

Item 1, continued:

Items submitted for the record

1. Memorandum dated November 25, 2015, from Steve Lewis, City Manager; Tim Powers, Director of Information Technology; and Susan Connors, Planning Director, to Council Business and Community Affairs Committee, with Attachment A, Example Image "Feather" Banner

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Item 2, being:

DISCUSSION REGARDING THE INCLUSION OF "FEATHER/TEARDROP" BANNERS IN THE CITY SIGN CODE.

Ms. Connors said BACA requested discussion of the City's Sign Code to allow "feather banners," which are currently prohibited under the Sign Code's definition of "wind signs." She said there is exception language for car dealerships that allows them to use balloons and pennants.

Ms. Connors highlighted the current definition of a wind signs as, "A sign consisting of one (1) or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze. A banner anchored securely, so as to restrict movement to a minimum, is not a wind sign. She said a possible definition for a feather sign could be, "A free standing temporary sign typically constructed with a plastic or metal shaft driven in the ground and an attached pennant typically in the shape of a feather, teardrop, or rectangle that is vertically elongated and attached to the shaft."

Ms. Connors said if the City were to regulate feather signs, the City would be able to control the size, location, type of support, permitting, maintenance, number of signs allowed, and distance between signs. She said illegal signs generally appear on the weekends when Code Enforcement Officers are not working and are generally placed in the right-of-way, which is currently not allowed.

In addition, there has been a recent Supreme Court ruling that municipalities cannot regulate content of signs so the City needs to be careful that all signs are regulated identically. She said the City currently allows some types of temporary signs with certain content through a Limited License process, but the City will no longer be able to do that. She said there are a number of different types of signs the City will have to look at to bring the City's Sign Code into compliance with the Supreme Court ruling.

Councilmember Lang wondered if the City was getting ahead of itself by dealing with one type of sign before it dealt with the entirety of the Sign Code. Councilmember Heiple said an email from a business owner prompted him to request Staff to review the Code regarding feather banners. The email stated the business owner was unaware the signs were illegal until he received notice from the City and being a small business owner, felt this rule to be very limiting on how a business can advertise especially since their business is fairly new and they cannot afford a traditional sign, which could cost thousands of dollars. The business owner stated he purchased two feather signs at a cost at \$200 each and noticed an immediate increase in business once the feather signs were positioned on their property. In the email, the business owner asked that the City allow these types of signs because they are a valuable, low cost alternative to attracting business that would otherwise pass them by. The business owner stated the feather banners are only out during business hours and are removed each evening and feels the feather signs are no more of a distraction than any other billboard or sign.

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Chairman Heiple said feather signs get the biggest bang for the buck and he would like for Staff to somehow allow feather signs, especially since car dealerships have an exception, until the City can deal with the entire Sign Code. He said it could take two years or more to amend the Sign Code to address the Supreme Court's ruling.

Mr. Messner asked Ms. Connors what types of signs are allowed at car dealerships and Ms. Connors said balloons and pennants. Ms. Messner asked if there are words on the pennants and Ms. Connors said not usually. Ms. Messner said the Legal Department could argue that pennants and balloons are not signs and that commercial speech is treated differently than the speech in the Court case, which was about political signs, Church signs, etc. She said according to the Supreme Court, commercial speech enjoys a lower tier of protection than traditional First Amendment speech. While she understands the Court case will have impacts to the City's Sign Code, it will not cause changes to the entire Sign Code.

Councilmember Allison said the City should address feather signs under the wind sign definition and not make an exception for one business. He said if feather signs can fit into the wind sign category, it should be allowed. Ms. Connors said balloons and banners are sometimes allowed at grand openings. She asked if feather signs should be temporary signs and asked if Council really wants these types of signs year round or should the signs be limited to a temporary period of a couple of times a year. Chairman Heiple said he was thinking the signs could be allowed during business hours only, not 24/7, and only allow a reasonable number of signs depending on the size of the property. Councilmember Allison did not think that taking the signs down after business hours would make a huge difference, but he would be in favor of a limitation of how many signs would be allowed based on square footage or surface area. He would not be in favor of telling someone they could display a feather sign only twice a year.

Mayor Rosenthal asked if sign permits are determined by zoning or whether or not the sign is attached or detached. She said the City may be stuck with a project that never ends and she would like to see a strategic fix under temporary signage because she does not want these signs in the right-of-way at all. She said there may be some way to do a focused, strategic fix to this issue since these are fairly new types of signs and are not unattractive, but the City needs to be smart about how to fix this without opening a big can of worms.

Councilmember Lang said many businesses, especially in Downtown Norman, have a small footprint that faces the street that they would love to have these types of signs. Mayor Rosenthal said the Center City Vision process included discussions about signs in the core area. Ms. Connors recommended the signs not be allowed in the right-of-way, which immediately does not allow them in the downtown or Campus Corner areas because they would have to be on some kind of stand and that might not work in our windy city.

Mr. Harold Heiple, 218 East Eufaula, said a Citizen's Committee reviewed the Sign Code years ago and wrote the definition for the wind signs. He said, at that time, the only things blowing in the wind that really bothered everybody was balloons and pennants that flapped constantly and were being strung out 25 to 50 feet. He said that is what the Committee wanted to put a stop to, but a lot of items named in the wind signs definition do not exist today in the sense that they did 25 years ago. He said the City can write a definition to make any sign fit and it is time for the City to be a little more flexible. He said the City is not bound by the definition although it has a good base to build upon.

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Chairman Heiple asked how long it would take Staff to refine the definition and Ms. Connors said she would like two months. She said there has been no conversation with the Legal Department about how to approach the issue of the Supreme Court's decision and the Sign Code is tied up in that. The literature she has read has been not to create more non-conforming signs, but the City should stop regulating until we bring the Sign Code in compliance with the ruling.

Councilmember Lang asked the penalty to a business for non-compliance and Ms. Messner said reoccurring violations would result in a citation. Councilmember Lang asked if that would cost the business money and, if so, how much and Ms. Messner said the penalty range is \$50 to \$750. Ms. Connors said Code Enforcement Officers do not work on the weekends and many businesses are aware of that and put signs out on the weekends. Chairman Heiple said as he was driving to this meeting he saw at least 11 to 15 feather signs so they are out there right now and it is not a weekend.

Councilmember Allison said there is nothing in the current definition for wind signs that is any more disruptive or distractive than visual signage so how can the City allow digital signage, but not allow feather signs in that definition? Mayor Rosenthal said a lot of time went into crafting the digital sign language and digital sign distractions can be controlled, but feather signs cannot be controlled especially on windy days. Chairman Heiple said the City does not want feather signs out in 25 mile per hour winds and Councilmember Allison said most businesses value their signs and will not put them out on extremely windy days or during bad weather. He said language can be crafted stating the signs cannot be put out if the wind exceeds a certain range.

Chairman Heiple said he is hearing it will take two months to construct a definition, but he has a small issue with that and asked if it would really take two months to write a new paragraph. Ms. Connors said Staff needs the time to research the whole issue to make sure the City is not putting something together in a rush. Chairman Heiple said he understands the City sometimes makes policy decisions with unintended consequences by trying to address a problem up front without really thinking it through long term.

Ms. Messner said BACA may want to see a draft before it is reviewed by the whole Council and drafting language for feather signs and bringing it back for BACA review could easily take two months. Mayor Rosenthal said BACA needs to understand what they are taking on before they start tweaking the Sign Code and she is open to moving as quickly as possible, but also respects the fact that Staff and Council have a number of other very important issues to work on plus there is a Supreme Court ruling that needs to be taken into consideration in looking at the big picture before jumping in and changing the Sign Code piece by piece.

Councilmember Allison said basically Staff is saying it could take six months before a change would even go into effect because it will come back to BACA then get reviewed by Council in a Conference or Study Session before being placed on the agenda. Ms. Connors said Staff will work as quickly as possible and have draft language for BACA in two months.

Chairman Heiple said he sincerely understands the Planning Department is overworked and understaffed, but he would love it if his expectations were exceeded and the draft language was ready sooner. He said small businesses can spend \$200 to \$400 versus \$4,000 or \$6,000 so this is a game changer for them. Ms. Connors said she can offer the option that Code Enforcement will not vigorously enforce those violations and Chairman Heiple said that will have to do for now.

Item 2, continued:

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1. Memorandum dated November 25, 2015, from Steve Lewis, City Manager; Tim Powers, Director of Information Technology; and Susan Connors, Planning Director, to Council Business and Community Affairs Committee, with Attachment A, Example Image “Feather” Banner
2. PowerPoint entitled, “Feather and Teardrop Banners,” Council Business and Community Affairs Committee dated November 5, 2015
3. Email dated November 5, 2015, from Aaron Gibson to Greg Heiple regarding feather banners

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Item 3, being:

MISCELLANEOUS PUBLIC COMMENTS.

None

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Item 4, being:

ADJOURNMENT

The meeting adjourned at 4:58 p.m.