

**NEWBERG ELECTRONIC SIGN
AD HOC COMMITTEE MINUTES
3-5 p.m., Thursday, October 1, 2009
Newberg City Hall, Permit Center Conference Room
414 E. First Street, Newberg, Oregon**

I. ROLL CALL:

Present: Nick Tri (Chair) Claudia Stewart Stephen McKinney
Kristin Horn Michael Sherwood Dennis Lewis

Absent: Julie Want (excused) Loni Parrish (excused)
Fred Gregory (excused)

Staff Present: Steve Olson, Associate Planner
Dawn Karen Bevill, Recording Secretary

II. OPEN MEETING:

Chair Nick Tri opened the meeting at 3:08 p.m. and asked for roll call.

III. MEETING MINUTES:

MOTION #1: Sherwood/McKinney moved to approve the September 3, 2009 minutes as submitted.
(6 Yes/ 0 No/ 3 Absent [Want, Parrish, Gregory]) Motion carried.

Before beginning the workshop, Steve Olson addressed follow-up questions posed by committee members at the last meeting:

Where does the sign code fit? There is a summary of the sign code in the application packet, but the sign code is not a separate document. It's part of the Development Code, which is part of the Municipal Code. The Municipal Code includes the city charter and code of ordinances, which are the laws of the City.

Is there LEED for signs? No, but signs can help buildings earn LEED points (if the signs include recycled material, for example, or reduce energy usage).

ODOT regulations on off-premise signs are essentially that there can be no net gain in off-premise signs.

Claudia Stewart asked if Newberg High School wanted a sign at 99W and Elliott, would they need to take down the sign at the High School? Steve Olson replied no, but they would need to remove some other off-premise sign along 99W. ODOT wouldn't permit a new off-premise sign unless another one was taken down. ODOT's rule is probably aimed at billboards along the major state highways, but it applies in Newberg, as well.

IV. WORKSHOP:

REVIEW OF A MODEL SIGN CODE:

Steve Olson began the overhead presentation by explaining the source of the model code. The code was funded by a grant from the Signage Industry Foundation; a non-profit foundation that supports the sign industry. Staff thought the model code was good for discussion, and included a good analysis of legal issues.

Framework of a sign code:

Readability and comprehension are influenced by the sign design and location. There isn't a "one size fits all" approach so the code should cover all sign types by being comprehensive and broad based, as well as content-neutral and allowing standards to vary by "character" area.

Legal considerations:

Local governments have authority to regulate signs but there are limits. Sign codes can sometimes conflict with the First Amendment's guarantee of freedom of expression, so it is best if the code is content-neutral. Sign regulations based on content or on the identity of the sign user are content based. Churches need to be treated the same as other institutional uses, such as schools.

Claudia Stewart asked if that is true if the zones are different. Steve Olson replied that standards can vary in different zones, but within each zone the institutional uses should be treated the same.

Steve Olson continued by reviewing the Fifth Amendment's protection of property rights. The "sunset clauses" requiring the removal of non-conforming signs are common and are considered legally sound if they have reasonable time limits. Signs typically must be brought into compliance if modified or rebuilt. The "sunset clause" is commonly acceptable to courts if the time allowed is substantial. Newberg's sunset clause is 10 years. Also, permit fees need to be reasonably related to costs of administration and enforcement.

The Fourteenth Amendment guarantees due process of law and equal protection under the law. The U.S. Supreme Court ruled that local governments could regulate signs based on concerns about traffic safety and aesthetics, including EMCs, (Electronic Message Centers), without providing any hard evidence of safety problems (Metromedia case).

Objective permit review standards for signs are best. A subjective design review process may be legally suspect, but could be okay if it is optional. Variances allow some flexibility, but can also be considered subjective (which is why Newberg does not allow sign variances). They are discretionary and may make an applicant more likely to challenge decisions on constitutional grounds.

The Lanham Act protects federally registered trademarks regarding changes to color, typescript or shape.

Stephen McKinney gave the example of the City of Sherwood not allowing Les Schwab to paint their building red and white; only allowing their sign to be in those colors. That mentality costs the City of Sherwood business.

Model regulatory guidelines:

Different types of signs may be permitted in each character area. A downtown area may favor projecting signs and limit freestanding signs, due to limited space. Wall signs with deep setbacks could be allowed to be larger. Height and size guidelines are included in the model code. Newberg's height and size limits generally fall in the low to middle area of each range. The "sunset clause" for removal of non-conforming signs is in the best interests of the business community and the City. Spinning and

flashing strobe signs are prohibited. EMCs should be allowed because they are cost effective advertising for businesses.

An EMC code can adapt to concerns regarding frequency of message change, limit EMC to certain percentage of sign area, can make motion unlimited for small signs, add automatic dimming capability requirements, and include definitions for EMCs and animation.

Newberg currently limits animated signs to 10 square feet in most areas, but the whole sign can be electronic. Animated signs are prohibited in the downtown C-3 zone. An animated sign is defined as one where the display changes more than once in a ten-minute period.

REVIEW OF OTHER CITIES' SIGN CODES:

The City of Beaverton prohibits signs with a changing electronic message except time and temperature signs. Their "sunset clause" is 10 years to remove non-conforming signs.

The City of Tigard prohibits flashings signs or animated signs, where the message interval is less than two seconds. Their sign illumination standard is quite obscure. EMCs are allowed in C-G (General Commercial) and CBD zones only. One EMC is permitted per premise. Traveling light patterns (chaser) are prohibited. The "sunset clause" is 10 years.

City of Sherwood states frequency must not change more than once in 30 seconds. Movement or flashing is not allowed. EMCs are limited to no more than 35% of sign area. Changing image signs (animated or video signs) are prohibited. In residential areas, EMCs are allowed under existing area, height, and setback standards.

City of McMinnville prohibits flashing and video signs. Video signs are defined as electronic changeable copy signs providing information in both a horizontal and vertical format, capable of continuously changing sign copy in a wide spectrum of color, shade and intensity. In residential areas, electronic changeable copy signs can be included in the sign but needs to be turned off between 8 p.m. – 7 a.m. Electronic changeable copy signs can be included in a sign at a church.

Electronic changeable copy (ECC) signs in the City of McMinnville allow one per site, as part of a freestanding or wall sign. ECC portion is to be no higher than 12'; not to exceed 24 square feet in area. The setback is to be at least 10' from all property lines and the ECC sign area is calculated at rate two times that of other signs. No temporary signs are allowed if there is an ECC and the ECC must be a permanent sign. The "sunset clause" is 8 years. There are no ECC signs permitted downtown.

Kristin Horn asked for clarification on how a sign is measured. Steve Olson explained in Newberg it's measured by a rectangle or triangle around where the letters are only, not the frame.

Claudia Stewart is curious to know how the McMinnville sign codes affect new facilities, such as McMinnville High School and whether they were allowed electronic reader boards.

V. PILOT PROGRAM: Review of updates from the pilot program participants

Steve Olson explained that the pilot program participants have been given authorization to experiment with animation and messages, and have agreed to collect data and comments. The Electronic Sign Ad Hoc Committee will interview participants and can work with the City Manager to direct experiments.

Lewis Audio and Video: **Dennis Lewis** reported it is difficult to ascertain the effective difference in business credited to a change in operation of the electronic sign; he will say they have been able to operate the sign in a much more efficient manner and their business for the same period compared to last year is even. They've been able to promote community events, give more accurate information about goods and services, and simply use the sign as an asset. Mr. Lewis stated he's willing to advertise community events as long as they are valid. There's a time clock that will stop advertising the event after the date it's finished.

Mountain View Middle School: **Wayne Strong** stated a survey was conducted of parents at the back to school nights with regard to font size. Sixty-one respondents chose the font with the larger size and one respondent chose the small font size. They've personally spoken with about half the residents that live in the neighborhood to determine if they have found the sign to be a nuisance. There's been no indication of a problem, even at night.

A Storage Place: **Scott Cassidy** reported no negative comments have been heard but rather positive comments. The sign is good advertising, but business is down, however.

Walgreens: **Dan Rouse** loves the ability to use the sign. They're using a five second delay. They've reported the flexibility is good, have advertised community messages, and have received no comments for or against. He gave specific percentages showing customer numbers have been up May – August.

Questions and Comments:

Claudia Stewart stated Mountain View Middle School is not a drive-by school. The sign can only be viewed from the parking lot. Reminders and messages are so important to schools.

Michael Sherwood offered his opinion as a business owner who has operated an electronic sign, himself. His business would skyrocket when advertised on his electronic sign. Radio advertisement was not as successful.

Stephen McKinney appreciates Dan Rouse showing the customer percentages in his letter. He represents an industry where they know the value of the electronic signs. A few banks in town are awaiting the decisions made by this committee with regard to the boards. Standards need to be set that will be beneficial to Newberg schools, as well.

Dennis Lewis stated signs could be used to notify citizens of City Council Meetings, School Board Meetings, etc. The community will be affected positively through advertising community events.

Claudia Stewart would like to hear from the participants on what would improve their signs and how a code change would benefit them, such as message intervals, whether to turn the sign off at night, etc. Steve Olson stated time limits could certainly be set up on signs in residential areas. Commercial would be treated differently. Dennis Lewis stated personally, he wants his message board available to drivers at all times of the day and night. Many drivers come through the community only at night and advertising all night is an advantage.

Kristin Horn stated in her experience, print ads are virtually dead. Businesses will have to become more and more creative in the way they advertise. Stephen McKinney agreed with Ms. Horn and stated as time goes on, fewer papers will be available to advertise.

Claudia Stewart asked when community aesthetics comes into play. Steve Olson replied that aesthetic issues can be considered anytime the committee sees fit. When we review other cities' codes we are looking at the balance they struck between business interests and community aesthetic interests.

Dennis Lewis' opinion is Newberg looks nothing like it did a long time ago, even though the downtown is considered to be a historical area. He's seen many stores disappear in Newberg. Personality is needed in business. Not every business should look alike downtown. Kristin Horn believes the sign code allows for a much more eclectic mix in Newberg and much time was spent in talking with the community when writing the code for downtown. People want an individual type of area and the code reflects that for better or not. Michael Sherwood stated customers like the downtown areas because they can park their cars and walk to stores.

Stephen McKinney understands the concerns. Different areas need different goals. City Council encourages this committee to be leaders in the community; building a standard applicable to the merchant's needs and that of the community. We all want to see a vibrant downtown. Maybe the upcoming cultural area should be the first area with a marquee advertising events, etc. Different signs for different areas are needed.

Dennis Lewis stated the electronic sign he has now is considered an antique. The performance of a sign today as compared to 3 years ago is very different. A marquee sign can be a work of art with a picture in high density color or low density with a message alone. Mr. Lewis asked the committee members to subscribe to the periodical he emailed to them so they can view examples.

Steve Olson will poll the pilot participants to see if they'll be available to attend the next scheduled meeting on November 5, 2009. Dennis Lewis will be out of town but can have someone else attend from his business, if needed.

VI. OTHER BUSINESS:

Steve Olson stated a possible field trip for the December meeting to view EMCs.

VII. NEXT MEETING: The next scheduled meeting is November 5, 2009.

VIII. ADJOURN: The meeting adjourned at 5:05 p.m.

Approved by the Electronic Sign Ad Hoc Committee this 3rd day of December, 2009.

AYES: 4

NO: X

ABSENT: 3
(List Name(s))

ABSTAIN: X
(List Names(s))


Recording Secretary




Electronic Sign Ad Hoc Committee Chair