

**BUILDING & BUILDING CODES COMMITTEE MINUTES
MAY 16, 2017**

The Building & Building Codes Committee meeting was held on May 16, 2017, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:18 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, Community Development Director Thomas Jordan, Finance Director Eric Dean, City Engineer Mark Schmitzer, Building Commissioner Dan Kulchytsky; **Other:** Lou Krzepina, Gloria Kacik.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **approve the April 18, 2017 minutes as received.**
Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. Former City Hall and City Green Development

Mr. Schmitzer said that the bid opening for the demolition of the old City Hall will be May 26, 2017. Bidders will be able to view the building in an open house type fashion from 9:30 – 11:00 a.m. on May 22, 2017. Mr. Jordan said that we have a photographer who will be recording the former City Hall as it stands and compiling some disks and book print out to be used as a historical record. Mr. Nickell asked if a lot of back fill will be necessary once the building is down. Mr. Schmitzer said that the plan for backfill will be from the high side with a gentle slope to the parking lot. Concepts are still being refined on how the property will be used so tapering the slopes is the best way to go at this point. Mr. Jordan said that they are meeting tomorrow with the architect to explore different concepts. The concept we are pursuing is an open pavilion that will take advantage of the views from the city green. Mr. Langshaw asked if the possibility of stationary binoculars is being considered. Mr. Jordan said that they will consider this as they move forward.

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

Mr. Jordan recapped the intent of this legislation as discussed at the last meeting. He said that the violators fall into 3 categories: 1) Do it yourselves who do the work without a permit who need a variance. He estimates these to be about 6 per year. 2) Residents who don't need a variance but do a home project without a permit. He said that there are considerably more of these violations. 3) Contractors who knowingly do large jobs without a permit. To punitively penalize one group would result in punishing all groups. Regarding contractors, there is separate mechanism that we have used for those who repeatedly do not pull permits. We can revoke their ability to operate within the city. So we feel that we have the ability to penalize this group of violators. There is always going to be a large amount of the do it yourselves in every city who do not pull a permit. As for the group that builds something that actually requires a variance, they are usually in too much of a hurry to wait for a BZA meeting and proceed hoping not to get caught. This group is hard to target without also targeting the other two groups. Even if we triple the fee for this group we will not make a fortune off of it because the group is so small. He said that he doesn't want to sound too negative about the intent of this legislation because the Building Division wants people to pull permits and abide by the state code and build safely within the city and that is what their real goal is. It is not to make money. He said that he has gone over this issue with the Law Department within the last few days but said that they are looking for direction from Council on this. Mr. Antoskiewicz asked at what point would a contractor's ability to work in the city be revoked. Is it after the first time, second time, third time. Mr. Kulchytsky said that we typically don't let it get to that point. After the first or second time we have a discussion with them and inform them that if there is a third event they will lose their registration and they will not be allowed to work in the city and that tends to solve the problem. Mr. Antoskiewicz asked what the typical permit fee would cost for the do it yourselves. Mr. Kulchytsky said

for example, a permit to reroof your home is \$40.40. So doubling that is not significant. But if you get into something larger such as an accessory structure, the numbers could go higher. Mr. Jordan said the instances that require a variance are usually due to set backs. Mr. Kulchytsky said that a lot of the times the residents are not aware of their set back lines. But there is also the instance where someone built an accessory structure almost twice the size of their house over a span of years. Mr. Antoskiewicz said that he would like to give everyone the benefit of the doubt at least once and asked if there is a way to structure the penalty accordingly such as first offense is double, any offense after that is tripled. Because after you have done it once, you can no longer claim that you didn't know. Mr. Jordan said that we can review this with the Law Department if this is the direction that Council would like to go. Mr. Kasaris said that the problem they have with BZA is the difference between someone who didn't know they needed a permit for a water heater vs. the resident who was told he needed a permit before he put his shed up and decides to do it anyway. Mr. Kasaris said that we could put factors into the legislation and leave it up to the discretion of the Building Commissioner. He said that we are not likely to have someone come back for another shed or for a structure that is twice the size of their home. This is why the board members have asked if there is something we can do about the fees for those who intentionally violate our code. He felt that it could be written in such a way that the Building Commissioner or even the BZA can state that they will grant the variance but the applicant must pay triple the fee. Mr. Kulchytsky said that as the one who will be responsible for administering this fee, he would prefer to have objective rules rather than subjective rules. He would prefer to have it very clearly stated so that he can cite chapter and verse what they have violated and what the rules and regulations are. Mrs. Hannan asked about structuring it as a late fee. Mr. Kelly said that this makes some sense. As he stated at the last meeting, it cannot be left up to the discretion of the Building Commissioner. It has to be applied uniformly with no exceptions. Mr. Langshaw asked if we call it a delinquent fee could it be structured as X number of days that you are charged the fee until you are in compliance. He said that it seems like it is a rare occurrence. Mr. Kulchytsky said it is not a rare occurrence. We have quite a few of these that happen every year. The ones that go to BZA would amount to barely 5%. We would be applying this across a greater number. Mr. Jordan said that he wanted to make sure that everyone understood that we double fee them already. There is a penalty already in place. The question becomes do we want to triple fee them and when does the penalty kick in. If we want to relabel the fee and call it a delinquency fee, you can, but it will be applied across the board. Mr. Jordan said that the contractors and residents for the most part know what they are doing. It's rare that someone can come to the counter and say that they didn't know they needed a permit. It usually is more about they didn't want to bother or didn't think they would get caught. Mr. Nickell said that he wants to make sure that people comply with our codes, but he is not looking to gouge the residents. Mr. Antoskiewicz agreed saying that the penalty is already double and thinks this should remain. But after that if someone still fails to comply the next time, then he doesn't have a problem with tripling the fee. Now they can't use the excuse that they didn't know. Mr. Jordan said that often times when the contractor fails to get a permit, we are left to pursue the homeowner, especially if we don't know who the contractor is on site. Mr. Kelly said that he recognizes that this is the product of the concern of the BZA over their experience with people who have violated our ordinances and built things that should have never have been built. He said that the BZA has another remedy by simply denying the variance and that places the homeowner in a very difficult position with regard to having a structure on their property that is illegal. That may ultimately be more persuasive than \$120.00 fine. Mr. Kasaris said that the BZA has done this in the past. Mr. Antoskiewicz asked where we want to go with this. Mr. Petrusky asked what happens if a resident is left with an illegal structure on their property. Mr. Kasaris said if a variance is not granted the Building Commissioner can make them take it down. Mr. Petrusky asked if there is a way to track repeat offending contractors rather than going after the homeowners. Mr. Marnecheck asked if the Building Department declares a structure illegal, is there anyway the contractor's bond could be used to pay for tearing the building down. Mr. Kelly said that this would have to be looked at on a case by case basis, but in many of these instances, if there is no permit, there was no bond posted. Mr. Jordan agreed; without the permit there would be no bond. Mr. Kelly did not think we could make this scenario work. Mr. Jordan said that if Council doesn't have a consensus on this, he asked Mr. Kasaris if he wanted to pursue this further. Mr. Nickell suggested leaving this on the agenda for another month. Mr. Kasaris said that this is fine with him. He felt that the BZA should be able to say that they will grant the variance but make the applicant pay triple the fee. Mr.

Kelly said that this would take some research to determine if this is possible. He said that he does not recall a circumstance where a Board of Zoning Appeals is levying a financial penalty. Mr. Kasaris said if the board can make conditions on granting the variance, this could be one of those conditions. Mr. Kelly said then you get into the exercise of discretion in a way that is not uniform. Mr. Nickell suggested leaving this on the agenda until next month and Mr. Kasaris asked Mr. Kelly to look into this. Mr. Jordan said that he will then leave this to the Law Department and the Building Department will no longer be exploring this matter.

3. **Home Sales (Garage and Yard Sales)**

Mr. Jordan said that the Building Department has a suggestion on this matter and wants to see if there is a consensus among Council. He said that there were a lot of opinions expressed on this as well as a lot of concern. He said that no one supports an unlimited amount of garage sales being held consecutively nor does anyone support a permanent lawn sale. He said that he feels that the Building Department and Council are in agreement that they do not want to issue permits on individual garage sales. So the issue is about repeated garage sales. He said that the draft legislation provided regulated them pretty significantly. He said that it would be hard for the Building Department to regulate the number of sales being held if they are not coming in for permits. We would need to have documented proof of each time a sale occurred. This is a hard standard to enforce. There is the small group of people who have running sales and use their front lawn as a show room. He said that they are very visible and he gets the sense that Council may have been in agreement that these are the “worst offenders” and wanted to know if there is something the Building Department can do to regulate or discourage this occurring. If this is the group that Council wishes to pursue, he and the Building Commissioner feel that we can possibly pursue them under the Property Maintenance code and view the placing of material on the front lawn for an indefinite period of time as more of an esthetics and property maintenance issue. He said that he is looking for input from Council on this. Mr. Langshaw provided pictures of various locations around the city that Council is in agreement with as being perpetual lawn sales. He said that all of our neighboring cities have something on the books regarding garage sales and yard sales and we do not. He felt that it might be easy if we simply state in our code that garage sales, yard sales, or however we want to define it, are limited to just a garage or certain area near the home. This would then make it easier from an enforcement standpoint. Mr. Jordan said we must also be cognizant that people are also allowed to have a sale inside their homes and estate sales are very popular. Mr. Langshaw said he has no issue with estate sales because they are mostly confined to the home and garage. Mr. Antoskiewicz said that based on the photos Mr. Langshaw provided, he could see someone arguing that they are not having a garage sale because there is only one or two items. He asked if there was a way of putting something in our code that states nothing can be sold outside of 100 feet of the dwelling or something like that. Mr. Jordan said that what is being found to be offensive is the lawn sale where you drive down a street and see an item for sale every day. He felt that maybe a better way to handle this is to establish a setback from the street. Mr. Nickell said that we should look at the Building Department’s suggestion regarding enforcement through the Property Maintenance codes. Mr. Jordan said that he will work with the Law Department to see if there is something that can be added to cover this issue. Mrs. Hannan said that maybe we can enforce this using existing codes. Mr. Langshaw said that if we could do this, we would be doing it already. Mayor Stefanik said that we all know that we are talking about 5 or so residences that sell stuff all year long and we want them to stop doing this. Somehow our Law and Building Departments will come up with a solution by next meeting and we can move forward and get it done.

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

Mr. Schmitzer said that we discussed the inspection rates at the last meeting. We are proposing to go from \$38.00/hour to \$50.00/hour to be in line with neighboring communities and allow us to get a better selection of inspectors to perform the work. He said that he prepared an updated version of the previous submission to include changes that allow for Contract Administration that was requested to be added at the last meeting. This will allow for a professional licensed engineer to oversee the inspectors who are doing the field work to make sure that everything meets the contract documents. Mr. Jordan said that he was talking to the county on the Rt. 82 widening project and brought up this issue and asked what rate they

allow for this. He said that he was told that theirs is at \$75.00 and he feels that we might be lagging at \$50.00. Mr. Nickell said that he is fine with the \$50.00 to get the quality workmanship. Mr. Antoskiewicz agreed saying this will bring us in line with everyone else. Mr. Kasaris agreed and asked what the time and a half is for. Mr. Schmitzer said that this is for anytime where they exceed 40 hours in a work week or Saturday and holiday work. Mr. Kasaris asked if this needs to be put in the ordinance. Mr. Schmitzer said no, this is usually in the work agreement and hours will be stipulated in that. Mr. Kasaris said that the ordinance reads that it shall be billed at \$50.00 per hour plus time and a half overtime. Mr. Schmitzer said that this is the same language that has been in the code all along. The only thing that has changed is the dollar amount. Mr. Kasaris said that the ways it reads states that fees for investigation and inspection on public infrastructures improvement projects shall be billed at \$50.00/hour and plus time and half overtime. This is saying that every project is billed at \$50.00 plus time and a half. Mr. Kelly said that we can take a look at this and make some modifications on this.

Moved by Mr. Kasaris, seconded by Mr. Nickell **to remove this item from committee with a recommendation to place on Council's agenda for approval.** Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

Mr. Jordan wanted to make it clear that that these are fees relative to roadway improvements. We are not paying \$50.00 or \$75.00/hour for inspections of resident's homes. This is a technical, outside company reviewing work on public works projects.

NEW BUSINESS

None

MISCELLANEOUS

Mel Neuberger, 8666 Boston Road, addressed the committee regarding building permits. He said that his contractor got a permit and performed a good job and got it inspected. One of the things that bothered him was the cost of the permit and asked why the amount was not included on the sign that was put on his front door. He said that after the inspection the inspector handed the inspection approval to the contractor and asked why it wasn't handed to him. He said that he took it from the inspector and said that he needs it because it's his house. So when he got the bill he was charged \$500 more for the job because this is what the permit cost. Mayor Stefanik asked if he called City Hall to see if this is what it cost before he paid it. Mr. Neuberger said no. He asked why the amount of money that comes in every month from permits is not published in the Royalton Recorder so people know. He said that he is hearing all this about charging double and triple, he said it should be put into the paper to show how much money is coming into the city on these building permits. Mr. Kelly suggested that Mr. Neuberger discuss this with Mr. Kulchytsky and have him examine the permits and show you the receipts so you can see whether or not your contractor charged you appropriately. Mr. Kelly said it is up to the newspaper to decide what they want to print. Mr. Kulchytsky said that the fees are available for viewing either on line or at the Building Department. It is very clearly stated what each particular project will cost. Regarding the specifics that were charged to you by your contractor, he said that he can investigate this for Mr. Neuberger if this is something he wants. He said that a receipt is given to the contractor upon payment. If the contractor failed to provide you with this receipt, it is not the Building Department's responsibility. A permit was issued to the contractor on your behalf because you hired the contractor. Mr. Jordan said that all of these records are public records and said that Mr. Neuberger could get the answer to his questions in 5 minutes from the Building Department during work hours. Mr. Neuberger asked who the city thinks should get the inspection certificate; the contractor or the homeowner. Mr. Jordan said that we would be happy to provide two copies if the homeowner wants one. Mr. Neuberger said that if he hadn't been there he would not have gotten a copy. Mr. Jordan said that sometimes the contractor pulls the permit in their name. He said as the Law Director stated earlier, in addition to the permit the contractor has to get a bond so that in the event that they did not do a good job, that bond is a small insurance policy that the city and/or the homeowner could get the job done correctly. As a result, sometimes contractors who don't carry bonds might issue a special bond and then charge it back to the homeowner. Sometimes contractors charge extra just for the hassle of pulling a

\$50.00 permit, they charge the homeowner \$500.00. Mr. Jordan said that he is willing to bet that the fee that the city collected was substantially less than \$500.00.

Mr. Neuberger said that he came here tonight to discuss the changing of the sewer bill going from North Royalton to the City of Cleveland. He said that he paid originally to Medina County sewers at \$40.00 for two months but now his bill has gone up. He said he has a small ranch home, one bathroom, one kitchen and he is being charged \$211.00 every 3 months. Mayor Stefanik asked if he has well water. Mr. Neuberger said yes. Mayor Stefanik said that there is some good news in this. He said that we are currently conducting a sanitary sewer rate study which should be finished by the end of the year. One of the issues we are addressing is the minimum charge of 1 mcf for all residents and the minimum of 2.5 mcf for anyone who has a well. Mayor Stefanik said that with one bathroom in the home, Mr. Neuberger's bill should be reduced.

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **adjourn the May 16, 2017 meeting**. Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 7:10 p.m.**

5/16/17
Attach to Building and
Building Code Committee
Minutes

Picture Taken 5/16/17 (Today)

Location: Ward 1 Ridge Rd. (Several months of items out on yard...Newer items out)



Same Location but picture taken around March 2017



Note: Every day for over a year there have been items out for sale on the yard near the right of way

Picture Taken 5/16/17 (Today)

Location: Ward 2 on Wallings Rd (Almost a month of items out on yard)



Picture Taken 5/16/17 (Today)

Location: Ward 3 on Ridge (Over 2 weeks items out on yard)



Pictures Taken 5/16/17 (Today)

Location: Ward 6 on Edgerton Rd (Almost 2 weeks of items out on yard)

Note: This property owner is blocking the fire hydrant with their items for sale

