

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, MAY 21, 2020 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Chairman, Steven Lauer; Vice Chairman, Honey Minuse; Members: Robin Pelensky, Jose Prieto and Alternate Member #1, Richard Cahoy **Also Present:** Planning and Development Director, Jason Jeffries; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absence: Jeb Bittner

Unexcused Absence: John Carroll

The Chairman called today's meeting to order at 1:30 p.m., and the Deputy City Clerk performed the roll call.

I. PRELIMINARY MATTERS

A) Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A) Regular Meeting – February 20, 2020

Mrs. Minuse made a motion to approve the minutes of the February 20, 2020 Planning and Zoning Board meeting. Mrs. Pelensky seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARING

[Legislative]

- A. An Ordinance of the City Council of the City of Vero Beach, Florida, Instituting a Moratorium on Site Plan Approval for Development within the Cardinal Drive / Ocean Drive Commercial Overlay District, for 180 Days to Allow Time for Formulation and Adoption of Revised Off-Street Parking Requirements Ordinance; Providing for an Effective Date.**

The Chairman read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, briefly went over staff's report accompanied by a Power Point presentation with the Board members (both attached to the original minutes). It is staff's finding that the proposed Ordinance is consistent with the Comprehensive Plan.

Mr. Lauer asked what is the Cardinal Drive / Ocean Drive Commercial District.

Mr. Jeffries said it is the hatched area on the map included in their backup material.

Mr. Lauer questioned why they need a moratorium on site plans.

Mr. Jeffries explained that it will allow staff to develop the parking regulations. He said if someone was to come in with a site plan today, they would essentially be grandfathered in under the old rules even if they receive approval afterwards.

Mrs. Pelensky asked what hardship will this put on a developer.

Mr. Jeffries said it would delay approval if they are doing a site plan.

Mr. Cahoy referred to page one (1), line 40, of the proposed Ordinance. He said it refers to a Planning and Zoning Board meeting held April 2, 2020.

Mr. Jeffries said they will change the date to today's date prior to submitting it to the City Council. He explained that was the date that it was to go before the Planning and Zoning Board, however that meeting was cancelled because of Covid-19.

Mr. Lauer stated that he has a conflict because he is a property owner and will not be able to vote on this matter.

Mr. John Turner, City Attorney, asked is this a result of his office holdings on Ocean Drive.

Mr. Lauer answered yes.

Mr. Turner asked Mr. Lauer if he would receive any financial benefit or realize any financial benefit or detriment.

Mr. Lauer said that he could. He would like to turn this item over to the Vice Chairman.

Mr. Turner explained that it is really up to the person to make the determination of if either themselves, a family member, or a partner in a business relationship may result in some financial gain or loss, then that individual can exercise an abstention. He noted that the Chairman has made that determination and is recusing himself in this matter and turning the gavel over to the Vice Chairman.

The Chairman turned the gavel over to Vice Chairman Minuse to continue this hearing.

The Vice Chairman opened and closed the public hearing at 1:52 p.m., with no one wishing to be heard.

Mrs. Pelensky made a motion that the Board accepts the Ordinance to institute a moratorium on site plan approval for development within the Cardinal Drive / Ocean Drive Commercial Overlay District.

Mr. Turner asked is the motion a recommendation to the City Council for adoption.

Mrs. Pelensky answered yes. Mr. Prieto seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Prieto yes, Mrs. Pelensky yes, Mrs. Minuse yes, and Mr. Lauer abstaining (Voting Conflict Form attached to the original minutes).

At this time, the Vice Chairman turned the gavel back over to Chairman Lauer.

[Legislative]

- B. An Ordinance of the City of Vero Beach, Florida Amending Chapter 38, Article I (Signs) of the Land Development Regulations to Revise or Add Sign Definitions, Revise the List of Prohibited Signs, Revise the List of Signs Exempt from the Sign Regulations, Revise the List of Signs not Requiring Permits, Revise the General Sign Regulations, Add Standards for Specific Sign Types, Revise Sign Requirements for Residential and Non-Residential Zoning Districts, Revise Temporary Sign Standards, Add Requirements for Removal of Abandoned Signs, Revise Standards for Non-Conforming Signs, and Revise Application Review Process; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date.**

The Chairman read the Ordinance by title only.

Mr. Jeffries reported that the Board discussed this last year, however it got delayed in doing some final work on it with the City Attorney and staff feels they are now ready to move it forward. He then went over staff's report and the proposed Ordinance with changes that have occurred since the Board last saw the Ordinance, accompanied by a Power Point presentation with the Board members (both attached to the original minutes).

*Please note that questions and discussion took place throughout staff's presentation.

Mrs. Minuse said that she has the paperwork from when they worked on this last year. She asked are there any changes from what they agreed on at that time to what they have in front of them today.

Mr. Jeffries said nothing substantially has changed. He said that he tweaked some language, defined works of art, etc.

Mrs. Minuse referred to abandoned signs. She asked after an election, is there a timeframe in which the signs must be removed.

Mr. Turner said there is a maximum time that the signs have to be removed.

Mrs. Minuse asked is that included in the Code.

Mr. Turner answered yes. He said it might not be in this section of the Code, but it is in the Code.

Mr. Jeffries explained what this essentially does is it allows for multiple temporary signs for 90-days prior to the election.

Mrs. Minuse asked has there been a challenge on the 90-day time period.

Mr. Jeffries answered no. He said most jurisdictions allow 90-days and that has been the City's rule so he felt it was best to stay with that 90-day period.

Mrs. Pelensky referred to the section on prohibited signs. She asked are the *feather* signs

prohibited all the time.

Mr. Jeffries answered yes.

Mrs. Pelensky asked even during an event.

Mr. Jeffries answered yes.

Mrs. Pelensky said the industry has become innovative and made these signs accessible because they are affordable. She said that she knows some people who are not going to be happy with this.

Mr. Jeffries said staff's interpretation has been that it falls under Section 38.17 (k) and he is just clarifying it. But, if the Board wants staff to carve out where to allow them staff can look into that.

Mrs. Pelensky said that she doesn't see what is wrong with them. For permanent use she does, but not for a temporary use. She felt they would be appropriate under temporary signs. She would like to see this addressed because she feels it makes sense for event use. She said that she has seen these signs at the Saturday Market and they seem appropriate. They are inexpensive, they attract attention, and they come down when the event is over.

Mr. Prieto agreed.

Mr. Prieto asked is this type of sign prohibited because of the square footage or the shape of the sign.

Mr. Jeffries said in this proposed Code it is prohibited. However, if the Board wants it to be carved out as an allowed sign in certain uses he would take it out of the prohibited use list.

Mrs. Pelensky said that she is thinking of events, such as Downtown Friday, the Saturday Market, etc.

Mr. Turner explained that they cannot key it to events, they would have to key it to the use of the property.

Mr. Jeffries said if they were to amend this, they would be putting it into Section 38.09. One (1) option would be to allow feather signs in non-residential zoning districts. He asked the Board if they want this to be a sign by permit, such as the banner signs where they are allowed for a 30-day period in a calendar year.

Mrs. Pelensky said so with the Downtown Market, every week if someone wanted to put up their sign they would have to pay.

Mr. Jeffries explained that because of the content based regulation, they cannot tailor these as specific as they want. They have to be applied to everyone evenly.

Mr. Prieto asked does a vendor of the Downtown Market have to get a permit each time they put up their tent.

Mr. Jeffries answered no. He explained that they have license agreement with the City and

they could possibly tie this in with that agreement.

Mr. Prieto said so when they put up their tent they can put their sign out and when they take down the tent they have to take their sign down.

Mrs. Minuse questioned so they are looking at taking these signs out of the prohibited sign section of the Ordinance and placing them in the temporary sign section of the Ordinance.

Mr. Jeffries said it sounds like the direction might be to put it in Section 38.11, *Temporary signs requiring permits*, and treat them the same way as banners where they are allowed for 30-days.

Mrs. Minuse questioned, is that 30 consecutive days.

Mr. Jeffries said it is 30 consecutive days in a calendar year.

Mr. Prieto said that he would almost suggest taking this out of the Sign Code and putting it into the agreement with the City.

Mr. Jeffries noted that the Farmer's Market is held in the parking lot and there is a provision if the sign is not readily visible so if it is "internal" to the Farmer's Market, this Sign Code does not apply.

Mrs. Minuse asked Mrs. Pelensky if that is agreeable to her without making these changes.

Mrs. Pelensky answered yes.

The Board members agreed not to make any changes to this section of the proposed Ordinance.

Mr. Jeffries said staff recommends approval of the proposed Ordinance.

Mr. Lauer referred to the unlimited number of political signs that can be put up within 90-days of an election. He asked is that on private property.

Mr. Jeffries answered yes.

Mr. Lauer said it does not make any sense to him. It is inconsistent with the beautification of the City. He felt there should be some type of limit on the number of signs allowed. He said they have a big election coming up with the Presidential Election, the County Commission, the City Council, etc.

Mr. Turner explained that aesthetics is not a defensible position when it comes to strict scrutiny under the First Amendment.

Mr. Lauer questioned how can they say only one (1) sign is permitted on your property, except during an election.

Mr. Jeffries explained that you are allowed one (1) sign per candidate and one (1) sign per issue so it is not like you can have multiple signs of the same candidate.

Mr. Lauer said if no one else has the concern that he has, he will withdraw his concern. He just thinks this is too much a concession to the politicians.

Mrs. Pelensky did not think it is a concession to the politicians. She thinks that individuals have the right to express themselves.

Mr. Prieto said that he can see the potential for abuse, but being a property owner he would get to a point where he would say no more.

Mr. Cahoy agreed with Mr. Lauer. He thinks the signs are the ugliest thing in town, but having said that, from a free speech standpoint, he thinks they have every right to display their signs.

Mr. Prieto asked can they allow 60-days instead of 90-days.

Mrs. Minuse thought it used to be 30-days prior to the election.

Mr. Jeffries thought that might have been an election rule and not codified in the Sign Code. He said the 90-day rule has been in the Code since 2013 and it did not seem to exist in the Code previously.

Mr. Cahoy asked the Board if this is something they could ask the Planning and Development Department to review. He said that he would support a shorter timeframe.

Mr. Prieto asked Mr. Lauer if he would like a 30-day period instead of a 90-day period.

Mr. Lauer said that he would like anything that would reduce the pain of having to see these signs all over. He felt that these signs were totally ineffective because there are so many of them that no one looks at them.

Mr. Jeffries said the Board could include their recommendation of reducing the 90-days to 30-days in their motion. He said that his recommendation is 90-days because it is consistent with Indian River County and the definition of a temporary sign is 90-days.

Mr. Turner explained that they are talking about temporary signs and not election signs. This would be for all signs.

Mr. Prieto suggested that where you are allowed multiple signs in a 90-day period that they change that to 30-days.

Mr. Turner said staff will need to study that. He suggested that if the Board is inclined to recommend approval of the Sign Code as presented today, that they do that with a recommendation to the City Council that they examine this issue to see if there is a shorter period of time that is appropriate.

The Chairman opened and closed the public hearing at 3:08 p.m., with no one wishing to be heard.

Mrs. Minuse made a motion that the Board accepts staff's recommendation to incorporate the new Sign Code with a recommendation that the Council review the period of time for election signs.

Mr. Turner said it would be temporary signs, not election signs. It would be a recommendation that the Council consider a reduction in the 90-day period in temporary signs.

Mrs. Minuse agreed. Mr. Prieto seconded the motion.

Mr. Cahoy asked are they amending the portion of the Code regarding the feathered signs.

Mr. Prieto said they agreed not to make any changes.

Mr. Turner said that he needs to take a quick break in order to have a discussion with Mr. Jeffries.

At 3:10 p.m., Mr. Jeffries and Mr. Turner stepped out of the Council Chambers.

Mr. Prieto asked if he is correct that there is a section in the Code that states temporary sign is only one (1) sign, but then when political campaigns comes up it states within 90-days you are allowed multiple temporary signs.

Mr. Lauer said his understanding is they are not discussing political signs. They are discussing temporary signs.

Mr. Jeffries and Mr. Turner re-entered the meeting at 3:12 p.m.

Mr. Turner said there are other clauses that will be added that are more procedural and routine clauses that may not be in this draft, which would be a severability clause in the event that a portion of the Ordinance was held unenforceable, it would not impact any other provisions and also a substitution clause, which is a provision that generally would add that a non-commercial speech or publication can be substituted for a commercial speech or substitution under the Code.

Mrs. Minuse questioned so they are expanding the motion to include the severability and substituting the message.

Mr. Jeffries explained that Section 38.21 already has the severability clause. He thought that what Mr. Turner is stating is if there is any need to add the language about substitution, he will add it.

Mrs. Minuse said then it is procedural.

Mr. Turner said that is correct.

Mrs. Minuse asked should she add that to the motion.

Mr. Turner said that he did not think that was necessary. He said they do have another procedural matter. He said regarding the effective date for temporary signs. The date could be affected after the election or for the balance of the Ordinance affective upon adoption. He asked the Board if they were in agreement.

Mr. Jeffries explained that normally Ordinances are effective upon adoption of the City

Council. However, because they are already in the election period, only the part regarding election signs will be affective after the November 3rd election.

Mr. Turner explained that people already purchased their signs and are aware of the present procedure, he felt there could be some problems if there were changes.

Mrs. Minuse said the motion is to accept staff's recommendation with a recommendation of the Board that Council discuss further the time period for temporary signs and to include procedural matters. Mr. Prieto seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Prieto yes, Mrs. Pelensky yes, Mrs. Minuse yes, and Mr. Lauer yes.

V. PLANNING DEPARTMENT MATTERS

Mr. Jeffries went over the Planning Department's portion of the Power Point presentation with the Board members. He briefly went over the handout given to the Board on the quasi-judicial active development plan applications (attached to the original minutes).

VI. BOARD MEMBERS' MATTERS

None

VII. ADJOURNMENT

Today's meeting adjourned at 3:29 p.m.

/sp