

CITY COUNCIL  
BUSINESS AND COMMUNITY AFFAIRS COMMITTEE MINUTES

April 5, 2012

The City Council Business and Community Affairs Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 9:10 a.m. in the Conference Room on the 5th day of April 2012, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Lockett, Spaulding, and Chairman Ezzell

ABSENT: Councilmember Quinn

OTHERS PRESENT: Councilmember Roger Gallagher, Ward One  
Councilmember Tom Kovach, Ward Two  
Ms. Cindy Rosenthal, Mayor  
Mr. Mark Campbell, interested citizen  
Mr. Bill Hickman, Attorney  
Mr. Tony Tyler, Tyler Outdoor Signs  
Mr. Don Wood, Norman Economic Development Coalition Executive Director  
Mr. John Woods, Chamber of Commerce Director

STAFF PRESENT: Mr. Jeff Bryant, City Attorney  
Ms. Susan Connors, Director of Planning and Community Development  
Mr. Terry Floyd, Development Coordinator  
Mr. Doug Koscinski, Current Planning Manager  
Ms. Syndi Runyon, Administrative Technician IV

Item 1, being:

CONTINUED DISCUSSION REGARDING ON AND OFF PREMISE SIGN CODE REGULATIONS.

Ms. Susan Connors, Director of Planning and Community Development, said the off-premise sign code ordinance is moving forward for Council's consideration on April 10, 2012, for First Reading. She said the Business and Community Affairs Committee (BCAC) requested Staff review the on-premise sign code ordinance and Staff has drafted an ordinance for the Committee's review. She highlighted the proposed amendments regulations as follows:

- Digital signs would only be allowed within commercial and industrial categories as well as certain institutional uses such as schools and churches;
- An individual business would be allowed either a wall sign or a freestanding ground sign;
- In areas utilizing joint use signs, if the joint identification sign were digital, each business within that area could still opt to install a digital wall sign;
- Because of the potential for visual distraction the location of digital signs would be restricted near signalized intersections to be no closer than fifty feet to the edge of the pavement;
- Digital on-premise signs cannot have "visual movement" but must simply project one or more "static" images with a dwell time of twelve seconds;
- Illumination levels will be 5000 NITS in daytime and 300 NITS at night with signs being extinguished within one half hour after the business closes;
- Devices must be installed with an adjustment device for ambient light levels and to be able to free the image in case of a malfunction; and
- Due to many businesses being located near residential areas, the ordinance seeks to require a separation of 200 feet between the sign and any nearby residential districts to limit potential impact.

Ms. Connors said Mr. Bill Hickman, Attorney representing outdoor advertising companies, has requested the City allow existing non-conforming billboard signs that have been removed as part of a public roadway project be relocated in the community and Staff has drafted language for the Committee's review. She said Staff's language is not identical to Mr. Hickman's in that Staff has suggested the sign only be relocated in C-1, Commercial District, or I-2, Industrial District; setbacks be fifty feet from a residential zone, 100 feet from a dwelling, and not within 300 feet of a church, school, or government facility on the same road; sign must be the same size and height as the sign that was "taken"; and the sign could not be converted to a digital electronic sign as that would be a unique monopoly that would not be granted to owners of other non-conforming signs along Norman's arterial roadways.

Chairman Ezzell asked why limit the relocation to C-1 versus C-2, C-3, or any other commercially zoned area and Mr. Doug Koscinski, Current Planning Manager, said C-1 and I-2 are the currently allowed zoning districts in the Sign Code for billboard placement. He felt that allowing a non-conforming sign into a different zoning district would set a bad precedent. Councilmember Kovach asked if this language was partially in response to the litigation case with Lamar Signs and Ms. Connors said yes. She said signs could be allowed in all commercial and industrial zoning districts if that is what the Committee recommends.

Councilmember Gallagher asked why on-premise signs would be required to be turned off after the business closes when they could continue advertising, which is the purpose of the sign, and Ms. Connors said Staff felt it was unnecessary to have lighted advertising signs along the corridors of the City after business hours. She said the regulation is already current language in the Sign code, but it is only enforced on a complaint basis. Councilmember Kovach asked when the last time a complaint was received and Ms. Connors said she has never heard of a complaint. Councilmember Gallagher said if the sign is downtown or in a business district, with no residential areas nearby, what problem does Staff foresee and Ms. Connors said Staff felt it to be an equity issue. Councilmember Lockett said all businesses have signs displayed 24/7 so digital signs should not be any different and Councilmember Spaulding agreed. He said businesses pay for their sign and should be able to display it 24/7. Chairman Ezzell said if the sign is not a nuisance he did not see why the sign would need to be turned off and Mr. Koscinski said the language is currently in the Sign Code. Ms. Connors suggested removing that language altogether and Chairman Ezzell agreed. Mr. John Wood, Norman Chamber of Commerce, said taking out the language would allow a convenience store open 24 hours to have a digital sign on 24/7. He said some local banks are particularly interested in digital signs, but they close at 5:00; however, they may want to advertise that the drive-thru is open through 7:00 p.m. He said most banks do not want a sign on 24/7, so allowing a convenience store to have a sign on 24/7 just because they are open is not equitable. Councilmember Spaulding said the purpose of advertising is not to get someone to walk in your door at the moment they see the sign, but just to get the advertising into their heads to remember the business is there. Mayor Rosenthal said she did not have a problem with removing the language from the code as long as the City ensures distance requirements for signs located near residential properties are met.

Mr. Hickman talked about off-premise, non-conforming billboards and asked that Council consider raising the regulations for NITS from 300 to 500 during the day, which is an industry standard. He said the City has recourse to protect themselves if the sign is too bright, but the industry's concern is that it is harder to expand language once it is adopted. He said another issue he would like the Committee to review is if a billboard has two advertising sides, he would propose adding language allowing conversion of billboards to digital on both sides of the sign because they would be advertising to different directions of traffic. Councilmember Kovach felt this item was not on the agenda and should not be discussed and suggested Mr. Hickman bring his changes to the Council meeting. Chairman Ezzell said the agenda states, "Continued discussion regarding on-premise and off-premise sign code regulations" so he did not have a problem discussing Mr. Hickman's proposed changes. Ms. Connors said the Planning Commission has approved the proposed ordinance, but Staff can prepare language to modify the ordinance on the floor in the Council meeting of April 10, 2012, and Chairman Ezzell said that would be fine.

Mr. Hickman said, in regards to the non-conforming language for relocation of off-premise signs, he suggested revising the language so relocation is not limited to the taking for a public road improvement project, but any public project. He said, as far as zoning, he would advocate allowing relocation on any industrial zoned property and add C-2 and C-3 as well, for flexibility. He said there is proposed language that the sign be no taller than the taken sign, but he would propose a maximum of 35 feet. He also asked, if the sign company was to relocate a smaller sign, would the City consider allowing that sign to be converted to digital.

Chairman Ezzell said it seemed that more discussion is needed on the subject. Mr. Koscinski said Mr. Hickman's proposals would be in conflict with the zoning ordinance as billboards are only allowed in C-1 or I-2 zoning areas. He said to create a Sign Code section that conflicts with the zoning section would not be appropriate and Chairman Ezzell agreed. Chairman Ezzell said he is hesitant to paint with a broad brush across all circumstances and all zoning and asked if there is a variance mechanism that would allow for consideration of a sign relocation and Mr. Koscinski said no as there is no Council action or public notification when a billboard is being placed at a new location. Ms. Connors said once a sign becomes non-conforming, they have their own set of rules. Chairman Ezzell asked about allowing the 500 NITS instead of 300 and Ms. Connors said Staff has not reviewed any background information on that, but if the industry allows 500 NITS then she does not see why the City would not allow the same. Mr. Koscinski said Mr. Tony Tyler, Tyler Outdoor Signs, had suggested language at the Planning Commission meeting that if the sign is in a bright location then 500 NITS would be appropriate, but if it is standing in the middle of a field with nothing around it, 300 NITS is bright enough. He said Staff had incorporated that request in their memo to the Committee and can change the ordinance language prior to Council review. Mayor Rosenthal said she would like to see documentation of the industry standards. She said language about a sign being in a bright spot or not is "squishy" language and Councilmember Kovach agreed, but said billboards along I-35 versus inside the City would be a clear distinction he could live with. Chairman Ezzell asked about allowing the two-sided signs to be digital and Mr. Koscinski said Staff could review and revise the language for Council's consideration.

Chairman Ezzell said he would like to finish sign discussions at the next BCAC meeting. He said there is no reason to limit the taking of a sign to a public project rather than a public road project. Mr. Koscinski said the only time the City offers compensation is for road projects, which is a State regulation. Chairman Ezzell asked if the City took property with a billboard on it, they would not have to pay for the sign? Mr. Koscinski said it would depend on how the sign lease is written and whether or not there is a termination clause. Mr. Jeff Bryant, City Attorney, said Legal Staff could review that language and include an option to relocate the sign if there is no compensation. Ms. Connors said any structure that is non-conforming would not have that same right and Mayor Rosenthal felt the City would be setting a problematic precedence by taking a category that is non-conforming and creating special conditions. Chairman Ezzell asked if the signs were non-conforming because they were installed prior to the ordinance being adopted and Mr. Bryant said yes. Mr. Koscinski said, according to the Sign Code, legal, non-conforming use signs cannot be replaced or expanded. Chairman Ezzell said if someone had a 100-year lease on a billboard with a monetary stream of income and the City takes the billboard that may have ten years left on the lease, he would have a problem with that. He said he would like to continue the discussion at the next meeting.

Items submitted for record

1. Memorandum dated March 29, 2012, from Doug Koscinski, AICP, Manager, Current Planning Division, via Susan Connors, AICP, Director of Planning and Community Development, to Business and Community Affairs Committee, with Exhibit A, Digital Sign Proposed Amendments, and Exhibit B, Draft Proposed Amendment to City of Norman's Sign Ordinance

Item 2, being:

**DISCUSSION REGARDING PROVIDING INCENTIVES FOR DEVELOPMENT PROJECTS THAT CHOOSE TO USE LIGHT EMITTING DIODE (LED) LIGHTS IN PARKING LOTS.**

Chairman Ezzell said there are a number of commercial building projects that have been affected by the City's Lighting Ordinance. He said Oklahoma Gas and Electric (OG&E) has announced they will no longer provide outdoor lighting on commercial projects in the City of Norman. He said, historically, developers would call OG&E and OG&E would install the lights and the business would lease the lights on a monthly basis. He said the City of Norman is the only community that OG&E has been providing that service to and discontinuing the service is radically altering the building cost structure. He said the City has a lot of things they would like developers and builders to do that range from installing Light Emitting Diode (LED) lights to requiring higher percentages of open space. He felt it would be appropriate for the BCAC to initiate discussion about building permits fees that are paid in the City of Norman. He asked if the City should consider incentives for things the City would like to see occur such as the use of LED lights for energy saving purposes. He said the City could compensate builders by reducing a portion of the building permit fees for commercial or residential projects. He said there might be "wiggle room" in the building permit fees to consider an incentive, which could also be a way to compel people to install energy efficient lighting or offer more open space. He said he would like to start by breaking down the permit fees and discussing areas deemed appropriate for incentivizing.

Councilmember Kovach said previous Council reviewed energy efficient alternatives such as applying for OG&E's Windpower Program, which would cost the City \$150,000 per year. He said it is one thing to look at costs and plan for them, but if people have projects in the pipeline and did not know OG&E would take this stand, that can cause a problem. He felt it would be appropriate for the City to offer an incentive. He said for several years Council has discussed many ideas have been discussed to increase fees to offset costs for expanding the Wastewater Treatment Plant, Water Treatment Plant, stormwater costs, purifying Lake Thunderbird etc. He said by incentivizing green building, especially in new neighborhoods, the City would be offsetting some of those costs. He said the City would be helping builders and developers do the right thing for the community and the environment. He said there has been discussion in the community regarding more buffers and if more buffers are wanted, incentivize this option. He said a gray water system could be another incentive. He suggested incentives be given on a pilot project basis and felt that could become a standard for future building.

Mayor Rosenthal said the City would need to know what the impact would be on building permit fees, as well as wastewater impact fees. She was concerned there would not be as much "wiggle room" within the building permit fees as the Committee thought. Chairman Ezzell said he did not want to limit incentives to strictly building permit fees. He said, from an analytical standpoint, he would like to know if the City could assemble data breaking down the development process and fees. Ms. Connors said that is possible and she would also have Mr. Ken Komiske, Director of Utilities, provide a break down of utility fees. Chairman Ezzell said he would like input from Staff and Committee members on the types of things they believe would be appropriate to incentivize.

Chairman Ezzell said, at the next BCAC meeting, he would like to review the first initial breakdown of fees.

Mr. Woods said one of the biggest issues faced by builders from the lighting ordinance is not conformity to the ordinance itself, but the opportunity for businesses with OG&E to have a payback schedule. He said even if the City did not offer a full incentive, some type of payout over time for switching to LED might help bridge the cost gap. He said, in defense of OG&E, they have an inventory and to change that inventory requires approval from the Oklahoma Corporation Commission. He said Norman was the only community that OG&E was providing the installation of lighting for and to continue to do that without offering it to other communities did not make a lot of business sense. He said if the City of Norman is not willing to follow its own lighting ordinance, as is the case with the Compressed Natural Gas (CNG) Station, it is unfair to the community. Mayor Rosenthal said the CNG Station does comply with the lighting ordinance and Mr. Koscinski said the CNG Station uses LED lights and full cut-off

fixtures. Mr. Woods apologized and said he might be thinking of another facility and Ms. Connors said there had been discussion to that effect, but the City did comply on the CNG Station. Mayor Rosenthal said there had been clear discussion regarding the lighting ordinance during the CNG building process and if there are any City projects that do not conform, it is because they predate the ordinance.

Councilmember Spaulding said he would like to discuss providing incentives for getting rid of every Eastern Red Cedar tree on properties being developed and Councilmember Kovach agreed.

Chairman Ezzell agreed with Mr. Woods on parts of his defense of OG&E, but he believes OG&E did this so they would not have to deal with getting a rate tariff to accommodate Norman. He said when he had asked Staff what cities who own their own electric utilities are doing, he had been surprised to learn that OG&E did not provide the service for other communities like they had for Norman. He said he was curious about the procedures for a rate tariff and asked if it would be too cumbersome to find out. Mr. Woods said it takes Corporation Commission approval, but he was not sure what that entailed. Chairman Ezzell asked what OG&E's definition of a "current project" is and where they draw the line. He asked if a current project was a project that was final platted, but not under construction, or if a building permit was applied for prior to the lighting ordinance adoption. He said he would prefer to look to a broader incentive that benefits everyone.

Councilmember Kovach said he had asked Mr. James Chappel, OG&E representative, if the City could use OG&E's existing fixtures that have not been fully shielded as a compromise, but has heard nothing back. Chairman Ezzell asked about the cost of a shield per fixture and Mr. Koscinski said a maximum of \$100.

Item 3, being:

MISCELLANEOUS DISCUSSION.

Mr. Mark Campbell, interested citizen, asked if the Committee would have speakers identify themselves in the future as the meeting is only audio recorded. He felt that someone in the audience may think the person speaking was on the Committee. Chairman Ezzell said he did not have a problem with people identifying themselves, but Committee meetings generally are not run at the same formality as Council meetings, but he has no problem asking people to identify themselves for the record.

The meeting adjourned at 10:00 a.m.

ATTEST:

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City Clerk

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Mayor