

**MINUTES  
CITY OF ORMOND BEACH  
CITY COMMISSION  
TEMPORARY SIGNAGE JOINT WORKSHOP**

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**March 20, 2018**

**5:30 p.m.**

**City Commission Conference Room**

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**I. CALL TO ORDER**

Mayor Bill Partington called the meeting to order at 5:31 p.m.

Present were Mayor Bill Partington, Commissioners Dwight Selby, Troy Kent, Rick Boehm, and Rob Littleton, Planning Board members Doug Thomas, Harold Briley, G.G. Galloway, Al Jorczak, Lori Tolland, Lewis Heaster and Angeline Shull, City Manager Joyce Shanahan, City Attorney Randy Hayes, Planning Director Steven Spraker, and Catherine Reischmann, partner with Garganese, Weiss & D'Agresta, P.A.

Mayor Partington stated that the workshop was regarding the Supreme Court case decision from Reed versus Town of Gilbert ("Reed") on signage and that he appreciated the Planning Board attending the meeting. He noted that this meeting was the second or third involving that subject.

Mr. Randy Hayes, City Attorney, introduced Ms. Catherine Reischmann, partner with Garganese, Weiss & D'Agresta, P.A., as the guest speaker.

**II. TEMPORARY SIGNAGE JOINT WORKSHOP**

Mr. Hayes stated that it had been a long process and that the final stretch was coming. He stated that there had been a joint workshop in the prior months and that comments were taken from that workshop and incorporated into the documents that they would review that evening. He noted that the meeting should not take too long, since the information had been reviewed prior to that night and the goal was to highlight the changes to the code.

Ms. Catherine Reischman, partner with Garganese, Weiss & D'Agresta, P.A., stated that it was a pleasure to meet with the City of Ormond Beach again. She stated that they were there to hear if anyone had questions or comments about the updates to the code. She stated that after the last workshop, she and staff tweaked a few items and Planning Director Mr. Steve Spraker put together a chart of the current code versus what was proposed. She noted that they were not changing the world, but were mainly changing the terminology used, and not reducing the number of signs that could be used but increasing them in some areas.

Ms. Reischmann stated that she had been keeping up with cases across the country regarding the Reed decision, and advised that the courts were generally keeping Reed fairly limited to making the name of the signs more generic, not mentioning the types of signs, and listing real estate signs as that instead of as commercial signs, but that came with a little higher risk on the risk continuum. She stated that she felt that everyone in the prior meeting was comfortable with taking the slight risk, because real estate signs were not constitutionally protected and of their importance to the community. She explained

that Mr. Spraker's chart, on page 16 of the agenda packet, showed that the changes were not dramatic and spelled the details out well.

Mr. Steven Spraker, Planning Director, stated that his goal was to point out where the existing signage was in the current code versus where the new section was located. He stated that the A-Frame signage section had no changes. He explained that the intent of the amendments were not to change commercial signage and noted that construction and development promotional signage were going to stay the same. He stated that the community event banner would become a governmental sign, so that would make it exempt from the sign code. He noted that political signs changed somewhat, in that there were basically six allowed in residential zoning areas and eight allowed in commercial zoning areas. He indicated that real estate signs would stay exactly the same and that signs on vehicles were being moved to the exempt section. He explained that the primary changes to the code were that the content of the sign would not be used to determine regulations and that commercial signage would remain the same.

Ms. Reischmann stated that in regards to human signs, or individuals that waved signs, they were planning to treat that category outside of the sign code and as more of a safety conduct issue. She explained that it would not be what they were putting on the sign, but that those individuals were distracting or creating a safety issue and that they would be handled by a separate code amendment, rather than enforcing it under the sign code. She noted that they would update and correct all names on the final version of the ordinance since it had a prior mayor's name listed.

Commissioner Selby asked if the changes to the community event banners were because the banners were in the right-of-way; whereby, Ms. Reischmann stated that that was the case.

Mr. Spraker stated that when a sign became governmental speech it did not need to be listed as a permanent sign.

Commissioner Selby asked what made it government speech; whereby, Mr. Hayes stated that there was not one clear rule on that and it would depend on the context of what it was.

Mr. Hayes explained using examples such as the Mayor's Health and Fitness Challenge that was sponsored by the city, or an Ormond Beach MainStreet ("MainStreet") event that would be held in conjunction with the city, such as the Food and Wine Festival.

Commissioner Selby asked if that would include the Tomoka Marathon; whereby, Mr. Hayes stated that it would, as long as the city sponsored it, and that there would be flexibility under the code but also some risk.

Ms. Reischmann stated that the definition was fairly broad in the ordinance, noting that the city had to be aware that if they let a private entity access to the right-of-way then they had to allow the Neo-Nazis or anyone else access to the right-of-way also. She noted that the goal was to make sure that there was a city or government element in the signs allowed on the right-of-way.

Mr. Doug Thomas asked how the city would handle the Native American Festival banners and signs; whereby, Mr. Hayes stated that it was the same generalized analysis.

Ms. Shanahan stated that the Native American Festival was held in a city park and she thought that the city received a percentage of the gross proceeds from the event. She noted that all of the banners over Granada Boulevard were very limited and had to be directly adjacent to downtown, that they had to be community events not private ones, and that events like the Tomoka Marathon and the Native American Festival listed the city as a sponsor because they used the parks, not because the city contributed money. She stated that most of the other entities did not get paid by the city for sponsorship but were considered a sponsor like the Ormond Beach Chamber of Commerce or MainStreet. She asked if all of the banners required approval from the Florida Department of Transportation (FDOT); whereby, Mr. Spraker stated that they did require that approval.

Mr. Thomas stated that if the code held that a donation to the city or an event on city property were the requirements, anyone and everyone could hold an event and claim that it was city sponsored.

Mr. Hayes stated that it would depend on the level of participation that the city would have in the event.

Mr. Thomas commented that it could invite groups to participate that the city did not want.

Mr. Hayes stated that he was correct and that there would not be a black and white answer to every question. He explained that each had to be evaluated on the context of what it was and the level of participation or sponsorship that the government would have.

Mr. Thomas stated that he thought they were trying to make it black and white.

Mr. Hayes stated that if the code were black and white, no one would like it. He reiterated that staff had to define the window of risk, whether it would be wide open or closed. He noted that if it were closed completely, there would be regulations that no one liked and if it were too wide open, there was too much risk involved. He explained that staff tried to close it some with calculated risks, but that there was no way to eliminate the risk completely.

Ms. Shanahan explained details of how banners were handled under the prior rules, noting that those rules would be used to govern the approval process. She emphasized that they were not removing the rules completely, but were moving them to another area of the Land Development Code (LDC).

Commissioner Boehm, Commissioner Selby, and Commissioner Kent commented on signs along Granada Boulevard and on the Granada Boulevard Bridge.

Commissioner Kent noted that they should not touch the signs on the Granada Boulevard Bridge since they were the charm of the city and joked that Mr. Hayes needed to come up with a way to stop anyone and everyone from adding signs there.

Ms. Reischmann explained that if the community values were taken, historical or such, the city could do something through a banner policy that would be separate from the

sign code. She noted that many cities had chosen to go that route and had a resolution that determined what would go on the bridge.

Ms. Shanahan asked for clarification that it would not be in the sign code; whereby, Ms. Reischmann stated that she was correct.

Commissioner Boehm stated that he agreed with Commissioner Kent about the homemade signs being the charm of the city, that they were not considered banners, and that he wanted to continue seeing them. He stated that the difficulty was allowing them in the public right-of-way and denying someone else, noting that he did not see how they could do that.

Mr. Harold Briley commented that the situation could be considered discriminatory.

Ms. Shanahan stated that the city would take it out of the sign code, so that it was not drawing attention to that matter under the sign code.

Ms. Reischmann stated that the city could remove it from the sign code and make it a separate policy. She noted that numerous cities had done it that way because they could not resolve that type of issue.

Mr. Thomas commented that it could be done if it were a community benefit.

Commissioner Selby stated that that was the argument and in that situation, the context would have to be considered.

Ms. Reischmann stated that there were guidelines that could be set to essentially get to that.

Mr. Thomas joked that they could do whatever as long as Mr. Hayes could defend it.

Mr. Hayes noted that the concept of pulling certain items from the sign code and doing them by guidelines and a resolution was somewhat safer. He stated that it would be more of a policy than a regulation and that the city would still have control of government speech, noting that there would be some risk, but that it was not wide open. He cautioned everyone in prior years that the signs on the Granada Boulevard Bridge would be an issue at some point.

Mr. Lewis Heaster asked about the process to have a sign installed on the bridge; whereby, Ms. Shanahan stated that it went through the Public Works Department.

Ms. Shanahan stated that a permit was needed and that Public Works would assist with the actual sign. She noted that they were booked up for so long that a group could not get a space currently if they wanted one.

Mr. Heaster asked if Public Works supplied the sign; whereby, Ms. Shanahan stated that they did and thought the group would pay a fee for that.

Mr. Hayes stated that it made sense to pull bridge signs from the code and make it a separate policy, noting that the city would have more control over the guidelines that way.

Ms. Shanahan asked if it were the same for banners; whereby, Mr. Hayes stated that it would be, but that he was less concerned about them.

Ms. Lori Tolland asked if they needed to address the sponsorship signs on city fences at the ballfields, recreation centers and such; whereby, Mr. Spraker stated that there was a provision that specifically exempted them from the sign regulations.

Ms. Reischmann stated that those did not qualify as signs, indicating that they were not intended to be visible from the right-of-way and usually faced inward.

Mr. Al Jorczak asked if there was anything in the sign code regarding murals; whereby, Ms. Reischmann stated that staff had left that subject out of the sign code discussion and that it would be brought up at another meeting down the road, noting that there were cases involving them and she was waiting to see what happened.

Mr. Hayes stated that the mural discussion would touch on the same issues that they were discussing in the sign ordinance in terms of the Reed case. He explained that he thought it would be a good informational base for murals and that they would apply some of the same principles. He noted that they specifically did not touch that at that point and it would be a separate discussion.

Mayor Partington wondered if anyone else had specific questions or concerns.

Ms. Reischmann stated that Mr. Spraker had put a kibosh on the questions with his detailed chart, emphasizing that the changes were simple and not dramatic.

Ms. Shanahan asked if the chart would be part of the ordinance; whereby, Ms. Reischmann stated that it would be.

Ms. Shanahan explained the sign code schedule moving forward, noting that there would be a Planning Board meeting on April 12, 2018, then to the City Commission for a first reading on May 1, 2018, and a second reading on May 15, 2018. She wondered if they needed more information or were ready to move forward.

Commissioner Boehm wondered how the city would enforce 15 feet between political signs and joked that outside of the Ormond Beach Library it was impossible to keep 15 inches between the political signs.

Ms. Reischmann noted that anyone who tried to defend enforcement against political signs in court had lost.

Mayor Partington noted that it was the third time the Commission had seen the information and that it was the first time for the Planning Board; whereby, numerous parties confirmed that it was the second time that the Planning Board had seen it.

Mayor Partington thanked staff and Ms. Reischmann for all the hard work in doing what they could to prevent against litigation, noting that they would deal with situations as they arose. He wondered if Ms. Reischmann or Mr. Hayes would provide input on how they felt about where the city was as compared to where the city would be with the amendments.

Mr. Hayes stated that it was a lot tighter in some respects to where they had been, but with some flexibility. He explained that it was much better than what the city had before, or what was currently in effect, and that it would be a good replacement. He noted that cases were coming up all the time challenging different aspects of the codes and that it would not be unheard of to come back and revisit portions of the sign code. He noted that the sign code review was long overdue and that the city was no different than any other jurisdiction. He thought that most had similar vetting processes and that those who did would be better situated. He stated that the City of Ormond Beach was pretty fortunate in that they had no significant issues up to that point and that it had worked well.

Mr. Jorczak asked how the codes would be administered in regards to the approval process and would they be consistent so that an individual understood the scope of what was being done; whereby, Mr. Hayes stated that the chart would be used and it would be on a case by case basis.

Mr. Spraker reiterated that commercial signage was not changing. He explained that the Neighborhood Improvement Department did a good job educating as they checked violations.

Mr. Jorczak asked if the permit process was the same; whereby, Mr. Spraker stated that that was correct and that non-commercial temporary signage did not require permits.

Ms. Shanahan noted that a lot of individuals called ahead to get details of what needed to be done. She stated that the city educated the public and gave them an opportunity to fix a situation and that most times, they did so.

Ms. Reischmann stated that it had been a pleasure to work with everyone at the City of Ormond Beach. She complimented everyone on how things were handled, on how much they cared, and that she hoped to work together down the road.

Mayor Partington thanked Ms. Reischmann again. He noted that reviewing the details of the amendments were fine, but hard to picture in general, and appreciated the photos shown in a previous meeting that detailed how things would look with different scenarios. He stated that that made it easier to know what he wanted Ormond Beach to look like versus what he did not want it to look like. He stated that they were drawn in a way that preserved what the city's residents had come to expect. He noted that the city was as protected as they could be, subject to their risk, and that he was comforted by that.

Mr. G.G. Galloway wondered if the city could control the amount of signage that FDOT installed on a section of Granada Boulevard between U.S. Highway 1 and the Granada Boulevard Bridge. He stated that there were a lot located in that short distance.

Commissioner Kent agreed and noted that if one were not looking, they might miss it. He recommended looking at that area when heading east on Granada Boulevard to see how many there were. He noted that the main portion was between Ridgewood Avenue and the Granada Boulevard Bridge, and that it took away from what the city was trying to do with signage; whereby Mr. Galloway agreed and stated that it was obscene.

Mayor Partington asked Ms. Shanahan if she would work with FDOT to reduce the signage in that area; whereby, Ms. Shanahan stated that she would contact them.

Mr. Jorczak wondered if all signs on U.S. Highway 1 or on county property were grandfathered in under the prior interlocal agreement, and if they fell within the parameters of what the group was doing that day.

Mr. Hayes stated that the city had a separate set of regulations for the Bike Week signs and that it had been a contentious negotiating issue between city and county staff. He explained that the city was able to change some of the items that the county was allowing there. He noted that the interlocal agreement established a municipal service area for that entire area, which now fell under the city zoning, land use and other general code regulations. He stated that the city had annexed numerous properties there also. He mentioned other details in regards to unimproved property versus properties with a permitted business along that corridor.

Mayor Partington asked for other questions. He noted that the public would have an opportunity to comment on the sign code at the upcoming Planning Board meeting in April and the City Commission meetings in May.

### **III. ADJOURNMENT**

The meeting was adjourned at 6:13 p.m.

Transcribed by: Wendy Nichols