



Las Vegas

Agenda Item No.: 60.

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: JANUARY 9, 2008

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT: **RECOMMENDING COMMITTEE: ELIGIBLE FOR ADOPTION AT THIS MEETING**

ABEYANCA ITEM: BILL No. 2007-68 Updates the zoning regulations that govern off-premise signs. Sponsoring Mayor: Oscar B. Goodman

Fiscal Impact

- No Impact Augmentation Required
- Budget Funds Available

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:

This bill provides certain protections for existing off-premise signs and sign locations. It also provides clarification regarding the permitting of signs and updates the treatment of permitted sign embellishments. The bill reflects elements of a compromise agreement with certain billboard industry representatives resulting from legislation they sought during the last session of the Nevada Legislature. The bill is not a consensus bill; the Council will hear requests for changes from industry representatives, as well as the recommendations made by the Planning Commission.

RECOMMENDATION:

ADOPTION at 12/5/2007 City Council meeting pursuant to the 11/20/2007 Recommending Committee.

First Reading 11/7/2007; First Publication 11/24/2007

BACKUP DOCUMENTATION:

1. Bill No. 2007-68
2. Submitted at meeting Letters of comment by Charleston Neighborhood Preservation; Letter of support by State Senator Warren B. Hardy, II; Letters supporting Digital Display Billboards from Clear Channel Outdoor, CBS Outdoor and Lamar Advertising Company; and Bill No. 2007-68 First Amendment

Motion made by LOIS TARKANIAN to Approve as a First Amendment

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0
RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN,
GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None);
(Did Not Vote-None); (Excused-None)

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Minutes:

Second reading and bill adopted as a First Amendment as Ordinance No. 5959. Clerk to proceed with second publication.

JUNE INGRAM and YOLANDA CROWE, representing Charleston Neighborhood Preservation, read and submitted letters detailing their concerns and recommendations regarding billboards.

At the Mayor's request, CHRIS KNIGHT, Director of Administrative Services, detailed the process of this billboard legislation, which has been the subject of a series of legislative sessions. Since February 2007, staff has been working with the billboard industry. The negotiation team did so with the principles that the billboard industry speak with one voice and that it be clearly understood that the City would not negotiate the Council's discretion on billboards.

The industry presented three issues: 1) a consistent review period; 2) the City comply with state legislation related to the height of billboards in freeway areas with soundwalls; and 3) ability to maintain non-conforming billboards without losing the non-conforming use status. These three points were included in an ordinance scheduled for adoption in December, which was held to discuss a fourth issue: to allow non-conforming billboards to be taken down, replaced within a limited timeframe and not lose non-conforming status. This bill includes such a provision; however, there was a great deal of controversy over the rights between current billboard owners, proposed new billboard owners and property owners. This ordinance does not address this issue. It simply states that the application has to have the signatures of the property and billboard owners. Hence, it is staff's position that consensus has not yet been reached on the fourth issue. Staff recommends that this ordinance be adopted, leaving in the three issues that were resolved and removing the fourth issue.

Lastly, MR. KNIGHT submitted for the minutes a letter from SENATOR HARDY and letters from several billboard companies agreeing to participate with the City in Amber Alerts, as negotiated.

ASSISTANT CITY ATTORNEY SCOTT requested that MR. KNIGHT address the change in the definition of embellishments. MR. KNIGHT indicated that the height of the embellishments cannot be more than 50 percent of the lineal dimension of the protruding area, and the embellishments can include words, phrases and logos.

COUNCILWOMAN TARKANIAN confirmed with MR. KNIGHT that passage of this ordinance, with the three provisions, would meet the commitment to the legislature, and that any future negotiations or amendment petitions could take place at a later date.

At the request of COUNCILMAN BROWN, CHIEF DEPUTY CITY ATTORNEY VAL STEED read the amendments addressing the legislative issues and eliminating the fourth option. CITY ATTORNEY JERBIC filed a clean copy, with the amendments, with the City Clerk's Office.

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JENNIFER LAZOVICH, Attorney, 3800 Howard Hughes Parkway, appeared on behalf of Lamar Outdoor Advertising. She agreed with staff's position. However, she asked if participation in Amber Alerts would only be for digital billboards. ASSISTANT CITY ATTORNEY SCOTT indicated that digital billboards are not included in this ordinance. Under current code 19.14.100-b(1), a special use permit is required in order to modify existing signs from a static version to a video version.

ATTORNEY LAZOVICH noted that the fourth point dealt with the reconstruction of signs, and that converting signs along the freeway to digital would not require taking down the entire structure. She requested permission to do this, in order to be able to participate in Amber Alerts.

KERMIT WATERS, owner of a non-conforming sign on West Sahara Avenue, requested the ability to make improvements to his sign without losing it. MR. KUSHIT stated that minor modifications are permitted to non-conforming billboards without losing non-conforming status, as part of negotiated Point 3. He also noted that digital improvements are also permitted to billboards along the freeway, and this was not related to the fourth issue.

ASSISTANT CITY ATTORNEY SCOTT interjected that the ability to change static signs along the freeway to digital would require modification to Section 4 (G), Subparagraph (d), adding back Section (G)(1), Subparagraph (d). Given the complexity, COUNCILWOMAN TARKANIAN indicated her preference to approve the ordinance as submitted and consider any amendments in the future.

PAUL LARSEN, Attorney with Lionel, Sawyer & Collins, 300 South Fourth Street, appeared representing Clear Channel. He recommended leaving in Section (G)(1)(d).

JAY BROWN, Attorney, 520 South Fourth Street, alluded to non-conforming billboards, especially those on private property, and asked that the Council consider hearing the voice of the private property owners with non-conforming billboards. Presently, they cannot bring them down for improvements and they are stuck with old, unsightly signs. MAYOR GOODMAN stated he was under the impression that non-conforming signs could be taken down for improvements. ASSISTANT CITY ATTORNEY SCOTT clarified that minor cosmetic changes could be made. However, once a non-conforming sign is taken down, it cannot be re-erected.

COUNCILMAN BROWN pointed out that non-conforming signs are not a matter of right. It was the City that offered up the fourth point in order to address some of the unsightly boards. That became so convoluted that it was deterring the commitment made to the legislature. He had no problem with bringing the issue back and addressing it in the future, as it remains a valid issue. COUNCILMAN REESE agreed, noting that he does not care if a sign is improved, as long as he, as an elected official, has the right to have a say in whether a sign can be re-erected. ATTORNEY BROWN rebutted that that causes a fear of taking a chance amongst the property owners with non-conforming billboard signs.

COUNCILWOMAN TARKANIAN stressed that she too is very concerned about property rights, but, in the meantime, she wants to get closure on the three points recommended by the legislature. All the ancillary concerns could be reviewed and resolved in the future. MAYOR

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GOODMAN stated that the fourth issue is important, but discussion on it would simply have to take place in the future.

GREG ELTON, Lapore Management, commented that Lapore is very concerned about addressing the non-conforming sign issue.

COUNCILMAN BARLOW clarified with ASSISTANT CITY ATTORNEY SCOTT that the Council currently has the discretion to have an un-for-review board taken down, as long as the Council determines that the area has changed to the degree that the board is no longer compatible. The Council has the same discretion regarding a non-conforming billboard, but, under current law, the City would have to pay for the land lease as well as the structure. However, non-conforming billboards are not subject to review. If the ordinance were changed to allow non-conforming billboards to come down for improvements, they would most likely lose non-conforming status and move into the special-use category, which would require review.

TOM MCGOWAN, Las Vegas resident, urged the Council to carefully review the entire issue, because it could establish a precedent.

CHRIS KAEMPFER, appearing on behalf of Lamar Outdoor Advertising, stated that Section G(d) should remain, as part of what was negotiated with the industry. ASSISTANT CITY ATTORNEY SCOTT explained that COUNCILWOMAN TARKANIAN requested removal. COUNCILWOMAN TARKANIAN stated that her concern is allowing any sign along the freeway to convert to digital. This should be discussed at a later date after careful review.

AL TWANEY, 101 Convention Center Drive, said that, as a property owner, he would like to see the right to the billboard stay with the property owner as opposed to the billboard company, in order to have the ability of contracting with a different billboard company.

ROSHAN JOSHUA COLLINS commented on the potential for obscene billboards. MAYOR GOODMAN noted that commercial free speech is protected under the First Amendment.

JOHN DAVID PERRERA, Orion Outdoor Media, commented that the billboard industry spoke with one voice, to some extent, and they all agreed that reconstruction of non-conforming signs would be permitted, including digital signs, as part of one package in the finalized ordinance. When the ordinance was drafted in June 2007, all the members of the industry were in agreement with the language. The problem emerged when different factions started making their own interpretations. He urged the Council to take that into consideration and not dissect the ordinance. ASSISTANT CITY ATTORNEY SCOTT reminded the Council that it had full discretion in this matter; it could approve the bill in its totality, partly, or not at all.

COUNCILMAN WOLFSON stressed that he would like the Council to move forward with the language the industry representatives agreed upon, in order to bring closure to this matter, and then make changes in the future as necessary.

JOHN BAILEY, 8984 Spanish Ridge, appeared on behalf of his parents, BOB and ANA, who have a non-conforming sign on East Sahara in Ward 3. He encouraged the Council to move

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forward with Point 4 at the appropriate time, in order to protect the rights of property owners and allow them to negotiate and contract with the billboard company that will offer fair market value. He thanked COUNCILMAN REESE for the approach he has taken with non-conforming billboards and the assistance he gave his parents.

COUNCILMAN BROWN clarified with MR. KNIGHT that the digital component would be permitted along the freeway, with administrative approval by the Planning Director, allowing the Council full discretion to pull any sign for its consideration. Any signs off the freeway, would require a public hearing before the Council. ASSISTANT CITY ATTORNEY SCOTT pointed out that such a change entails a minor site plan amendment, not a special use permit.

COUNCILMEMBERS REESE, TARKANIAN and BARLOW expressed concern, emphasizing, in the form of a direction, that they would prefer to be notified immediately about all applications for billboards, including digital, for their respective wards.

CITY ATTORNEY JERBIC recommended approval with a first amendment, excluding the deletion of Section 4(G)(1)(d).

The Council members held oscillating discussion about whether or not to allow the conversion of static billboards to digital along the freeway, leaving it up for use now or bring it back at a later date. COUNCILWOMAN TARKANIAN noted her concern about non-conforming signs, to which ASSISTANT CITY ATTORNEY SCOTT responded that the digital component has nothing to do with non-conforming signs. Finally, COUNCILWOMAN TARKANIAN made a motion to approve the proposed ordinance, with a First Amendment to include digital signs, with the understanding that all other concerns regarding non-conforming signs would be brought back for discussion within 90 days. COUNCILMAN BROWN suggested the motion include leaving in Section 4(G)(1)(d); however, CITY ATTORNEY JERBIC advised that approval with a First Amendment would suffice.

COUNCILMAN BROWN directed the Planning Department to do an inventory of the potential display billboards.