

**Minutes of Planning Commission Meeting  
held Wednesday, November 4, 2015, at 7:00 P.M.  
in the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida**



**Call to Order**

The meeting was called to order Vice-Chairman DeLoach.

**Roll Call**

Greg Sutton (Chairperson)  
Terry DeLoach (Vice Chairperson)  
Bill Callan *absent*  
David Dahl  
Georgette Dumont

Alternates  
Brinton Sanders  
Jeffrey Jones

Also present were Bill Mann, Director of Planning and Recording Secretary Amber Lehman.

**Approval of Minutes**

There were none.

**Correspondence**

There was no correspondence.

**Old Business**

There was none.

**New Business**

- (A) **PC #30-15** - Land Development Code Text Amendment Application (Ord. No. 2015-8064)

**Land Development Code Text Amendment** amending Land Development Code Article IV. Definitions to add, modify, and repeal certain definitions related to signs.

**Staff Report:**

Mr. Mann read the following staff report into the record:

Ordinance No. 2015-8064 contains updates to the Definitions for the Land Development Code. Some definitions have been added, some definitions have been deleted and some definitions have been revised. To aid in your review, the attached ordinance includes the entire Definitions section from the current code, with proposed revisions indicated in the strike through deletion/underlined addition format.

In 2010, the City Council passed a comprehensive sign code which is now codified as Division IV, Article VIII, Chapter 34 (Land Development Code) of the Jacksonville Beach Code of Ordinances.

A recent U.S. Supreme Court Opinion in the case of *Reed v. Town of Gilbert, Ariz.*, (U.S. June 18, 2015), impacts the traditional regulation of certain signs in municipal codes across the country. The *Reed* case reached a decision that sign code provisions which separately categorize or classify temporary noncommercial signs, such as qualifying event signs, political signs, and ideological signs based upon the information conveyed, are now subject to strict scrutiny rather than intermediate scrutiny by the courts.

In response to this recent opinion, the City has retained a land use attorney who specializes in sign codes. The City's counsel in this matter has substantial experience in law regarding land use law and the First Amendment. Mr. Bill Brinton and his law partner Emily Pierce will appear before the Planning Commission tonight to discuss the *Reed v. Town of Gilbert* decision and the two proposed ordinances on the agenda for your review and consideration.

Mr. Brinton and the City attorney have recommended that the City should take action to revise or replace its sign code and its related provisions to comport with the Supreme Court's guidance in the *Reed* case and to ensure that its signage regulations will be interpreted as content neutral, except where a compelling government interest requires a content-based distinction.

Mr. Mann noted that the sign code amendments have been broken into two separate ordinances and applications and he would now read the second application and comments.

**(B) PC #31-15 - Land Development Code Text Amendment Application (Ord. No. 2015-8065)**

**Land Development Code Text Amendment** amending sign related regulations contained in Articles VII, VIII, and XIII of the LDC.

**Staff Report:**

Mr. Mann read the following staff report into the record:

Ordinance No. 2015-8065 contains a new Division IV, Article VIII of the Land Development Codes. These are changes within Division IV, Sign Standards, to comport with a recent decision by the U.S. Supreme Court. The Supreme Court decision has a broad impact on sign regulations across America. Division IV is restructured. The temporary noncommercial sign regulations have been condensed and simplified. The changes ensure that these regulations are content neutral under the new guidance from the Supreme Court. The permanent sign regulations have also been simplified. We believe that they are now more end-user friendly than before. Some changes have been incorporated into the revisions so as to provide greater clarity and to codify actual practice.

To aid in your review of the attached ordinance, a copy of the current LDC Division 4, Sign Standards and a copy of Resolution No. 1864-2010, regulating temporary signage, are included with the application package. Both are proposed to be replaced by the regulations contained in Ordinance 2015-8056.

Overall, the modifications retain the existing criteria for signage within the City of Jacksonville Beach but restructure the Sign Standards where they could be improved.

Mr. Mann then introduced Bill Brinton, an attorney who is an expert in sign legislation and is working with the City on proposed amendments.

#### **Expert Presentation:**

Mr. Brinton, Rogers Towers P.A., noted that the Supreme Court decision has totally changed the way local government regulates signage. He then reviewed the history of the *Reed v. Town of Gilbert* Supreme Court case to show how we got to this need for sign regulation amendments, by presenting a powerpoint presentation. He noted that each of the sign types in the *Reed* case had separate requirements based on function and purpose. He reviewed the opinion from Justice Kagan. The presentation then reviewed the background behind the *Reed* decision. The presentation went on to explain the Supreme Court's decision. He explained the potential negative impacts to all local regulations as a result of the Court's decision.

Mr. Brinton stated that the local governments should not wait to make changes to their regulations. He explained the need for an ordinance to pass strict scrutiny and serve a compelling government interest.

Mr. Brinton then reviewed the proposed revisions. He explained the new definition of an abandoned sign and the proposal to distinguish discontinued signs from abandoned signs. He then explained the issues of regulating artwork. Ms. Dumont asked if organizations that had events used banners how would they be approved. Mr. Brinton stated that the City would have to decide if they were to support the event and if so, they should be ok. Mr. Brinton responded to a question from Mr. DeLoach about whether the City is in

favor of the event that it depends on a case by case basis. Mr. Sutton asked how they have been handled in the past. Mr. Forbes responded that they have a policy that the event has to be one that is held on a government facility, but they would have to reanalyze the issue. Ms. Dumont asked about the drink festivals with banners in the vertical streetlight poles. Mr. Mann read the allowable uses from the ordinance that was repealed.

Mr. Brinton then explained about the regulations of decorations and the intent not to regulate those decorations in private yards. Mr. Sutton asked about the term commercial advertising. Mr. Brinton stated that it is when you are promoting a commercial business. He explained that for discontinued signs we are going to 180 days instead of 60 days. Mr. Sanders asked about a sign where the business leaves and the new business wants to use the same sign – could an applicant ask for an extension. Mr. Brinton stated no, and that they are only dealing with signs that are non-conforming.

Mr. Brinton stated that they should delete the reference to sign walker and sign spinner that don't belong in the LDC. They will be regulated elsewhere in the City's codes.

Mr. Sanders asked about the lifeguard station sign with three flags. Mr. Brinton stated they were government signs and were fine.

Mr. Brinton pointed out that a sign permit is not needed for a temporary sign. Mr. Sutton asked for more input. Mr. Brinton stated that they removed what had been adopted in 2010. Mr. Mann confirmed that the requirement for permits was removed with the deletion of the 2010 ordinance. Mr. Mann stated that they still will enforce the regulations even if a permit was not required.

**Discussion on 30-15:**

Mr. Sutton stated that the expansion of temporary signs from two months to 12 months was excessive. Mr. Brinton stated that the use of two months was problematic and there was no way to distinguish between temporary signs now. Mr. Forbes added that he had problems with the 12 months as well, and thought that six months would be more reasonable. Discussion followed on how to address temporary commercial and noncommercial signs.

Mr. DeLoach asked how they would make a motion if the document will potentially change. Mr. Forbes recommended that they adopt with modifications as discussed tonight – one about the use of the term “that” and one about flag material. He stated that there were time constraints. Mr. Mann stated that the two ordinances would appear before the City Council at first reading to be adopted at second reading.

**Public Hearing**

Mr. Sutton opened the public hearing for anyone who would like to address PC #30-15. There was no one to speak for or against the proposed changes.

**Motion:** Mr. DeLoach moved approval of the proposed ordinance 2015-8064 with the changes as discussed. The motion was seconded by Ms. Dumont.

**Roll call vote:** Ayes – Sutton, Dahl, DeLoach, Dumont and Callan.  
The motion was approved unanimously.

**Discussion on 31-15:**

Ms. Dumont added her recommendation concerning the issue on Page 9, Section 34-445, Subsection 3C about using the term that instead of which.

Mr. Sutton asked about sign illumination and whether there was a prohibition against temporary commercial signs being illuminated. He thought they were remiss without differentiating between commercial and noncommercial temporary signs. Mr. Brinton stated if you allow illumination for temporary commercial signs you have to allow illumination for noncommercial temporary signs. Mr. Mann stated that it was in the repealed resolution. He stated that seasonal sale signs could be illuminated. Mr. Brinton noted in the new code that sign illumination is prohibited for temporary signs. Ms. Dumont stated then you could not illuminate seasonal temporary commercial signs.

Mr. Sutton asked Mr. Mann about maximum sign size. Mr. Mann said currently it was 32 square feet for seasonal sales activities. Mr. Sutton noted that there are changed proposed. Mr. Sutton thought that the 16 feet proposed was too small. Ms. Dumont responded that they would have to allow large noncommercial signs then. Mr. DeLoach stated that he would not like to see large election signs scattered everywhere in Jacksonville Beach. Mr. Mann stated that political signs in residential districts are four feet in size and in non-residential districts they are 16 feet in area. Mr. Brinton stated that duration of the sign would be handled the same regardless of the type of sign. He stated that signs to cover elections and special events have to have the same post-event duration time. He stated that should be in the ordinance, and recommended a durational limit of seven days after an event. He added that A-frame and T-frame signs should also have included in the table the fact that they weren't allowed to be illuminated. He also added that Christmas tree signs would also be treated the same based on the size limitations.

Ms. Dumont stated that she thought the phrase “unless otherwise provided by this provision” should be removed from 34-445(3)(a). In addition, amend the table to state that illumination is not allowed for any of the signs, and that temporary event signs have to be removed seven days after an event.

**Public Hearing**

Mr. Sutton opened the public hearing for anyone who would like to address PC #30-16. There was no one to speak for or against the proposed changes.

**Motion:** Ms. Dumont moved approval to the City Council of Ordinance 2015-8065 with the modifications proposed on Pages 5-12 of the document titled Proposed Modifications

to 2015-8064 and 2015-8065, Exhibit A, for consideration by the Planning Commission on November 4, 2015 and further amended by striking “unless otherwise provided by this provision” for Section 34-445(3)(a) and by replacing “which” with “that” at the end of the 4<sup>th</sup> line on Section 34-445(3)(c), modifying Table 34-447(1)(a) to add the line “prohibiting the illumination of T-frame and A-frame signs, modifying Table 34-447(1)(b) adding a line prohibiting the illumination of temporary signs across the board in all districts, and adding a line requiring removal of temporary signs related to an event within seven days in all zoning districts. The motion was seconded by Mr. Dahl.

**Roll call vote:** Ayes- Dahl, DeLoach, Dumont and Callan. Nays- Sutton  
The motion was approved 4-1.

**Planning & Development Department Report**

Mr. Mann noted that the regularly scheduled meetings for November are canceled.

**Adjournment**

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 9:25 P.M.

Submitted by: Amber Maria Lehman

Approval:

Chairman

Date:

  
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2-8-2016