

BUILDING & BUILDING CODES COMMITTEE MINUTES
APRIL 18, 2017

The Building & Building Codes Committee meeting was held on April 18, 2017, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:44 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dan Kasaris, Larry Antoskiewicz;
Council: Gary Petrusky, Dan Langshaw, Paul Marnecheck, Cheryl Hannan; **Administration:** Mayor Robert Stefanik, Law Director Thomas Kelly, Fire Chief Robert Chegan, Community Development Director Thomas Jordan, Finance Director Eric Dean, City Engineer Mark Schmitzer, Asst. Law Director Donna Vozar; **Other:** Lou Krzepina.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the March 21, 2017 minutes as received.**
Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. Former City Hall and City Green Development

Mr. Jordan said that the specifications have been completed by Bowen and Co. but we still need to go out for the bidding on the actual demolition of the structure. He said that the Engineer's estimate came in a little higher than anticipated at \$100,000. He is hoping that the bids will come in lower. He said that the asbestos abatement has been completed. The concepts for the use of the property have been refined since his last presentation to Council and he will share them again in the near future. We are currently focusing on taking the structure down now that the asbestos is gone. He said that we are being mindful during the demolition of how it will look during the interim in regards to things such as the community festival, parking lot access, etc. Mr. Kasaris asked what fund will be used to pay for the demolition. Mr. Dean said that there will need to be an amendment to the budget but said it will come out of the main Future Capital fund. Mr. Nickell asked if they will also remove the utilities. Mr. Jordan said that some of the lines maybe left for future use, but yes it is part of the contract to safely cap off the utilities at the site. Mr. Kasaris asked if we would be able to use Future Capital Recreation funds for things such as a pavilion since they will be used for recreation. Mr. Jordan said yes that would be possible.

NEW BUSINESS

1. Resolution 17-58 - Marty Agricultural District

Mr. Nickell said that this a renewal of an existing agricultural district. Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **remove Resolution 17-58 from committee with a recommendation to Council for approval.** Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

2. Amendments to Fees in the Building and Housing Code 214.08 (c)(3)

Mr. Kasaris said that this deals with residents who build structures and then come to the BZA after it has been built. He said we have had a number of residents in the past few years who were supposed to have asked for a variance to build a structure such as a shed; however in some instances the structure is already built, we discover it, cite them and then they have to come before the BZA and ask for the variance after the structure has been built. He gave an example of a resident who was aware of what the code required and knew that they needed to seek a variance but intentionally chose not to do so and built the shed in a utility right of way and then came to us for a variance. He said that the BZA members have approached him because we have had a number of these situations. He said that the Building Department penalizes the applicants by doubling the permit fee from \$75.00 to \$150.00. He said that several of the board members felt it should be higher and should be tripled or quadrupled. He said that he approached the Law Department to write this legislation and it is in front of this committee this evening at the request of the Board of Zoning Appeals members. Mrs. Vozar said that this applies to all building permits, not just those who are required to come before the BZA. So if a resident were to build something without obtaining a permit, they are currently charged double for the permit. The request before the committee tonight would

increase that to triple the fee. Mr. Antoskiewicz asked how many times have we required a resident to tear down a structure built without a permit. Mr. Kulchytsky said that they typically don't have that problem. He said that 85-90% of our double fees can come into compliance with our codes by coming in, pulling the permit and paying the doubled fee. He said that there are rare instances where the already built structure requires a variance and needs approval by the Board of Zoning Appeals. But the majority come into compliance with our code by pulling and paying for the permit. Mr. Antoskiewicz said that he doesn't have a problem with the ones that can come into compliance. Mr. Kasaris reviewed various scenarios that appear before the BZA. Mr. Jordan said that most of the situations that require paying the double fee are simply because a permit was not pulled. We do not require permits to make money; we lose money as soon as the first inspection occurs. We require permits to make sure that the structure is safe and that we are complying with state code. While we have emphasized the egregious violations this evening, this code applies to all those who fail to pull the proper permit. Many communities have adopted this type of fee in an effort to discourage people from not taking out the proper permits. Mrs. Hannan asked how often this actually occurs. Mr. Kasaris said when it comes to accessory buildings, we may have had 4-5 in the last two years and maybe 10-15 in the 10 years he has been on the board. Mr. Jordan said that compares to every day in the city there is probably at least 3 construction projects without a permit. Mrs. Hannan asked if we need to better educate the public about when to get a building permit. Mr. Jordan said he agrees that education does not hurt. He said they are very active in discussing these types of issues in the city's weekly newsletter. Mrs. Hannan said that she has an issue with it being unduly punitive. She understands that contractors should know better, but what about the do-it-yourselfer who doesn't realize they need a permit. Mr. Kulchytsky said that the concept of the administrative penalty is to cover the extra costs of sending out additional notices, following up and sometimes having to send them to court. We don't want it to be overly burdensome. If a contractor is a consistent violator of the code, the Building Commissioner has the right to revoke their registration and prevent them from working within the city. He said that this increase being discussed would be applied globally. You might have a commercial roof that someone started early because they had good weather, and the permit fee might be \$3,000 permit fee, so to triple that would be over burdensome. Mr. Nickell said that we are trying to discourage the work being done before a permit is pulled. He asked if we would allow for the Building Commissioner to discern intent and decide if the applicant intended to purposely defraud. Mr. Kasaris said that we could make it "up to" double or triple the fee. Mr. Langshaw asked if it would make more sense to have it as a fine rather than a fee. Mr. Kasaris said that you have to go to court for the fines. Fees can be paid at the Building Department. Mr. Nickell asked if we can keep this in committee to allow more time to think about it. Mayor Stefanik said that part of the problem is the contractors know that they should get a permit but some try not to and work on the weekend. This is to discourage those to try to circumvent the system and we need a tougher penalty for this. Mrs. Hannan said that she would like to see the "up to" language inserted so that there is some discretion for those who did not understand. Mr. Kulchytsky said that another option to consider is an incremental increase therefore the penalty would increase for the constant violators. Mr. Antoskiewicz asked if this would be something that would be easy for the Building Department to keep track of. Mr. Kulchytsky said that the current system we have in place is easy to track, and easy to implement. He recommended that Council postpone action on this for a month so that his department can look at what options we have within our system to track this, and if not perhaps we could consider altering the contractor registration requirements. Mr. Jordan said that they will take all these comments into consideration and look at what can be done. Mr. Kelly said that we cannot have discretionary fees. The fee must be fixed. Mr. Antoskiewicz asked if we could put in some type of step up system. Mr. Kelly said yes, if it is based rationally upon an objective standard. It cannot be left in the hands of any individual to determine the fee. The public has the right to know what the fee is depending upon either the application or the conduct. Mr. Petrusky asked if we use the incremental increase, would there be a time table tied to it. Would it restart every year, every 3 years, etc. Mr. Jordan said that they will take that into consideration as well. He is hearing tonight that this should not be for residents who got caught the one time vs. repeated contractor violations. He said that will review all this and see if there are any tweaks that can be made.

3. Home Sales (Garage and Yard Sales)

Mr. Langshaw said that this issue has come up in his ward and seems to be getting worse city wide as well. He said that he brought this to the attention of the Mayor and has been working with the Building Commissioner to see what other communities do. He said that our surrounding communities all have something on the books to at least provide basic guidance regarding garage sale and yard sales. He said that the intent of this legislation is to go after those who have perpetual sales going on. He said that it does not portray a good image for our city and creates blight. He said that we currently have nothing on the books and there is nothing that the Building Department can do if there is a complaint. This is not going after people. This is just getting rid of those who are perpetually selling junk in their front yards especially in the main areas of the city. This isn't something we will have the Building Department driving around looking for, this is just to give them a tool if there is a complaint and to get us in line with other cities. Mr. Kulchytsky said there is no mechanism available to the Building Department to regulate yard sales, garage sales, etc. We looked at surrounding communities to see what types of regulations would be appropriate that are not too burdensome. We are not trying to stop garage or yard sales, but we need this tool to prevent the month long front yards sales. This merely defines it, gives the scope and does not require any permitting or fee. However, it does allow us to pursue someone who is consistently in violation. Mr. Langshaw provided a packet of information he prepared with information from other communities, pictures, etc. Mr. Nickell said he knows that there are a few instances of this throughout the city but he has never received any complaints. He said that he does not want to touch anything that has to do with garage sales. He said that there is nothing that would irritate his residents more than this. He said if we want to do something with front yard sales he might look at adding this, but he doesn't want to do anything that mentions garage sales. Mr. Kasaris asked who would enforce this. Would it be the Police Department or the Building Department. Mr. Jordan said that this particular ordinance as drafted would include any type of sale whether it be yard, garage, or front yard. He said that there is no permit required, it is just a series of limitations on how, when, where, etc. He said that the Building Department would enforce this. Mr. Kelly said that assuming that it is used as a tool in very limited, specific cases of repetitive abuse we would have an enforcement mechanism. He said that the legislation allows for a minor misdemeanor and that means that the Building Department could issue a citation and it would go to the Mayor's Court where there would have to be some evidence presented, or it goes to Parma Court. The fact of the matter is that there are cases where people do repetitively abuse their neighbors by putting their junk out on the front lawn and leaving it there for months at a time. Mr. Antoskiewicz understands that there are abuses to this but he is not sure how we would regulate the garage sales or yard sales. If we are not asking them to obtain a permit, how do we keep track of how many yard sales someone had, etc. He did clarify that he is not in favor of requiring a permit, but just used this as an example of how it could be tracked. Mr. Kelly said that the way this is going to proceed is the aggravated neighbors are going to be the ones calling Mr. Kulchytsky's office. Once they learn about it they will be in a position to send someone out. Mr. Antoskiewicz said that he does not see this happening. If I'm a neighbor and report that they are on their 4th garage sale, and we go out to the property the resident can deny this. Mr. Kelly said that it would have to be documented by the Building Department on a complaint driven basis. Mr. Antoskiewicz said that he would rather introduce something to regulate the abusers who do this on a month to month basis. We know where they are. Mrs. Vozar said we need to determine if these people are running an improper business out of the home. Are they purchasing items to sell on their front lawn. If we are trying to regulate an improper business at a home, we could look at that aspect of it to see if this meets the needs without interfering with people holding garage or yard sales. Mrs. Hannan said that she has issues with the language regarding merchandise permitted. She doesn't like the language regarding the distance from the right of way and side and rear property lines. Mr. Kasaris asked if the right of way obstruction issue is already covered in our codes. Mr. Jordan said that if you put a sign in the right of way, it is already illegal to do this. He agreed that most people do not know where the edge of the right of way is in order to calculate these distances. He said that this is a first draft in response to Mr. Langshaw's request. He said that he understands that some Council members may not want to have anything to do with this. He said that the Building Departments' position on issuing permits is negative; we do not want to issue permits for this and do not have the staff to do it. This was an attempt to deal with egregious, repetitive situations and we have

defined it in some very specific ways. If there are some aspects of this that you do not like and would like to see it edited, please email the Building Department and we can take another look. Mr. Nickell said he would like to see more of this geared to the front yard sales and maybe less on garage sale regulations. Mr. Langshaw agreed that the front yard sales are the biggest problem. He said that he likes the idea that Mrs. Vozar presented regarding the home business aspect and address the situations that are habitual and all year long. Mr. Petrusky asked if there was anything currently on the books that would apply to the habitual abuse. He agrees with what everyone else has said regarding the garage sales. He asked how many complaints have we had about any of this. We don't want to create legislation just to create it. Is this a true problem that needs to be addressed, or is there something else that will let us go after the offenders like our nuisance ordinances. Mr. Jordan said that he will take what was discussed tonight and create another draft. Mr. Antoskiewicz said that if we do any type of a setback could we reword it to be measured from the house instead of the right of way. Mr. Jordan said that they will look at all of this. Mr. Kasaris agreed with what has been said this evening. He felt that enforcement of a lot of this would be impossible without the permit process and home business enforcement has proven difficult in the past. Mr. Kelly said that if this is an issue that Council wants addressed, there needs to be a tool to do so. This legislation represents the rudimentary process of creating this tool. We are not saying that it is going to be effective in every case, but it could be effective for the repetitive violators and abusers.

4. Inspection fees for subdivisions and public improvements in the city - Section 214.07

Mr. Schmitzer said that the fees that are currently in our code have not been updated since 2001 and are currently \$38.00/hour. He said that it has been getting harder and harder to get inspectors to work for \$38.00/hour when other cities such as Broadview Hts., Parma and Strongsville are allowing \$50.00/hour. We have had relationships with certain firms that have worked for our lower rate but we are starting to get push back. He said Parma outsources all of their inspections at just under \$50.00/hour with time and a half for overtime and weekends. They have a stipulation in their code for a Contract Administrator. A lot of these firms have inspectors who are trained but are not a professional engineer or someone of that stature, so they have someone in the office who is qualified to look at the reports and make sure everything is taken care of. Parma is just under \$75.00/hour for this. The stipulation is that they can only charge 10% of the hours that the inspectors are there. So if the inspectors are there for 40 hours there is a maximum of 4 hours they can charge for the administrator. Broadview Hts. both outsources and uses in house inspectors. Their in house rates are \$45.00/hour and outsourcing is \$50.00/hour plus time and half. They also have a stipulation for the Contract Administrator for \$80.00/hour. Strongsville does everything in-house and their rates are \$50.00/hour. There is no Contract Administrator because they have a City Engineer and Assistant Engineer. Based on this he feels that \$50.00/hour was the right rate for us to be at. He said that he did not put anything in there for Contract Administrator, but if Council wants to add this we can. He said that our code did not have anything specific for public improvement projects. When we go out for a road project or something of this nature, we have been using this inspection rate. But he wanted to make sure that we had a separate section for public improvements and outline that both of these rates are captured back to us at no cost. We front the monies but we are getting it back from the contractors. For example on a public project that is \$100,000, it is stated in the bid documents that they must include inspections. So if it is \$100,000 contract and we have \$10,000 in inspection fees, they will get paid \$90,000 at the end of the project. These are deducted monthly from the pay applications. In the case of a developer, they give us an estimate for the cost of the improvements and deposit 3% with us. We draw from that and if we are short on money we send them a note to let them know we need additional funds deposited. Mr. Nickell asked what type of work we hire outside inspectors for. Mr. Schmitzer said that this is strictly for public improvements for subdivisions such as the road, sewer, water, grading, etc. to ensure that they are installed per the approved plans. The inspections done by our Building Department are covered under the permit fees. Mr. Nickell asked if the upcoming school construction would qualify for these fees. Mr. Schmitzer said that these only apply to infrastructure improvements, not for buildings, and said he could change the language to make that clear. Mr. Jordan summarized that we have always used outside contractors for subdivision work and we are unable to hire them at the current rate we have on the books and need to apply a new rate that is more reasonable by today's standards. Mr. Nickell and Mr. Antoskiewicz both favored adding in the fee for the Contract Administrator in case the need arises. Mr. Schmitzer said that

based on the commentary tonight, he will make some changes and present it back to the committee next month.

5. **1278.04 Use Regulations for General Industrial Districts**

Mr. Kulchytsky explained that this is a change to the General Industrial District permitted uses. The General Industrial district already allows for instruction in dance, gymnastics or martial arts but it is limited to Rt. 82 between W 130th and York. He said that we have had a number of requests to move into larger, more suitable buildings for this type of activity but we have been unable to allow them into those areas. This request is to remove the stipulation of the location thereby allowing these activities to occur anywhere in the General Industrial District. We have some older General Industrial buildings that would be perfectly suited for this type of use. Mr. Nickell said that it makes sense to him. Mr. Kasaris asked if this must be referred to Planning Commission. Mr. Kelly said yes. Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **refer this item to the Planning Commission**. Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

ADJOURNMENT

Moved by Mr. Nickell, seconded by Mr. Kasaris to **adjourn the April 18, 2017 meeting**. Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 7:40 p.m.**