

A workshop meeting of the City Commission was held on June 4, 2013 in the Commission Chamber at the Municipal Administration Building. The meeting was called to order by Mayor Eugene Fultz at 4:02 p.m.

COMMISSIONERS PRESENT: Christopher Lutton; Betty Wojcik; Jonathan Thornhill; Michael S. Carter; and Mayor Eugene Fultz

COMMISSIONERS ABSENT: None

CITY REPRESENTATIVES PRESENT: Dorothy Ecklund, Interim City Manager, Clara VanBlargan, City Clerk, Jacquie Hawkins, Deputy City Clerk; Albert C. Galloway, City Attorney

[Meetings are recorded but not transcribed verbatim]

Agenda Item 1. Roll Call

Agenda Item 2. Proposed Ordinance 2013-05 – Amendments to Sign Regulations, Chapter 23 Zoning, Land Use and Development Regulations

Existing and Proposed Sign Regulations

A-Frame Sidewalk Signs

The code was amended in 2003 to allow these signs in response to downtown restaurant owners who wanted to post their menus on the sidewalk. These are the only private signs allowed in the public right-of-way.

Proposed changes:

- Change name of sign from "Sandwich Board Sign" to "A-Frame Sidewalk Sign" to distinguish the type of sign from the type carried by a person with straps on his shoulder.
- Allow in front of any commercial building with a sidewalk along front of the building of at least 5-ft. in width. (Note that these signs will be on private property)
- Reduce size of A-Frame sign from 5' to 4' in height and from 30" wide to 24" wide. Signs available for purchase are smaller than they were in 2003; no business has utilized the large size; the smaller signs leave more room on the sidewalk.
- Message must be clear, neat, and secured.
- Allow display of a commercial or non-commercial message. (To allow free speech.)
- Allow in grass between sidewalk and roadway (not in bushes or other landscaping).

Provisions to remain the same:

- One sign is allowed per business fronting sidewalk.
- Signs must be brought in when business is closed.
- Display must be in front of business, not off-site.
- Sign is A shaped without legs, as defined. (Prongs are not allowed.)
- ADA accessibility must be maintained along sidewalk.
- A sign permit is required. (Owners have stated they were not aware a permit is required.)
- No balloons, streamers, flags allowed on sign (currently in general section on signs).
- Allowed in area between Wetmore and Scenic on Central, Stuart, Park & Orange Aves.
- Allowed in area between "A" and "D" Streets on Lincoln Ave.

OTHER DIMENSIONAL CHANGES TO SIGN REGULATIONS

Several other changes are proposed to assist business and improve community appearance:

- Prohibit all roof signs. Currently, signs above roof line (ridge) are prohibited.
- Allow spot light on all signs in PF-Professional districts. Currently no lighting allowed if adjacent to residential district.
- Reduce wall sign allowance downtown from 2 to 1 sf/linear ft. building frontage.
- Allow ground sign in the downtown without a special permit if the building has a setback of 20-ft. minimum. Currently a permit from planning board required.
- Allow electronic signs in LCI-Limited Commercial-Industrial Districts on US 27.
- Increase base* allowances for ground signs (24 to 30 sf) and business complex signs (30 to 36 sf). *Properties over 20,000 sf in floor area are allowed more than the base sf according to a formula.
- Reduce minimum distance between right-angle signs from 30 to 20 ft. (Business frontages downtown are typically 20 feet in width.)

Planning and Development Director Margaret Swanson and her assistant Kathy Bangley were available for questions.

Commissioner Wojcik announced that the Planning Department issued a handout of what exactly the proposed sign ordinance changes were and said there were a few extra copies if anyone wished to have one.

Mayor Fultz opened the meeting up for public comment, reminding the public to be respectful and that they had five minutes to state their case.

PUBLIC COMMENT

Enforcement:

Keith Thompson, business owner: Mr. Thompson said he thought the changes were reasonable and he had no issues with them. He said ordinances are only as good as their enforcement and his only concern was that he hoped we would not become a city with a lot of ordinances on the books that never get enforced, an example being the parking ordinance. He also hoped the enforcement would be done fairly.

Mayor Fultz asked the City Attorney to reiterate why enforcement of the sign ordinance has been lacking. Mr. Galloway explained that this ordinance and many others across the state were created from a common template. A few years ago there was a similar ordinance to ours in Neptune Beach that the courts threw out. In order not to face that same issue, there has not been strict enforcement locally of things like snipe signs. The changes in this ordinance are meant to address those issues. One of things added to each section will be a clause stating that if any section is unenforceable, the rest of the ordinance will still be valid, which we did not have before. There was the potential of losing the entire sign ordinance and that is addressed in this proposed ordinance.

Commissioner Wojcik said she liked that the enforcement procedure is clear in the sign ordinance. She asked how snipe signs are handled. Ms. Swanson said there is a different enforcement for A-frame signs than signs put on their property. Signs, like snipe signs, put on the City right-of-ways are on city property so the City has every right to remove them. She said there are some vigilante citizens that apparently remove them on their own. But, to enforce signs not on city property requires a different process and owners are notified that they are out of compliance.

Commissioner Carter asked why they thought enforcement would be better than it is now when presently they haven't been able to enforce the ordinance. He asked who enforces the downtown parking ordinance and was told the police did. He said they don't do it.

Commissioner Carter asked what change will give Code Enforcement the recourse to adequately enforce the ordinance. City Attorney Chuck Galloway explained that the proposed ordinance will have the necessary clauses in each section so if someone were to challenge something in the new ordinance and the courts deem it unconstitutional, we would still be able to enforce the rest and would not lose the entire ordinance.

Commissioner Wojcik said that the reason the sign ordinance has not been enforced is because the City Commission said to hold off the enforcement until the ordinance changes were completed. It also was during a time of economic hardship to allow businesses to keep up their signs. She said that at least three times in the past two years she has asked for an update on the sign ordinance because with the lack of enforcement the signs had gotten out of hand with businesses each putting up four or five signs.

Commissioner Carter asked if they have the resources to adequately enforce the ordinance. Ms. Swanson said she believed they do because the Planning Department can enforce it as well as the Code Enforcement Department. She said people can put up signs pretty quickly and they can appear over night but they intend to do the best they can.

Commissioner Carter asked if staff looked into what other cities such as Boca Raton has done that we could model after. Ms. Swanson said she has looked at a lot of cities. Commissioner Lutton said that Boca Raton had a vision and has been working at it for about 40 years and now only monument signs are allowed. It has to be done over a number of years because you can't make everyone comply immediately. Mr. Galloway said Boca Raton put that ordinance into effect before the development started. So you can only enforce something like 'only monument signs' with new businesses coming in because you can't make someone like Publix on SR 60 take down their existing sign.

A-Frame Signs:

Commissioner Lutton asked if A-frame signs had to be permitted. Planning Director Margaret Swanson said temporary movable signs such as A-framed signs will have to be permitted to be assured they are placed in a manner that respects ADA accessibility. Signs are typically approved for a particular place and if the owner puts them in another place it won't work.

Commissioner Lutton said it would make enforcement easier if signs, whether A-frame, free standing or attached to a building, were number tagged so staff would be able to tell which ones were permitted for what location. Ms. Swanson said they normally don't put a tag on the back of a sign but she thought tagging the A-frame signs was a good idea and would be very helpful.

Commissioner Wojcik asked if A-frame signs could be put up outside of the downtown area and Ms. Bangely said no.

Jim Brow, Longs Dry Cleaners: said though A-frame and sandwich signs may be okay for Park and Stuart Avenues, they are not safe for where his business is on Central Avenue because the sidewalks are much narrower making it unsafe for pedestrians.

Off-site signs:

Commissioner Carter gave an example of a fruit stand on Burns Ave. that put up a sign on the side of his business. He asked if the ordinance would affect that. Ms. Bangely said that can be a completely different scenario. In order to have an outdoor display or sale, such as a fruit stand, he would have to go before the Planning Board for a Special Exception Permit and that hasn't happened. Therefore, not only is his sign not legally placed, his business is not legally permitted.

Julia Reed, new business owner on Lincoln Avenue: Ms. Reed said if the City really wants Lincoln Avenue to grow and thrive again then small businesses need to be allowed to put up a sign on Scenic Highway because otherwise they won't get any business. She said she has a sign on the railroad property on the corner because she is not financially capable to do expensive marketing. Ms. Swanson

said off-site signs have not been allowed since the 1970's when the original ordinance was written. It causes a problem because everyone wants a sign along the highway.

Commissioner Carter asked how businesses on Lincoln Avenue could market and promote their business if they don't have the ability to advertise off site. Ms. Swanson suggested the newspapers or radio but Ms. Reed said she can't afford to do that. Ms. Reed said that sometimes it seems that the system is against those people who are trying to do the right thing.

Commissioner Lutton asked why she should be allowed to put her sign on someone else's property. Ms. Reed said no one has complained and the two other thrift stores downtown have their signs on someone else's property. She said she had the same type of sandwich board sign at her store on Lincoln Avenue but hers was pulled up about three months ago by someone not even in code enforcement. She said the issue needed to be addressed as to how small businesses on Lincoln Avenue are to market their businesses if not given the leverage to do so. She asked that the City allow her to keep her sign there especially as the railroad is not complaining.

Mayor Fultz said according to the sign ordinance, even though it won't be enforced until after this goes into effect, off-site signs are not allowed. But he said they can at least make sure it is enforced equitably and no one is targeted. What she was requesting would not be fair and equitable because if the ordinance has to be enforced for one, it would have to be enforced for all.

Pronged Signs:

Commissioner Carter asked why there was a prohibition against pronged signs. Ms. Swanson said there was no ordinance change. Presently pronged signs are not allowed because they don't meet the definition of sandwich board signs and they are considered the same as snipe signs. Commissioner Carter said maybe they could differentiate between snipe signs and pronged signs. Ms. Bangley said they are not recommending allowing pronged signs at all.

Flags and Banners:

Commissioner Carter asked flags would not be allowed at all. He said the used car dealership and McDonalds have some. Ms. Swanson said flags that can flap in the breeze were not allowed anyway and are not addressed in the changes. Flags were allowed temporarily on new developments and that had to change because of legal issues; you can't make exceptions and say one type of business can and one can't.

Internally lit and Electronic Signs:

Commissioner Carter said in the revisions it states that only spotlight will be allowed and not internally lit signs. Ms. Swanson said that hasn't changed internally lit signs. They are not allowed downtown, along Scenic Highway or in Professional Districts.

Commissioner Carter asked if they still would not be allowed to put up an internally lit sign in front of City Hall. Ms. Bangley said the code presently says that electronic, changeable copy signs are not allowed in this area. He asked if they could have an internally lit sign that didn't have electronic letters changing. Ms. Bangley said no.

David Smith, citizen: Mr. Smith said that his funeral home's internally sign was taken down because of the easement request for the C Street project and he wondered if it would be allowed to be put up. Ms. Bangley said it would be allowed. Mr. Smith said nothing in the agreement stated if the City would put it back up or if he had to do it, or even if it could be placed over the easement as he was afraid they would have to tear it up to get to the utility lines.

Mr. Galloway said he couldn't resolve all his questions at that moment but he believed the agreement was that Mr. Smith was to tell the City what kind of sign he wanted. The City can put the monument sign back up, or the City can put up a new sign but a new sign would have to comply with the code of ordinances.

Mike Matthews, owner of the Veterinary Hospital: Mr. Matthews said front-lighted signs were antiquated, archaic, gaudy and a thing of the past. He thought other businesses, other than those on US27 and SR60, should be able to use internally lit signs and the city should step into the electronic world and allow electronic signs because they are much more attractive and there are so many things you can do with them.

Billboards:

Phil Wiekert, Wiekert Ford Dealership: Mr. Wiekert said we have a beautiful downtown historic district and every effort should be made to keep it that way, as long as businesses are allowed to do business, otherwise it will be historic because nothing will be left. He said his business is one among many on US 27 and the city has been complaining about a billboard sign that has been on his property for probably twenty years that they don't even own. He said there are several other billboards along US27.

Ms. Bangley said billboards are not allowed in the City and some of the property along US 27 that have billboards are in the county. The owners of the two that are in the City were sent letters but they got resistance. The City decided not to pursue dismantling the two billboards that already exist, but not allow new billboards.

Mr. Galloway said that when Wiekert Ford and the area north to the mall were annexed in, billboard owners will given a five-year moratorium to remove them. One was removed but the others refused to comply. One was taking it to federal court. That is why the city decided not to fight it.

Mr. Wiekert asked that they relook at that part of the ordinance or at least grandfather in those already here. He said businesses have enough hassles to deal with in their lines of business that they don't need more added.

Jim Brow: Longs Cleaners:

- Mr. Brow spoke against the sign ordinance past and present because one size does not fit all. He said the City is anti-business and prevents businesses from being successful. He wanted the business community and the city to work together to come up with a sign ordinance that works.
- Mr. Brow made a public request for copies of all the minutes for each meeting during the past two years that they have been working on the ordinance.

City Attorney Chuck Galloway said there won't be any minutes except those of the Planning and Zoning Board, because it is a public hearing. The rest of the work on the ordinance was done by staff so there was no record kept. Mr. Brow said maybe a lawyer should look into the legality of if the Sunshine Law was violated because he thought something serious was going on.

- Mr. Brow presented the Commissioners with copies of a petition with 82 downtown business owners who say they want a fair sign ordinance.

Greg Massey, business owner: Mr. Massey said nothing in an ordinance is made in stone and those that don't work can be changed. He suggested that it was time to form a temporary committee with large to small business owners to find a mutual agreement so the city can move forward.

Commissioner Thornhill made the following comments:

- Commissioner Thornhill said he was one of the commissioners that voted to refrain from enforcing the sign ordinance until changes were made that would fit a little for everyone.
- Commissioner Thornhill said he is super-pro business and tries to promote Lake Wales at every opportunity.
- Commissioner Thornhill said he has no problems with using billboards if it will draw business to Lake Wales.
- Commissioner Thornhill said snipe signs were no good but he had no issue with the heavy pronged signs

- Commissioner Thornhill went over a list of types of complaints he received between 2009 and the present:
 - The ordinance is written for and pertains to the downtown area but is enforced everywhere else.
 - Lighted signs are not allowed downtown and along Scenic Highway so businesses can be seen after dark.
 - Off-site signs should not be prohibited
 - Businesses are at a disadvantage because the property owner is their landlord.
 - People don't know about what's going on in town. Commissioner Thornhill said everyone doesn't get the newspaper, including himself. If it isn't on the internet or doesn't come through his smart phone he doesn't get it.
 - Painted signs on windows.
- Commissioner Thornhill agreed that the City should limit things like the amount of signs a business can have, and limit the size of the sign.
- He is all for our history but everything can't be historical. You can't treat all areas the same. We have to use common sense. We need to ask why we are doing it and if it really is necessary.
- Commissioner Thornhill said he looks at the issue from both the city standpoint with things like safety, and the business owners' standpoint and said maybe we do need some interaction. Either the Lake Wales wants business or it doesn't.
- We waited two years already. Let's get it done right.

Ms. Swanson explained how the changes since 2005 were to improve the city and make it more business friendly. She said the ordinance will never be perfect but it is meant to be a work in progress and always will be. If put off, it will never get done. The city needs a sign ordinance. Staff will be glad to come up with options for things like lighting on signs or anything the commission wants, but they need direction.

Mayor Fultz said downtown is different from Scenic Highway and he agreed that one size does not fit all. He said, even though it has been two years coming to this point, they need to make sure it is the right thing and not rush it through because it has already taken this long. The only way they can do the tweaking is by listening to the ones that want the tweaking done. What the Commission is about is bringing economic development into the town and taking care of the businesses we already have by making sure they stay in business. The only way we can move the city forward is by listening to those who want the changes. He thought a committee should be formed so the unique circumstances can be heard.

Commissioner Wojcik made the following comments:

- Ordinances apply to the majority of the people and only about 10% have unique situations that can't be resolved through a basic ordinance.
- Some things are the business owner's responsibility like to know what they can and cannot do before they decide where to invest their dollars or where they will open their business.
- There is no way a sign ordinance can be drafted that will be accepted by everyone.
- Staff has been working on differences like highway signage versus downtown signage, and professional signage versus those near residential areas; making it apply to the bigger majority of the business community, and making it more constitutionally correct. That's not to say it doesn't need more tweaking.
- She recommended voting on the basic sign ordinance on the second reading so something is in effect and then a committee can be formed to look at specific instances to see if it is possible to do something to help them.
- It was possible to be business friendly and at the same time move forward instead of constantly letting a few issues stop them.

Mayor Fultz said that once a law is passed, it does not mean it is written in stone but he asked that there be guarantees that tweaking will come about once the ordinance is passed.

Irene Pearce, citizen: Ms. Pearce said she doesn't have a problem with the sign ordinance but after listening to the comments she thought the idea of cooperation was needed for the business owners to feel like they had their say. Unless the Commissioners own a business they would have no way of knowing what business owners go up against. She asked if they could only vote on the part of the ordinance dealing with the constitutionality.

Mr. Galloway explained that the constitutionality is addressed throughout the proposed ordinance and deals with free speech, severability and any number of other issues that can be the cause for someone to challenge the ordinance. An ordinance can't be tweaked if you don't have an ordinance that is enforceable. He said his counsel is to:

- Adopt the ordinance as it is because it complies as closely as it can at present with constitutional provisions, which would at least give us an enforceable ordinance.
- If it is adopted, the Commission can then appoint a committee to revisit the idea of things like interior lighting, or whatever it happens to be. The appointed committee would be subject to the Sunshine Law, and therefore the meetings would be advertised and minutes kept.
- The committee can discuss the issues and bring their proposals to the City Commission.
- The Commission would in turn direct staff to bring back ways to accomplish it, which will be a time consuming process as well.

Ms. Pearce said the business people need assurance that after it is passed, a committee will indeed be formed and their concerns heard.

Commissioner Carter said they needed to do more work before passing the ordinance, no matter if it takes longer, and find out what other cities are doing. We need a task force of some sort so that dialogue and cooperation can go on, which he said is an opportunity to show the businesses that we are business friendly. The ordinance doesn't have to benefit the commission but benefit the business owners. He said the snipe sign section was not clear. He sees them all over for things like the Farmer's Market. Ms. Swanson said right now it is okay to use snipe signs to publicize special public events, but it will be up to the City Commission how far that goes.

Mr. Brow said a bad sign ordinance is a bad sign ordinance and it needs to be worked out before it is passed.

Mayor Fultz said it is about building relationships, partnerships and bridges not only with the people out in the community but with the businesses in the city. Doing something that is a hindrance to building bridges is not conducive to moving Lake Wales forward. But he said he could live with adopting the ordinance now if something is in writing that guarantees these things will be visited by a committee.

Mr. Brow asked if the ordinance would be enforced while they were working on the revisions.

Larry Bossarte, business owner: Mr. Bossarte made the following comments:

- He said he reviewed both the old and new ordinance and didn't have problems with the changes.
- He said he has several businesses in his building and has signs that were permitted, and he felt that he has adequate exposure.
- He said he can't see why he keeps hearing that Lake Wales is not business friendly.
- He encouraged the Commission to pass the ordinance so that it can be enforced to get rid of snipe signs because it makes the city look bad. He also encouraged the formation of the committee so business owners can be heard and to listen to their positive suggestions.

Gary Wienkler, business owner: Mr. Wienkler spoke in favor of moving forward, forming a committee, and working together.

Commissioner Thornhill said he did not want to wait another two years. He suggested setting a timeframe, getting the core group assigned and the meetings set up, and getting the job done.

Commissioner Lutton explained the difficulty because the ordinance can't be written differently for each area, each street. It is not a one size fits all. The Zoning Ordinance is difficult because it goes by zoning districts and it can't identify specific streets or businesses. You have to identify the code as it relates to the specific fourteen zoning area and some areas even have dual zoning.

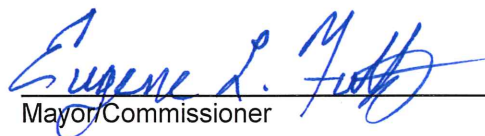
Charles Armor, business owner: spoke in favor of letting people put more signs because they need to draw attention to their businesses.

Mayor Fultz said they weren't ready to set a date and time yet but they would get the message out as soon as they do so the business community will know when they can talk about the issues.

Julia Reed: Ms. Reed said she does not have time to check the city website and she doesn't get the newspapers so she asked that business owners be contacted by email or send text messages. Mr. Galloway said the city website is where that information is available. They can't be put into a position to send emails to people because if someone doesn't receive one, that can be challenged. The city can notify the newspaper and put it online.

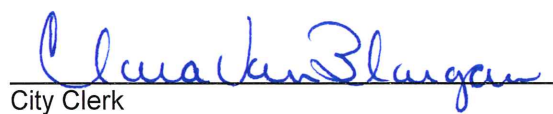
Commission Meeting dates were announced and Ms. Reed was told that the agendas for those meetings are posted on the website the Wednesday before each meeting. Ms. Wojcik said Ms. Reed can give her email address to the Chamber of Commerce and Main Street to be added to their email list for notifications.

There being no further business, the meeting was adjourned at 6:06 p.m.



Mayor/Commissioner

ATTEST:



City Clerk