



Planning & Public Safety Committee

February 14, 2017

Summary and Motions

Chair Scutchfield called the meeting to order at 1:02 p.m. Council Members Mossotti, Kay, J. Brown, Higgins, Gibbs, Lamb, Bledsoe, Henson, and Plomin were in attendance. Council Members Stinnett, Moloney and Evans were also in attendance as non-voting members.

I. Approval of Committee Summary

A motion was made by Plomin to approve the January 17, 2017 Planning & Public Safety Committee Summary, seconded by Bledsoe. The motion passed without dissent.

A motion was made by Bledsoe to approve the January 19, 2017 Special Committee Meeting Summary, seconded by Kay. The motion passed without dissent.

A motion was made by J. Brown to allow a public speaker, Patricia Howard, to speak to an item not on the agenda. There was no objection to this request.

II. Preston Court Residential Parking Permit District Proposal

Ed Trammel, Lexington and Fayette County Parking Authority, presented this item discussing the establishment of a Residential Parking Permit District on Preston Court.

A motion was made by Gibbs to approve the Preston Court Residential Parking Permit District Proposal and move it to the full Council, seconded by Lamb. The motion passed without dissent.

III. Shawnee Place Residential Parking Permit District Proposal

Ed Trammel, Lexington and Fayette County Parking Authority, presented this item discussing the establishment of a Residential Parking Permit District on Shawnee Place.

A motion was made by Gibbs to approve the Shawnee Place Residential Parking Permit District Proposal and move it to the full Council, seconded by Lamb. The motion passed without dissent.

IV. Content Based Signage / US Supreme Court Decision *Reed v. Gilbert*

A motion was made by Plomin to give the presenter 30 minutes to speak, seconded by Bledsoe. The motion passed without dissent.

David Pike, attorney with Pike Legal Group, presented this item. He discussed the Supreme Court's decision in *Reed v. Town of Gilbert* regarding signage. He said the Court's decision applies to the regulation of all signs: permanent and temporary, business and residential, and

commercial and non-commercial signs. He said sign litigation is common, expensive and risky and the vast majority of sign ordinances contain at least a few provisions of questionable constitutionality, particularly following *Reed*. Pike reviewed the Majority Opinion and selected findings from the case and advised that we develop a strategy for needed revisions to our existing sign ordinance. He also advised that any pending applications and enforcement actions be reviewed in light of the Supreme Court decision. Lastly, Pike reviewed some suggestions to help in reviewing our ordinance.

Mossotti asked how we are going to comply and enforce this. Pike said in order to comply with the law, we task Planning and Zoning with developing a set of draft ordinances to consider. He said in many ways what we have to do is fall back on those tools that we are already good at and apply them to signage. He said the challenging part is that what makes our community look so good is a restrictive sign ordinance. He said we will have to be creative in developing tools that work within our existing zoning system. Mossotti asked about compliance/enforcement; for instance if we have 10 signs that have a position on x and 15 signs that have a position on y, who decides if x's content is okay or do we have more x signs than y signs. Pike asked if she is referring to the interim and Mossotti said yes. Pike said he has no idea; we should meet with legal and ask if the provisions in our regulations are unconstitutional and are we going to keep enforcing that.

Plomin asked about the content-based signage being unconstitutional and that it requires a compelling governmental interest; she asked for an example. Pike said to consult an attorney. You would have to be able to prove there are no other alternatives; he said it is a very difficult hurdle to get over if you have a determined opponent and it is a difficult fight to win.

Bledsoe asked Law and Planning Departments what the next step for us would be. Paulsen said signs cover 3 different divisions (Building Inspection, Planning and Law). He said we need to get an idea where we are in terms of the ordinance. He said it is going to be a big lift and he can't give us a time in terms of how quickly they can do it, but they are working on it. Paulsen said we should review on a case by case basis, working with Law. He said it will be big change and we will use a comprehensive approach; it won't be quick and easy, but it will be a start. Bledsoe asked about the timeframe and what we can do in the short-term. Janet Graham responded that in the short-term, we can meet with Planning, Building Inspection and Enforcement. Long-term we are working on it and going through case law, she said she can't give a timeline because it involves multiple divisions.

Kay asked Planning or Law what exists in our present ordinance that needs to be looked at for revision. Paulsen said we would have to look at the broad definition of "content" and the way we do our commercial signs right now. He said we might not consider them to be content-related, but the Supreme Court might say they are. He said our sign ordinance is complex so being able to come up with a good example quickly is going to take a thorough review to see if something is content-related or not. Kay asked about the ordinance on our books regarding political signs being found unconstitutional and not enforceable. Kay asked if that was the case and will these signs not be subject to regulation the way we have it on our books. Paulsen said it depends on whether or not they are in the Right of Way. If they are in the public Right of Way, they will be removed; we generally do not enforce political signs. Graham said the ordinance on political signs is in our code of ordinance and the sign regulations discussed today

are part of our zoning ordinance. She said other than take them out of the Right of Way, it is very difficult to enforce those. Kay asked if that would be part of the revision - to reframe that. Graham said yes, that could be looked at.

A motion was made by Lamb that when the Content Based Signage ordinance is prepared, it be brought back to committee, seconded by Bledsoe. The motion passed without dissent

V. Items Referred to Committee

A motion was made by Gibbs to remove the Preston Court Residential Parking Permit District Proposal item from committee, seconded by Bledsoe. The motion passed unanimously.

A motion was made by Gibbs to remove the Shawnee Place Residential Parking Permit District Proposal item from committee, seconded by Henson. The motion passed unanimously.

A motion was made by Bledsoe to adjourn, seconded by Plomin. The motion passed without dissent.

The meeting was adjourned at 1:58 p.m.