

**MINUTES**  
**BUILDING DEVELOPMENT APPEALS BOARD**  
**SPECIAL MEETING**  
**BANQUET HALL**  
**March 3, 2022 at 3:00**

Meeting called to order by Chairman Barry Ezerski.

MEMBERS PRESENT:     Mike Cornish  
                              Barbara Ellis  
                              Barry Ezerski  
                              Mark Mitchell  
                              Arthur Patrick  
                              Mark Pippin

MEMBERS ABSENT:     Joshua Dickson  
                              Bryan Jones  
                              Michael Merritt  
                              Charlie Wright

ALSO PRESENT:         Charlotte Brown, Supervisor License and Permits  
                              Heath Want, Deputy Fire Marshall  
                              Ralph Maietta, License and Permits

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3.     Approval of minutes from November 18, 2021.

**Motion** by Patrick, **Second** by Mitchell, to approve the minutes of November 18, 2021 as written. **Aye:** Ellis, Ezerski, Mitchell, Patrick, Pippin, Cornish. **Nay:** None. **Motion Passed.**

4.     Hear an appeal from Kent Waller regarding the requirement of a railing surrounding the mechanical equipment on the top of the Ice House located at 4509 SW Lee Blvd.

Brown stated Waller has constructed an Ice House at 4509 SW Lee Boulevard with mechanical equipment on top. The code requires that rails be constructed when the equipment is within ten (10) feet of the edge of the roof. Waller doesn't believe this location needs rails.

Cornish asked isn't the structure about eight (8) foot wide.

Waller stated it is eight (8) foot four (4) inches wide and twenty-four (24) feet long. A rail system to go around the building makes the building about fourteen (14) foot tall. You will have to put a ladder on both sides to climb over the rail. Another option would be to crawl between or underneath the rails. There are over one hundred (100) Ice Houses installed in the state of Oklahoma. The only communities that require rails is Oklahoma City and Lawton. There were others but they felt that rails were dangerous. Only two (2) of the three (3) units in Lawton have rails. With this being eight (8) foot four (4) inches wide the rail had to go from one end to the

other. One end has an electrical panel that opens to the outside. You would have to leave that where it opens or that would be another violation of code.

Ezerski asked how much of a lip do you have.

Waller stated none.

Maietta stated it is possible to have a rail opening where you don't have to climb over or between as long as the opening is ten (10) feet away from the equipment. If that is not possible you could hinge a gate.

Waller stated the unit is basically a styrofoam box. It is six (6) inches of styrofoam walls and ceiling. On the top and bottom of the ceiling there is a very thin layer of metal with six (6) inches of styrofoam between. The factory designed a railing where you have to penetrate the roof and install fifty-six (56) pop rivets. What makes the unit work is it is one (1) piece. You are using this side to support this side. I was told you have one ordinance that says it must be forty-two (42) inches tall and another ordinance that states it must hold a two hundred fifty (250) pound man. If you take part of the unit away, you have ten (10) or twelve (12) of these holding up a two hundred fifty (250) pound person. Here are some pictures of other communities.

Pippin asked why didn't Ice House inform you that you needed railing. If she knew Lawton required it, she should have put them on.

Waller stated I was blindsided by this.

Pippin asked did she know the unit was coming to Lawton.

Waller stated yes, I was waiting on an electrical inspection and a mechanical inspector drove by and stated we needed handrails. Here is the building permit and there are no comments about needing handrails. Here is a picture of a unit with handrails and two (2) of the three (3) in Lawton have rails.

Brown stated I found three (3) units with handrails.

Waller stated that is not a handrail. She is referring to this one. It is only thirty (30) inches tall, and it is screening for the equipment. That is a small Ice House. It's like fifteen (15) feet and mine is twenty-four (24). It will take more people, labor, and manhours to put this on than there will be people working on it in the lifespan of the unit.

Maietta asked can you tell me who installed the equipment.

Waller stated Ice House of Oklahoma.

Maietta asked how did the units get on top.

Waller stated by crane.

Pippen asked who did that.

Waller stated Ice House of Oklahoma.

Maietta stated I have never heard of Ice House of Oklahoma, but it takes a licensed mechanical contractor to install this equipment.

Waller stated I have no knowledge of that. I bought an Ice House, they delivered and erected it.

Maietta stated they have the back of the unit sitting off the back of the structure. They could have put it up a little further.

Waller stated the Ice House holds 8000 pounds of ice. It is created at the back with conveyors that move the ice forward and stacks the ice as it goes forward.

Maietta stated this is just a condenser unit.

Waller stated yes, and next to it is the ice unit.

Maietta stated I'm asking why did they place the equipment up here.

Pippin stated or this condenser.

Waller stated I don't know why it was designed this way. There is a hundred (100) in the State of Oklahoma and I don't know how many in the United States. They are a big franchise.

Maietta stated it looks to me they had plenty of options on where to put this without rails. No matter where he puts it, they could have made it easier to put up rails.

Cornish stated he should have shifted it forward a couple of feet.

Pippin stated or scooted it to the other side. The condenser doesn't affect the ice maker.

Waller stated I can't tell coke how to make coco-cola. I purchased the machine through Ice House of Oklahoma. You pay for it before you get it.

Maietta stated it might be a civil matter, but you might be able to have them adjust the installation.

Waller stated I would bet that would be impossible.

Maietta stated to hook this up they must be a licensed in the state and the city.

Waller stated this is the handrail the manufacture came up with to solve the problem. This is the handrail that I showed you. It takes fifty-six (56) pop rivets to hold it down. I believe it is a hazard

for someone trying to crawl over or through a forty-two (42) inch rail. From my study there is no place with the spacing that would allow you to have an opening.

Pippen state this should have been designed with the condenser having its own spot. That is dangerous hanging out there. I don't believe it is safe.

Cornish stated if the box was shorter, it might be hanging over for the conveyor system. Some are shorter and that would be my guess.

Maietta stated by looking at the picture that unit could have been set anywhere.

Cornish stated it might be a structural thing. It may be so heavy it has to set on an end wall to split the weight.

Pippin stated they could have put two (2) pieces of angle iron and one (1) across and set it on the angle iron.

Mitchell stated is it required to have an engineer's approval on that design. Is that design engineered.

Maietta stated I don't think so.

Waller stated inside the electrical panel it shows a third-party review and it states it has met the 2009 IBC requirements. The building holds 8000 pounds of ice. There are uprights going up and I believe those support the area where the unit sets. You can buy four (4) different configurations and I brought everything I had to the city.

Maietta asked what will happen if this needs to be serviced and the technician backs away and falls.

Waller stated I guess then it's my liability.

Maietta stated we are here to prevent that.

Waller stated I understand that. Would you get in touch with the mechanical inspector in Tulsa? He climbed one with rails and stated it was so dangerous that rails didn't need to be there. He said it was too dangerous to climb over the rails.

Maietta asked did he climb over them.

Waller stated I don't know if he crawled through or over. He just said it was dangerous.

Maietta stated there is no reason to climb over. You can put in a gate.

Waller stated we don't have a system that will hold a gate.

Cornish stated they have designed the rails to attach through styrofoam and tin with rivets. It is designed to work as a whole unit. They didn't plan on putting in a gate is the problem. Once you put in a gate it weakens the stability of the rails.

Maietta stated we don't have to use the manufacturers design. They make rails that are weighted and will hold a two hundred fifty (250) pound person.

Cornish asked like a sandbag.

Maietta stated yes, but it is a metal weight.

Waller asked what do you attach it to.

Maietta stated your not attaching them. They just sit there with weights at the bottom.

Cornish asked what about a pole in the center and use a harness.

Maietta stated we don't allow the use of a harness at this time.

Cornish stated I thought the ordinance stated you could use a harness.

Maietta stated it does, but we don't accept them at this time.

Cornish asked who Lawton or the State of Oklahoma.

Maietta stated the City of Lawton's mechanical inspectors. What I have read the system has to be done by an engineer depending on the structure. There are all kinds of measurements and not just anyone can take those measurements. You must be certified to take those.

Pippin asked where do you purchase the weighted handrails.

Maietta stated I'm not certain, but I know that the city used them on the public safety building.

Brown stated at the new fire station.

Waller asked is that permanent.

Maietta stated no, they are moveable.

Waller asked is it a permanent solution.

Maietta stated yes.

Waller asked was it designed in the loading of the building.

Maietta stated I don't know. I'm saying the railing is a listed item and okay to use. I don't know the weight load of the Ice House. There are other options available.

Cornish asked do you have a problem using a pole four (4) foot away that you hook to.

Maietta stated I can't approve that.

Cornish asked if he does the engineering.

Waller stated I'm not an engineer.

Mitchell stated I understand your concerns with the anchors and weaking of the structure but surely the manufacture has designed that properly. They put the mechanical equipment up there knowing that at some point it will have to be accessed. I would contact them telling them you believe this would weaken the structure. Maybe they could send the city something.

Waller stated their engineers came up with this and they want to punch fifty-six (56) holes in a perfectly good roof. That isn't good.

Patrick asked is it a state code to have the rails.

Brown stated yes.

Patrick stated being a state code why were they not required to put up rails in other cities.

Mitchell stated municipalities enforce to different degrees. There are things Lawton enforces that other municipalities do not and vice versus. The reality is it is a current mechanical code requirement. You can appeal if you think we have misinterpreted the code. The code also allows Charlotte or Ralph to entertain alternatives that would be equal to or better protection.

Maietta stated this is an international code. The state doesn't write it.

Patrick stated okay, so it is not a state code.

Brown stated the state has adopted the ICC codes. In November they adopted the 2018 version and the city is under the 2015 version. I don't believe that many municipalities have adopted the 2018 yet.

Waller stated this would be in the 2015 code.

Brown stated yes.

Ezerski stated the 2015 could be different from the 2009.

Maietta stated the code didn't change a lot so it might not be. The rails were required in 2009.

Patrick asked when did you install these.

Waller stated I haven't installed those. Those are pictures from Duncan, Chickasha, and Medicine Park.

Patrick asked do you think these have been here for a year, five (5) years or ten (10) years.

Waller stated I doubt that they are over five (5) or six (6) years old.

Patrick stated Midwest City might require them now.

Waller stated they probably had the code but didn't enforce it. Tulsa said it was too dangerous. I don't have privy to why cities don't enforce the code.

Ezerski stated so, this is a prefab that requires a permit and license and permits to look things over.

Waller stated absolutely.

Ezerski asked is your point that they never told you that you had to have rails.

Waller stated that is two (2) or three (3) percent. I'm here because it is not safe to climb over or through the rail. There will be more people hurt from climbing over, through or under than falling off.

Maietta stated you don't have to climb over the rail.

Waller asked how do you get in there.

Maietta stated you leave an opening.

Cornish stated code says if your thirty (30) inches away from the equipment you must have rails. He isn't wanting you to put it on the front.

Waller stated yes, but there is a piece of equipment that is within ten (10) feet of the front.

Maietta stated it doesn't have to go all the way around.

Cornish stated thirty (30) inches past the equipment.

Waller stated there is not anywhere that isn't within thirty (30) inches of the equipment.

Maietta stated I have only looked at it from the street. I can't make an argument on that but I'm willing to go measure it.

Cornish stated Ralph is saying leave an opening.

Waller stated you don't have thirty (30) inches before you get to the next piece of equipment. That is the problem. If you leave it open, you don't have the stability to hold it up. There is one (1) unit in town that all it has is a screening rail and it doesn't get close to meeting the code.

Cornish asked where is it located.

Waller stated 67<sup>th</sup> and Gore and it is a smaller unit.

Maietta stated Chefs on Lee Boulevard used what looks like cattle guards. He has a heavy-duty roof, and I don't know if something like that will work.

Cornish stated put it on the side of the building instead of on the top.

Maietta stated that might be something you could use. You need to talk with them to see if it is okay. I wouldn't do anything except for the manufacture's recommendation.

Cornish stated yes. If you put fifty-four (54) holes in the roof they will be the first to say they won't warranty the building.

Mitchell stated their engineers are the one that sent him those plans.

Pippen stated I don't understand why Ice House sold you the product knowing Lawton required railing and didn't tell you.

Cornish stated why didn't we tell him they were required when we reviewed the plans.

Pippins stated I'm saying if they knew this was a requirement in Lawton, they should have told him.

Maietta stated when we review the plans, we don't look at everything. If we did, we wouldn't have time to look at the inspections.

Brown stated Midwest City doesn't require railing because theirs are permitted as an accessory structure and not a commercial building.

Mitchell asked is our building limit 200 square feet.

Brown stated yes.

Waller asked will that apply in Lawton.

Brown stated the 200 square feet is the requirement for the foundation.

Mitchell stated the problem with plan reviews things get missed. We don't catch everything. Just because we miss it doesn't mean you don't have to do it. My issue is if the city accepts it without the rails the city is responsible for the liability.

Waller stated I think they will come see me first.

Pippin stated the problem is when you sell it and someone falls off the building the new owner will come after the city for not requiring the rails. I'm in a similar situation right now.

Maietta stated there is a good chance something will be missed when plans are reviewed. There is a packet you get with the permit that says all trades must comply with the current code. This gives us some lead way when we miss something. Just because we missed it doesn't mean it isn't required.

Pippin asked will this qualify as an accessory structure.

Brown stated that isn't the way we look at it. We look at it as commercial because there will have to be maintenance on the inside.

Waller asked you classify this as a building, but it isn't occupied. One (1) person can barely get inside. We paid sales tax as a piece of equipment not a building Does that make a difference.

Maietta stated as far as mechanical we are not concerned as to what kind of building it is. We are concerned about the equipment being on top of a building and protection for those servicing the equipment. It is all about the safety of the person working on the roof. The only place it is not addressed is on residential.

Waller asked is it required on everything else that is serviced from the roof that is over thirty (30) inches off the ground.

Maietta stated yes sir.

Waller asked and is that indoors and outdoors.

Maietta stated outdoors. It is the roof.

Waller stated it doesn't say that in code. It says if it is thirty (30) inches off the ground.

Maietta stated if a building has a drop down and as piece of equipment within ten (10) feet of the drop down and the drop down is thirty (30) inches a rail is required. If a piece of equipment is raised thirty (30) inches you must have a rail around it.

Waller stated okay, guardrails shall be provided where various components that require service and roof hatch openings are located with ten (10) feet of a roof edge or open side of a walking surface and such edge or open side is located more than thirty (30) inches above the floor, roof or grade below. That is what it says. It doesn't say inside or outside.

Maietta stated okay.

Waller stated all I'm asking is for a simple variance on something I believe is a health and safety issue.

Maietta stated I understand your situation, but we are between a rock and a hard spot. As far as the code goes, we must watch out for the safety of anyone on that roof.

Ezerski asked are there other Ice Houses in town with railing.

Waller stated yes. Here is a picture of one and it is this designed rail.

Ezerski asked are they bigger units than yours.

Waller stated the same size.

Ezerski asked is that design what they used.

Waller stated yes.

Maietta stated most use a ladder to crawl in and have a space for an opening.

Waller stated this doesn't have the space and that is why I'm asking for the variance.

Maietta stated if you will set up a ladder, I'll be more than happy to go up and take some measurements to double check to see if we have an area we can approve.

Waller stated I know the City of Lawton tells you financially it doesn't matter but Lawrence Steel wants \$4900 to build the rail. That isn't painted or installed. It takes a crane to install it and you have to drill fifty-six (56) holes in the roof. That is an engineered rail.

Maietta stated I will gladly give you the name of contractors that will give you bids. They will need to know what they can and can't do from the manufacture. Does the back of this piece of equipment have to be opened here?

Waller stated not the very back piece the next one. Mike, how many times have you see rails installed on a roof for air conditioners.

Cornish stated a few lately.

Waller asked would you say that most of them are not engineered.

Cornish stated yes, I would say 99% is not engineered.

Waller stated and we don't know if it will hold a two hundred fifty (250) pound man.

Cornish stated I hope that it is never tested.

Waller stated it looks like the required rails would have to have an engineer design.

Maietta stated looking at your piece of equipment to repair anything you need a clearance of thirty (30) inches. I haven't measured it, but I don't think you can get between those two (2) pieces of equipment.

Waller stated I think it is thirty (30) inches of clear space in front of that. It can't have something that obstructs it behind that piece of equipment.

Maietta stated you need thirty (30) inches of clear space to access panel.

Waller stated that is correct, but it doesn't say clear floor space it says clear space.

Maietta stated distance.

Waller stated horizontal distance from the unit.

Maietta stated I don't know that we have that with these two (2) pieces of equipment.

Waller stated that is one (1) piece of equipment.

Maietta stated there are two (2) there.

Waller stated it comes in one (1) piece.

Mitchell stated Ralph, did you say you would consider an anchor point for a harness.

Maietta stated I don't know what to look for in an anchor point nor how to inspect them.

Mitchell stated I'm not an engineer, but I could see a piece of two and seven eighth ( $2 \frac{7}{8}$ ) inch pipe up both side and run a piece across with an anchor point on it where you could hook off.

Maietta stated look at these and tell me what you think. One is from OSHA and one from ICC. There are all kinds of calculations on the weight and length of the harness.

Mitchell stated somebody had to engineer how to carry a live load for repair. You know people have to be up there.

Cornish stated I have never seen a 3100-pound guy.

Pippin stated that is the impact it makes.

Cornish stated a three hundred (300) pound person falling four (4) feet is going to have 3100 pounds of pressure.

Pippin stated yes. We have to go to class on all that.

Waller stated it would take less effort to move this to Duncan than to get it done here.

Pippin stated I think you need to look at the one (1) at the fire station. That might be simple.

Waller stated yes, but based on leverage to hold a two hundred fifty (250) pound person you don't have the room up there to do that.

Pippin stated I don't know what it looks like, but this might be an easy solution.

Cornish stated the new public safety building has this.

Maietta stated yes.

Mitchell asked is it in the center of the roof and not on the edge.

Maietta stated as I recall there is a drop off where rails were required, and this is what they used.

Cornish asked and they move it around.

Maietta stated you can move it. Code says it must hold a two hundred fifty (250) pounds, but it doesn't state it has to be listed. There are no listing requirements for a guardrail.

Mitchell asked who determines that.

Maietta stated I do.

Mitchell asked so you decide if you will accept it or not.

Waller asked you said you could do what.

Maietta stated I can approve any type of guardrail

Pippin stated you have to have his approval first. That is why he is willing to go look and give you some ideas.

Maietta stated the main thing is a guardrail is a warning. When they have it in their head it works as a warning. Ten (10) feet is only three (3) steps.

Cornish stated I painted a six (6) inch strip around the top of the Goodyear plant three (3) feet from the edge. That was their warning.

Waller stated I'll be glad to paint stripes if it will get me through this.

Cornish stated that is what Goodyear allowed. Ralph is correct about it being a visual warning.

Pippin stated I believe we need to let Ralph go look at it. He might find something inexpensive.

Cornish asked would you be willing to accept that.

Waller asked would we have to have another meeting.

Cornish stated we might. Meet him out there and talk.

Maietta stated my reason for going out there is to see if we can find a way to not climb over the rail. I'll measure it and see if they can have an opening.

Waller stated so, if you find a solution that is almost to code that will be alright.

Maietta stated sure. The opening has nothing to do with code.

Waller stated you can approve twenty-eight (28) inches.

Maietta stated yes, but the opening can't be within ten (10) feet of a piece of equipment.

Waller stated the building is only twenty-four (24) foot long with equipment on both ends.

Maietta stated I'm saying I'm willing to take some measurements.

Cornish stated meet him out there and see if he has a better idea than this \$8000 system.

Maietta stated oh no, I'm not going to have anything to do with what type of rails he uses. Why can't you put this up there?

Cornish stated fifty-four (54) holes.

Maietta stated this Ice House is okay with it.

Waller stated I don't understand your question. Are you asking why can't I put that on mine?

Maietta stated yes.

Waller stated I'm going to be forced to do so if this board says no.

Ezerski stated he said the cost is \$8000.

Waller stated I have two (2) choices. I can put it up there or I can move the unit someplace else.

Maietta stated okay, I understand it is the cost.

Waller stated it is the principal not the cost. I think it is dangerous. When you spend \$200,000 plus \$5,000 or \$6,000 isn't a big cost. Myself and those who install them think they are dangerous. Oklahoma City is the only community requiring rails.

Maietta stated if we can find the space to put an opening where you don't have to climb over the rail then it will be safe.

Waller stated but the integrity of the rail is sufficiently damaged, and it won't hold two hundred fifty (250) pounds. The idea of that railing is one continuous piece.

Maietta stated I don't care how we get up there as long as it holds two hundred fifty (250) pounds.

Waller stated this is all there is holding it. It takes six (6) of these on every plate and there are eleven (11) plates.

Maietta asked is that from the factory and do they say it will hold.

Waller stated yes, if you put all fifty-six (56) of them down. If you put twelve down probably not. That is why a gate won't work.

Maietta asked if it is a different system and holds the required weight are you okay with that.

Waller stated if we come up with a different system and someone falls off and they ask who engineered it I'll say the mechanical inspector for the City of Lawton.

Maietta stated we can go round and round. We can't prevent everything. Is it possible for someone to fall through, sure. We can only do so much.

Cornish stated all I'm asking is you let him go look at it to see if he can come up with a better plan.

Waller stated and if he doesn't, I'm right back here.

Cornish stated unfortunately we can't fix the world and we can't fix stupid from falling off the building. That is the whole reason we are here.

Maietta stated (can't hear)

Cornish stated that is what he is saying.

Maietta stated there is no need for me to go up there. The only thing I can do is look for an opening for a gate.

Cornish asked what if he goes with a different system or mounts them on the side.

Pippin stated or like the fire station.

Waller stated I need to put some post up on the outside and make it as ugly as possible for the City of Lawton.

Cornish stated all I'm trying to do is come up with an alternative to fix the problem.

Waller stated I'm right here with you 100%.

Maietta stated I'm not going to come up with a different plan. I can give you names of contractors that will be willing to tell you what they can do. As long as it holds two hundred fifty (250) pounds and has a center bar of twenty-one (21) inches.

Waller asked are these engineers.

Maietta stated no, you don't have to be an engineer to put the guardrail up.

Waller stated you have to be an engineer to say it will hold two hundred fifty (250) pounds.

**Motion** by Cornish, **Second** by Pippin, to table this item until the next scheduled meeting.

Waller asked does that mean I need to get another temporary certificate.

Brown stated I'll extend it.

**Aye:** Ezerski, Mitchell, Patrick, Pippin, Cornish. **Nay:** None. **Motion Passed.**

Brown stated the next scheduled meeting is March 24<sup>th</sup>.

Ezerski asked will you get him the name of the contractors.

Maietta stated sure. If there are access doors on this back piece of equipment it can be serviced with a ladder, and you won't need rails.

Waller stated the plans were amended to show where it is accessible from a ladder.

Maietta stated this is fine it is just the rest of the equipment you might have to get into.

Waller stated you can't get there. There isn't anything that is not thirty (30) inches away.

Pippin stated he is saying that you could stop the railing right here.

Waller stated yes, but thirty (30) inches from the end of that one is within thirty (30) inches from the other one.

Maietta stated you can put it up in sections.

Waller stated okay.

Maietta stated to me it doesn't have to go all the way around.

Waller stated to get the stability it does.

Maietta stated the factory one.

Waller stated yes. If someone wants to go up there and be responsible for drilling fifty-six (56) holes in that roof or putting in another system that compromises the roof I would like to have an engineer's certificate that it is being done correctly.

Ezerski asked does anyone have anything else that they would like to discuss today.

**Motion by Patrick, Second by Pippin**, to adjourn.

Mitchell asked who did you talk to in Tulsa that said the rails were dangerous.

Waller stated Ice House of Oklahoma. The company that installed everyone in Oklahoma.

Mitchell stated okay, so they are saying that Tulsa is not requiring the railing.

Waller stated they said the only town that requires rails is Oklahoma City.

**Aye:** Ezerski, Mitchell, Patrick, Pippin, Cornish, Ellis. **Nay:** None. **Motion Passed.**