

**BUILDING & BUILDING CODES COMMITTEE MINUTES
JULY 19, 2016**

The Building & Building Codes Committee meeting was held on July 19, 2016, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:30 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dan Kasaris, Larry Antoskiewicz; **Council:** Gary Petrusky, Dan Langshaw, Paul Marnecheck; **Administration:** Mayor Robert Stefanik, Law Director Thomas Kelly, Community Development Director Thomas Jordan, Fire Chief Robert Chegan, Safety Director Bruce Campbell; **Other:** Louis Krzepina, Megan Scharrer, John Amato, Cameron Furbeck, Mark Kopcienski, Vedant Amin, Liz Kelly, Emily Krejci.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the June 21, 2016 minutes as received.**
Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. Monument signs TCD

Mr. Jordan said that he and Mr. Kulchytsky met with Mrs. Vozar and Mr. Kelly regarding this item. He said that there was a recent Supreme Court ruling relative to signs and free speech. He said that they went over the implications of that and Mrs. Vozar brought them all up to speed on the Northeast Ohio Law Director's Association advisories on this issue. He said that we are reconsidering the chapter rewrite that we are doing. Mr. Jordan said he would like to take this opportunity to explain their problem. He said our problem, in part, with signs is that we did away with our Architectural Review Board that reviewed most of the signs. What we do now is we review the sign administratively and if we don't have clear guidance or specific ordinances, it becomes a very subjective decision. The Building Commissioner is the only one currently qualified to review the signs and make these decisions. He said that it is creating a back log for the Building Commissioner. He said without ARB he has to make all the decisions, he has to review the applications and what we were hoping to achieve through the revisions to the sign ordinance was to put online what we are looking for. We would state the parameters that the applicant would have to operate within so that those questions are already answered and the Building Commissioner is only doing simple reviews instead of having to have multiple conversations with the applicant. He said our current procedure is not an efficient use of anyone's time and there may be complaints that the sign approvals are taking a long time and that was not what we intended when we got rid of the ARB; it was actually the opposite of what we intended. He said that this is what we were trying to resolve by updating the sign ordinances. We hired a consultant who came up with recommendations and we met with the Law Department. He said some of what we may move forward with is rather than putting them in the ordinances that may be viewed as a more highly regulatory movement and diminishment of free speech, we may just publish guidelines. He said that he is requesting more time to present the committee with a proposal in order to incorporate input we have received from the Law Department. Mr. Nickell asked what the Supreme Court ruling was. Mr. Jordan said that they felt that the more regulations that you put on signs was a diminishment on free speech. He said that we need to be careful about how we proceed. He said that the Law Directors in the region have met to discuss this and are coming up with a strategy to deal with it. He said that what we are proposing may actually have to be referred to an outside constitutional expert to see if what we are proposing is within this new ruling. Mr. Kasaris asked what content we are seeking to regulate regarding signs. Mr. Jordan said that we are not trying to regulate content, we are regulating design and location but he said that it could be interpreted as regulating content. Mr. Kasaris asked how location of a sign would regulate content. Mr. Jordan said that he doesn't want to discuss much further than this but said that we were talking about the definitions of signs within different zoning codes. Mr. Kasaris asked if there was a timeframe on getting this resolved. Mr. Jordan said that he is unsure at this time. Mr. Kasaris asked about just going ahead and amend the TCD zoning ordinance regulating signs. Mr. Jordan said that he will take that as a recommendation relative for that specific part of the ordinance. He said that the Law Department has asked us to draw up what we feel are the most pressing issues so that we could possibly move forward with a limited redraft of the ordinance. Mr. Kasaris said that right now we are issuing variances

because we have no regulations for the TCD district. He said that if we just put a location where the signs can be placed in order to give the BZA something to go by. Mr. Jordan said that we are trying to get some of the pressing issues addressed and will try to get it to Council.

NEW BUSINESS

1. Ordinances 16-112, 16-113.

Mr. Jordan said that 16-112 and 16-113 are on Council's agenda tonight and he would like to discuss these this evening. They will not be adopted by Council this evening because they are a mandatory referral to the Planning Commission. He said that these are just the first drafts of these ordinances, but is the heart of the ordinance. He said that they are very simple amendments. On Ordinance 16-113 you will notice that at the end of the schedule in 1281.03 we have added Nursing Facilities and Assisted Living Facilities in all of the TCD districts as an outright permitted use. He said that under the Master Plan update given the current demographic changes going on regionally and nationally and given our own demographic changes in North Royalton, we have to offer a wider variety of senior living experiences. He said that there are a lot of facilities being constructed for this purpose. He said that people are living longer and they have a variety of needs. In order to address the needs of our community and population the Master Plan said that we need to clarify our ordinances on this issue. He said that we are proposing these for the TCD District. This district was always envisioned to have mixed uses in the area, meaning that here would be office and/or residential areas mixed in with the commercial district. The reason we are going for an outright permitted use is that this is what we have always imagined for this zoning district and we believe it is a compatible use for the area. He said it is a little different in Local Business and it points up why there is a difference. Local Business was meant to have neighborhood servicing commercial uses, such as a mini mart, out in the neighborhoods to service the surrounding areas. Senior living, especially nursing and assisted living have pretty low impacts due to the nature of their facilities in and adjacent to residential areas and we feel that they should be a permitted use, but only on a conditional basis. He said the reason for the condition is that this will give us a wider variety to place conditions on its use so that we could have larger buffers, better setbacks, more parking, etc. if necessary in order to satisfy some of the neighboring residential uses. In the TCD District, it was always anticipated that there would be heavy commercial purposes and this type of use would not degrade a neighborhood in anyway. He said that there are some very serious proposals that we are considering for this type of development. He said that the one caveat on this is that we are looking at additional amendments that will be added to these pieces of legislation but they have to do with parking and related restrictions, and the approval process. He said that what we are looking for from Council this evening is agreement on the concept of allowing these uses in these two commercial districts. He said that we will continue to redraft this section. He said that it is there hope that they will have a redraft on 16-112 and 16-113 in time for Planning Commission to fully consider and that Council will be able to look at well before the next meeting in September. Mr. Antoskiewicz said that Planning Commission has scheduled a Special Meeting for August 10, 2016 to look at these ordinances. Mr. Nickell said that this concept makes sense with the changing population and will also create jobs in the community. Mr. Jordan wished to point out that Independent Care is still being allowed in the Senior Citizen Districts, but not in these two districts. These are congregate care facilities that require an extensive staff and the unit sizes are smaller because they don't have kitchens, living rooms or laundry rooms so they are being treated a little differently. Mr. Antoskiewicz said that these are clean businesses and we are not being asked to allow for a conditional use for manufacturing that would create issues for residential neighborhoods. These facilities blend right in to the neighborhood and district.

Moved by Mr. Nickell, seconded by Mr. Kasaris to **remove 16-112 and 16-113 from Committee and to the Council floor for first reading.** Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

2. Ordinance 16-114

Mr. Kelly said that many months ago he and Mrs. Vozar contacted Attorney John Sindyla, whose practice largely relates to telecommunications, cell towers, leases, etc. and he has also developed his own area of expertise in evaluating the value of these towers for lease purposes, for sale purposes, etc. For many years, Mr. Kelly said that he has been receiving solicitations from organizations that want to purchase our tower and/or

secure a long term lease for the tower. He said that we are left with the unhappy circumstance of not knowing what our cell tower is worth. So we met with Mr. Sindyla and at that time we engaged him as an expert consultant in the Law Department to assist us in determining the value of the tower that we own at the Police Station and the availability on the tower to lease additional space, as well as to assist us in rewriting our code. He said that Mr. Sindyla explained to them that the technology is advancing at a rapid pace and we are not keeping up with this pace. The next wave of technology will bring what are called small cell towers which will be the size of utility poles and/or antennas placed on utility poles. It is intended to increase the capacity for data transmission. Telephone transmission is relatively easy and for that matter the major telephone companies could effectively give telephone service away for free. They make their money on data and the demand for data capacity is increasing every day. In order to stay ahead of the curve we asked Mr. Sindyla that as soon as he was done with the evaluation process with regard to the tower, if he would assist us in writing the code or make the changes we need to our existing code. Mr. Sindyla said he would be happy to do this and this is part of the scope of his engagement with us. He said that the Building Commissioner has received a request for a tower to be placed on Albion Road at Gregory Road, but the tower they are proposing is 120 foot tall and they want to put it in our public right of way. The company that has made this application claims that it has utility status and that they intend to secure our cooperation. Mr. Kelly said that he is not sure that we are likely to cooperate that readily and from what he can see in terms of the proposed tower and its location, it does not bear any reasonable approximation to meeting the requirements and the restrictions that we have in our code. We are however required as a matter of law to take their application and to deal with it. What we don't want to see is an explosion of additional applications for the small cell towers without having first addressed the problem with the code. We know that we have a problem, we know that we have an expert to assist us, we have a plan for going forward in terms of making the modifications and revisions and we are asking for the moratorium for the purpose of simply allowing us time to make these changes with Council's cooperation and approval, and then to be in a position to receive whatever applications may come. Mr. Kasaris asked how long the moratorium is for. Mr. Kelly said that it is for 120 days. Mr. Langshaw asked if this is sufficient time or does Mr. Kelly suspect that additional time will be needed. Mr. Kelly said that there is case law to the effect that we can't indefinitely extend moratoriums on any kind of development. There is no specific time frame for this but as most of us know the City of Mayfield Hts. lost a multimillion dollar lawsuit some time ago on the basis of a moratorium. He said that we don't see this as having any application to us under these circumstances but we also don't wish to cross that line. He said that we are asking for what we think is a reasonable period of time. If we are unable to secure the required revisions within this time frame, we will come back to Council and ask for a short extension, but we hope to have it all wrapped up within the 120 day time frame. Mr. Kasaris asked when the timeframe would commence. Mr. Kelly said that it will commence as soon as the legislation is adopted. Mr. Antoskiewicz asked if this is being done because our code does not address these new small cell towers. Mr. Kelly said that this is an entirely new technology. He said that we have to look at it as favorable for our community as well because our residents are going to want to be able to have the additional data and services that are made available. He said that we have many developments in town where all the utilities are underground. If we start allowing people to come in and throw up utility poles on street corners, this may not be very well received. He said that we have to come up with the appropriate measures necessary to see to it that the coverage is there, that the developers have the opportunity that they need in order to provide the service that our residents will be utilizing. Mr. Nickell asked about current application submitted for Albion and Gregory. Mr. Kelly said that they are proposing it to be right on the corner in the public right of way in a ditch that would not sustain it. He said that there are so many things he sees that are wrong with this situation. He said that he does not know what their intent was with this. Mr. Kasaris asked if this moratorium would apply to the application that has already been submitted. Mr. Kelly said no, they have to be treated as any other applicant so they will be on the Planning Commission agenda for September. Mayor Stefanik said that it was a coincidence that they applied for this while we were in discussions about this. Mr. Nickell asked if we would receive any fees from these. Mr. Kelly said that it is unlikely however there is the possibility that a franchise would be in the offering and might be something that someone would want. But he said that the application that we have received does not indicate that this is something that the applicant would be interested in whatsoever.

Moved by Mr. Nickell, seconded by Mr. Kasaris to **remove this item from committee and recommend approval to Council**. Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

Mr. Nickell asked Mr. Jordan for an update on the home demolitions. Mr. Jordan reported that permits have been pulled to take down Stoney Creek and for the Kmitt property on Albion Road. The remaining properties have had permits pulled to repair them. Efforts have been made on the property on Patricia Drive. (Mr. Jordan's microphone was turned off and rest of the conversation is inaudible).

2. Ordinance 16-108 Romans Auto Repair Conditional Use Permit.

Mr. Kasaris asked Mr. Jordan for a brief summary. (Mr. Jordan provided a summary however his microphone was turned off and his summary was mostly inaudible.)

Mr. Nickell asked about the house on Ridge and Royalwood. Mayor Stefanik said that they will have an update at the next meeting.

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to adjourn the July 19, 2016 meeting. Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 7:07 p.m.**