

MEMBERS	PRESENT	ABSENT	EXCUSED
Bob Beda, Chair	X		
Dusty Szymanski			X
Erich Ferchau	X		
Stu Ferguson	X (recused)		
Carolyn Riggs	X		
Greg Larson	X (present for first action, then recused)		
Councilor Ed Seymour	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planning Technician Pam Cunningham

I. CALL TO ORDER AT 7:02 BY CHAIR BOB BEDA

II. PLEDGE OF ALLEGIANCE TO THE FLAG

- III. MOTION TO EXCUSE COMMISSIONER SZYMANSKI.** Commissioner Larson moved and Commissioner Riggs seconded to excuse Commissioner Szymanski.
 Roll Call Yes: Erich, Bob, Carolyn, Greg, Ed
 Roll Call No:
 Roll Call Abstain:
 Motion carried

- IV.** Commissioners Ferguson and Larson will be recused.

V. DISCUSSION AND POSSIBLE ACTION: TEXT AMENDMENT APPLICATION ZA 12-1, PROPOSING THE ADOPTION OF AN AMENDED CHAPTER 15.100 SIGN STANDARDS, OF THE CITY OF GUNNISON LAND DEVELOPMENT CODE.

Staff had provided the Commission with a comparison of sign codes from other municipalities pertaining to lighted signs. Chair Beda reviewed the spreadsheet and gave a recap of comments received at the public hearing. He said that in the *Gunnison Country Times* on-line "Myvote" question last week, 75% of those voting did not object to Electronic signs. Chair Beda said he met with Rick Miller to learn about the functionality of Rick's Electronic sign and also looked at the manufacturer's website. According to the sign industry on-line publication "Signs of the Times" (www.signweb.com), there have been cases against city bodies having a "knee jerk" response to signs. Director Westbay interjected that the Acting City Attorney says that "as long as we are regulating the sign and not the message we are safe." Chair Beda said he spent some time driving around to look at signs and observed that during the Sage Grouse Festival there were trailer signs with blinking lights at the east side of town and one at Denver and Main advertising the festival. One of the trailers probably belonged to CDOT and one to the City. He opined that if municipalities are using them to get attention, they must be effective. He also observed that a business on North Main has a monument sign with colors so bright and intense he had to stop to see if it was electronic, but it is paint. He also said there is a restaurant in town that puts pinwheels on the bike rack. He also asked if the college would have to do a license agreement to put up sandwich board signs advertising sporting events. Director Westbay replied that they would. He said there is a business in town that has large signs advertising the Crested Butte ski area, which is an off-premise

sign. He said he didn't see any signs that were offensive and reiterated Commissioner Ferchau's question of last week; "What if we didn't have any code, would it look any different in Gunnison?"

Director Westbay went over the recommended changes to the *Sign Code*. He said that changes to policy matters are left for the Commission to give guidance; the redlines and strikeouts are housekeeping items.

Commissioner Ferchau said that "in general I was surprised that there weren't more changes, given the focus of the public hearing. If I were to generalize the public hearing, it was pro-business, flexibility, and banners. The general consensus was that electronic signs are ok, and there was some discussion about more flexibility." He said he was surprised that the section on banners was added and said he would like to take that section out. Councilor Seymour said he would take the Banner section out for the sake of getting the Text Amendment through. Commissioner Riggs said that it doesn't make sense to take banners out; it should be in the *Sign Code*. Discussion continued about banners being used as permanent signage. Director Westbay said that by definition, they are signs. The City doesn't regulate the material the sign is made out of, it only regulates safety. If it meets the definition of a sign, which is to generate business, it would require a sign permit. It doesn't matter what it is made out of. He said that "banners" go across the street and are what Public Works allows. When discussion turned to what "Welcome Hunters" signs are, Director Westbay explained administration of those would be at the discretion of the *Code* administrator.

Director Westbay asked for direction on the section on banners. Commissioner Ferchau said that he is fine with leaving it out and would like Greg and Stu's input since it isn't in the sign code. Commissioner Riggs said that just because of the materials used it doesn't become a banner. A banner is used for events. Director Westbay said that the "Banner" section will be removed from the recommended *Sign Code*.

Each of the sections containing redlining was discussed and the following changes were made (recommended changes were accepted unless stricken; new changes are in red):

15.100.020 Applicability. Discussion turned to the "grandfathering" date of January 28, 1997. Commissioner Ferchau stated that the ability to enforce the grandfather clause would be easier from today forward. Councilor Seymour asked Director Westbay if there are any examples of signs nonconforming with the new *Code* that were in place in 1997. Director Westbay replied that he couldn't think of any, but there may be some without a permit. Commissioner Ferchau opined that if there is a violation today that is of material impact to anyone, we would know about it. He reiterated that the date should start today. Director Westbay said he would prefer 1997, but the Commission can pick the date. Councilor Seymour said he is comfortable with 1997. Director Westbay said it will be isolated instances and is probably a moot point. Councilor Seymour said he would agree if it [the recommended new *Sign Code*] were stricter, but we are making it looser. If it were stricter he would give a person the benefit of the doubt. The logic is this is when the *Sign Code* began. Chair Beda asked who would call about a date; it is a moot point. Director Westbay said that if there was a complaint he would have to research it. Chair Beda asked, "If that complaint said it would be permitted under the new code, would it be a valid complaint?" Director Westbay said it could be because we have signs that are without a permit. Chair Beda said it should be whatever is easiest for staff and Commissioner Ferchau agreed.

15.100.010 Purpose and Intent. Commissioner Ferchau proposed that the purpose and intent of a sign is to “create distraction and get attention”. That is what signs are for. Commissioner Riggs said that “if we include words like that we are opening the door for more EMCs and distractions, when we are trying to maintain the sanctity and the atmosphere of the community that we love.” Commissioner Ferchau said, “The signs in the window draw attention. They are to attract people to your building. In the same spirit we need to recognize the purpose of the sign.” Commissioner Riggs asked, “do we need to say it or can it be assumed; it is a given. Do we need to write it in there?” Director Westbay said “it doesn’t drive any standard” and recommended that the language be changed to read:

15.100.010 Purpose and Intent.

The purpose of this Section is to provide information to the public; identify businesses, services and activities; and, establish uniform control of signs. It is the intent of the regulations set forth in this Section to:

- A. recognize that signs are a necessary means of visual communication to attract attention to business.

15.100.030 Definitions.

Discussion of the definitions of “Apparent Sunrise” and “Apparent Sunset.” Chair Beda pointed out the Estes Park and Woodland Park use the terms “dusk” and “dawn.” Commissioner Ferchau said he was fine with using those terms. The following language was stricken:

~~“Apparent Sunrise” means the time of sunrise as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date.~~

~~“Apparent Sunset” means the time of sunset as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date.~~

Commissioner Ferchau asked staff to provide the dates of the revisions of the sign codes of the other towns that were used for comparison. Staff will prepare that information.

“Sign Types”

2.a. “Electrically Activated signs” are animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

- i. “Flashing” means any sign that contains an intermittent or flashing light source, or includes the illusion of intermittent or flashing light by means of animated electronic function whose illumination is characterized by a repetitive cycle of illumination and non-illumination. ~~in which the period of illumination is either the same as or less than the period of non-illumination.~~ For the purposes of this ordinance, flashing will not be defined as occurring if the frame static display period exceeds five seconds or

more.

~~4. “Banner” means a sign painted on cloth or vinyl and hung over a street or entrance, or on a wall. Banners may announce special events or sales.~~

5. “Brand-Name sign” means a word, name, or symbol, especially one legally registered as a trademark, used by a manufacturer or merchant to identify its products distinctively from others of the same type and usually prominently displayed.

26. “Revolving, Rotating or Spinning sign” is a sign that has the capability to revolve three hundred and sixty degrees (360°) about an axis. See also: Animated Sign, Mechanically Activated Sign.

Discussion regarding whether barber poles are a spinning sign. Someone observed that an earlier version of the *Sign Code* addressed barber poles and asked staff to look for that language tomorrow. [Staff note: an earlier version contained the following language under Prohibited Signs]:

A. Prohibited Signs. The following signs shall not be permitted, erected or maintained in the City:

1. Signs with visible flashing, moving, revolving or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, except for time/temperature/community announcement signs, traditional barber poles, display of public or community events, and gauges and dials which may be animated to the extent necessary to display correct measurement;

Councilor Seymour asked if it matters if it is a barber pole or something else. If it is something else of similar size and function, but it isn't a barber pole, is it a conflict? Is a barber pole a sign, or is it décor? Commissioner Riggs asked if it is a brand name sign. Commissioner Ferchau said, “So if barber poles are not signs, we don't need to reference them.” Councilor Seymour said he was fine with exempting barber poles. Commissioner Riggs said “they don't need an exemption; they aren't signs.”

28. “Sale sign” means a temporary sign advertising a special sale of merchandise or service.

32. “Time/Temperature/Community Announcement sign” means a sign which displays information of interest to the community such as the current time and temperature or community announcements and bearing no commercial statements.

15.100.050 Prohibited Signs.

K. revolving, rotating and spinning signs;

15.100.060 Temporary Signs.

~~A. Banners~~

~~1. In the public right of way. Banners in the public right of way are administered under an Administrative License Agreement in accordance with GMC 9.40 unless they are for a City approved function.~~

~~2. Banners for Special Events or Sales. Banners or signs for special events shall be permitted no more than six times per year for two week intervals each. Such signs and banners shall not exceed 24 square feet in area.~~

C. Real Estate Signs. Real Estate signs are exempt under 15.100.040 L. (Exemptions).

D. Sale Signs. A sale sign shall be permitted no more than six times per year for two-week intervals each. A sale sign shall not exceed 24 square feet in area.

15.100.080 General Regulations.

B. Illumination.

5. all illuminated signs must comply with the maximum luminance level of 500 cd/m² or nits at least one-half hour before ~~dusk~~ **Apparent Sunset** ~~as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date.~~ All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until **dawn** ~~Apparent Sunrise~~, ~~as determined by the NOAA~~, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate.

Discussion of *Illuminated signs* followed. Commissioner Riggs said that lighted signs should only be on during hours of operation. Commissioners Beda and Ferchau disagreed. Commissioner Seymour said that window displays usually stay on at night. Commissioner Riggs said that “the question comes from knowing what goes on after 10 at night. There is no one on the streets to see the signs. For businesses open at night an electronic sign across the street [on a closed business] interferes with business. Are those signs effective when they aren’t open or are they more effective when the business is open? What is the point of seeing a sign for something when the business is closed? I would be thinking about it during their hours of operation.” Commissioner Ferchau said that “all of us voluntarily do things that alienate some form of business to our business. We can’t make sign decisions based on a person’s reaction to a sign. Not everything is within your decision-making power. You are right; there are not a lot of people at night. But for efficiency, if no one is out there, who is it offending?” Commissioner Riggs said she enjoys being able to walk down the street and not have things flashing at 2 am. She asked, “Are we limiting the business if we say they can’t have a sign on when they are not open?” Chair Beda said, “Yes, we are limiting business. We shouldn’t constrain businesses that aren’t open seven days a week. We need to create the energy [that John Solanek referred to at the public hearing]; even if the businesses aren’t open. It used to be a joke that we roll up the sidewalks at 5:00 and all day on Sunday; now it is real. If it looks dead it is dead.”

Commissioner Riggs said, "Signage comes into play and can assist business, but the issue comes from the lack of volume of people, not inadequate signage." Chair Beda said, "There is technology out there they can use. Otherwise, businesses would have to cover up their [other] signs when they aren't open." Commissioner Riggs asked if every liquor store and bar can keep their neon on. Chair Beda responded that they can, but have to reduce the brightness at night.

Commissioner Ferchau brought up the argument that electronic signs have limitations and uses that the sign industry sees as acceptable and asked how we can we further limit them. Director Westbay responded that he spoke with a sign manufacturer who said that illumination is controllable. Chair Beda observed that other towns are using that standard and it is an industry standard.

- C. Electronic Message Centers (EMCs). ~~As a guideline, scrolling, traveling, flashing, spinning, rotating, any moving effects and all dynamic frame effects or patterns of illusionary movement or simulated movement should be avoided.~~ The following standards apply:

Councilor Seymour asked if this section is acceptable. Commissioner Ferchau wanted to acknowledge the valuable public input. He said that if signs have capabilities, we should acknowledge those and if a sign has the function to lessen brightness at night, there is no problem. He asked how we can enable creativity in signs. Councilor Seymour said "What we have is reasonable. If we open door further we will run into having a hard time passing this code. I understand the capability of the signs. But, for example, there are cars that go over 100 mph and we don't allow them to drive that fast on Main Street." Commissioner Ferchau clarified that a lighted sign with a bottle of beer trickling is ok because of the size, but if it were more than 2.5 square feet we draw the line. Commissioner Riggs said that, "as written we are more lenient than other municipalities". Commissioner Ferchau said he was wary of comparing to other cities, "I like being innovative and want to be a leader of communities."

No further changes were made to the EMC section.

- G. Signs ~~or Banners~~ in the Public Right-of-Way. Any sign ~~or banner~~ in the public right-of-way is subject to an administrative license agreement and shall be compliant with all sign standards. The staff may refer the application to City Council for any reason. The City Manager or their designee may issue an administrative license agreement to allow the sign in accordance with GMC 9.40 as long as:
1. the City is carried as "additionally insured" on a current insurance policy; and,
 2. proof of coverage is provided to the City Clerk and remains in effect for the duration of the permit issued.

- H. Sandwich Board Signs

Commissioner Riggs said that it is important to keep in mind that the License Agreement is an added cost to business. She said she loses an opportunity to advertise because she can't afford the coverage. Chair Beda asked if she could you afford a lawsuit. Commissioner Ferchau stated that the lawsuit would be against the City, but asked, under the

Governmental Immunity Act, what are we protecting? Director Westbay said it is protecting the City against negligence. Commissioner Riggs said that as a Commissioner she understands, but as business owner, she doesn't understand. Commissioner Ferchau said we have the City Attorney's opinion; but we also have trash cans, grates, bikes and trees in the public right-of-way. Chair Beda responded that the City says we are going to have planters, bikes, and trash cans and the City takes the risk and makes sure things are safe and maintained; whereas the City has no control over Sandwich Board signs. Chair Beda stated that if it is private property on the public right-of-way, it [a license agreement] isn't new. Commissioner Ferchau asked if, when the *Sign Code* goes into effect, someone will go around and tell people they have to be in compliance. Director Westbay responded that the City will enforce the *Code*.

Director Westbay reviewed the Review Standards and draft Recommendation and asked if there are any changes.

Commissioner Ferchau asked Councilor Seymour if, regarding the public hearing and the more relaxed interpretation of public signs, community input is consistent with what City Council wants. Councilor Seymour said, "This is a big leap because EMCs are currently not allowed and we are [recommending] allowing them. We have some pretty common sense regulations. It is a good compromise for the whole community. I have been trying to get input from people I talk to. At the public hearing we had three individuals say they want less regulation than this and more flexibility for EMCs." Commissioner Ferchau said, "The people that were specific were very specific for more flexibility, there were some who endorsed it, some were receptive, but in general, let's not get carried away." Councilor Seymour said, "My feel of the community, Council, and the Commission is, we have made compromise, what we have can fit the entire community best. It is the nature of compromise. We have something that, if we recommend it, will be adopted." Commissioner Ferchau asked, "Is there reservation about moving forward, based on the public hearing? We haven't addressed flexibility that came from the public hearing. Did we do our job? Was there an opportunity that was missed if we didn't go there? Are you saying it wouldn't go beyond us?" Councilor Seymour said, "That is what my gut tells me."

Director Westbay reviewed the Findings.

Commissioner Ferchau asked what happens if someone appeals and says they want a bigger sign. Director Westbay responded, "There are no variances for Sign Standards. We would have to change the *Code*." Councilor Seymour added, that "By doing this, we are demonstrating the *Code* can be changed. With new technology, down the road, we can have another Text Amendment." Director Westbay pointed out that there is no perfect code. He said, "We have given it a lot of thought. There may be nuances that we can't administer. Codes can be changed if it is needed." Commissioner Ferchau asked how long that would take. Director Westbay responded that the recent Text Amendment to allow retail use in the Industrial zone district took three months.

Chair Beda said, "We need to look at Woodland Park's code. They are the only ones that addressed the item. I don't want to have to redo this in 6 months or a year." He reviewed some of the highlights of the public hearing; read from Mike Darnell's letter; summarized that Rick Miller wants to use to the full capability of his electronic sign; and read from the public hearing notes. He said he thinks it is boring if the display change is slow. He said, "I don't know if we are all the way there. I'm ok with it either way. These signs are out there, we will see a lot more." Commissioner Ferchau said, "I'm ok

with it, you're fine with it, Carolyn is not fine with it, Ed says he can live with it. We can wait, to see what Dusty says, but he probably won't like it. The bottom line is, it is moving the right direction. I say we move on." Councilor Seymour said, "I prefer to take action tonight unless we really want to hash it over again." Chair Beda asked, "Will we make any changes in a week?" There was consensus that there probably wouldn't be any changes in a week.

Commissioner Ferchau asked if there is a mechanism to make it clear to Council that there was a public hearing and it was unanimous for flexibility. Director Westbay responded that they will have the minutes of the P&Z Public Hearing and Council will have another Public Hearing. Councilor Seymour said he also reported on the Public Hearing. Commissioner Ferchau said that the "only distinction would be our recognition of that. We tried to keep it balanced."

RECOMMENDATION

During the Planning and Zoning Commission meeting held on April 18, 2012 Commissioner Riggs moved, Councilor Seymour seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 12-01, for a Text Amendment to the *LDC* repealing the existing *Sign Code* (Section 15.100) and reenacting a new *Sign Code* (Section 15.100) as amended, based on the following findings of fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that this Text Amendment application complies with the review standards for Text Amendments (*LDC*, Section 15.150.050).
3. The Planning and Zoning Commission finds that an update of the existing *Sign Code* regulations is warranted because the existing *Code* lacks necessary specificity, directives are confusing, and it does not address modern sign technologies.
4. The draft *Sign Code* employs a performance-based structure. The Planning and Zoning Commission finds that this structure addresses critical performance standards including but not limited to the location, size and height, flashing, illumination and construction of signage.
5. The Planning and Zoning Commission finds that the regulatory bounds of the proposed *Sign Code* have been relaxed in several instances to enhance business marketing opportunities and simplify administration of the *Code*.
6. The Planning and Zoning Commission finds that a controversial part of the proposed *Sign Code* relates to the regulation of Electronic Message Centers (EMCs).
7. The capabilities of modern Electronic Message Centers can cause signs to flash and they can be programmed to display Patterned Illusionary Movement. The Planning and Zoning Commission finds that specific standards have been included in the proposed *Sign Code* to limit the size of Electronic Message Centers as well as Flashing and Patterned Illusionary Movement.

8. The Planning and Zoning Commission finds that in conjunction with the processing of the proposed *Sign Code* Text Amendment, City Council will be asked to amend Chapter 9.40 of the *Gunnison Municipal Code* to process Sandwich Board sign applications in any public ROW under an *Administrative License Agreement* to be approved by the City Manager. The Planning and Zoning Commission further finds that the proposed amendment to Chapter 9.40 will allow for efficient promulgation of the *Municipal Code*.
9. The City Attorney has recommended certain amendments to the proposed *Sign Code* and the Planning and Zoning Commission finds that the Community Development Director has been directed to include those amendments in the proposed *Sign Code* to be submitted to the City Council.
10. The Planning and Zoning Commission finds that based on the record of this Text Amendment application the recommended approval of this Text Amendment protects the community's health, safety and welfare.

Roll Call Yes: Erich, Bob, Carolyn, Greg, Ed

Roll Call No:

Roll Call Abstain:

Motion carried

VI. ADJOURN. Chair Beda adjourned the meeting at 8:45.

Bob Beda, Chair

Attest:

Pam Cunningham