, but it technically doesn't even fall under an accessory use definition. Discussion turned back to the location of the bins within 10 feet of the building envelope. Mrs. Vozar said that Mr. Kulchytsky has suggested that we change that to 20 feet. This would still move it away from the roadway, but would be less restrictive on where it could be placed. Mr. Muller felt that Item (a) took care of these concerns and that the applicant could point out on their application where the bin would be located and the city could determine then if it is impacting the right of way or not. Mr. Kelly said that any approval that the Building Commissioner may give is subject to being appealed before the Board of Zoning Appeals. Mr. Petrusky asked if the recycling bins at Giant Eagle where you can recycle your plastic bags fall under this ordinance. Mr. Antoskiewicz said that those bins are within 10 feet of the building. Mr. Kelly said that they would probably be looked at as a donation bin. Mr. Petrusky said if we are going to start regulating donation bins, what about all the stores that have boxes of wood or LP tanks in front. Do we regulate these? Mrs. Vozar said yes we do for outdoor sales. The code addresses what is permitted and what is not permitted regarding outdoor sales. Mr. Antoskiewicz asked Mr. Petrusky if he prefers to not regulate these bins at all. Mr. Petrusky said that he wants what is fair and equitable. He does not think it is fair to charge or go after a corporation to be responsible for the maintenance of the bin. Mr. Antoskiewicz said that when he first proposed this legislation he did not want to take away what a lot of the reputable charities were doing for the Boy Scouts, churches, schools, etc. The purpose of this in the first place was to take care of the ones that were unsightly and not being placed for the right reasons. It wasn't about taking them away from the Boy Scouts or churches or schools. Mr. Kasaris said as long as it is not in the right of way, or blocking traffic, or obstructing sight lines, do we really care where they put it on their property. Mr. Kelly suggested eliminating this provision all together and leaving the discretion for the location in the hands of the Building Commissioner. Mr. Kulchytsky said that he would treat this as any other accessory structure. He would make sure that it falls within a location that would be appropriate and code compliant. Discussion was held regarding the fees for placement and removal. It was determined that these could be adjusted in the future if it is determined that these amounts are insufficient. Mr. Muller said that he thinks we should lower the annual fee from \$100.00 to \$50.00. Mr. Nickell pointed out that the churches and schools will not be charged this fee. Mr. Petrusky asked why. Mrs. Vozar explained that Public Facilities are expressly exempt under this code. They are already a charity and they will be regulated in the same manner by having to prove that they are a charitable organization. They will be receiving a letter just like any other property owner would if they are not in compliance with their site plan. They may have to revise their site plans to show where they are going to place these bins. Even though they are exempt from this code, schools and churches are still governed under our exterior maintenance code. If they don't maintain their property including these bins, they can be issued a citation saying they are in violation of maintaining a structure on their property.

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to recommend approval of this legislation with the following amendments:

Standards

(c) No donation bin shall exceed ~~78~~ **84** inches in height, ~~60~~ **84** inches in width and ~~60~~ **84** inches in depth.

Location and Maximum Number of Donation bins per property

~~(b) Placement of the donation bins shall only be located within 10 feet of the building envelope.~~
Renumber (c) and (d) to (b) and (c).

Yeas: 3. Nays: 0. **Motion carried.**

NEW BUSINESS

No new business

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz, **to adjourn the June 17, 2014 meeting.** Yeas: 3.
Nays: 0. **Motion carried.** Meeting adjourned at 7:05 p.m.