

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE FEBRUARY 14, 2012 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass, *arrived 7:02 PM*
Ms. Lauri Harding
Mr. Tony Pfeffer
Mr. Edward Stubbs
Mr. Michael Williams, *arrived 7:04 PM*
Mr. Justin Verst, Vice Chair
Ms. Cindy Minter, Chair

MEMBERS ABSENT:

Ms. Deborah Blake, TPO

STAFF PRESENT:

Mr. Peter Klear, AICP, Director of Planning & Zoning
Mr. Matt Smith, Legal Counsel
Ms. Stephanie Turner, Secretary

Ms. Minter called the meeting to order at 7:00 PM. Following roll call, a quorum was found to be present. Ms. Minter asked if everyone had reviewed the December 13, 2011 meeting minutes and asked if there were any additions or corrections. Mr. Klear asked the record to show the arrival of Mr. Bass at 7:02 PM. Ms. Minter asked again if there were any additions or corrections to the minutes. There being none, Ms. Minter called for a motion. Mr. Barrow made a motion to approve the December 13th meeting minutes as submitted. Mr. Stubbs seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer and Mr. Stubbs in favor of the motion. Mr. Verst and Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #102-11-SPD-01, applicant GPD Group, and asked Mr. Klear to present the staff report and staff's recommendation to the Commission. Mr. Klear asked the record to show the arrival of Mr. Williams at 7:04 PM.

FILE NUMBER: 103-12-TXA-01

APPLICANT: Campbell County Planning Dept on behalf of the Campbell County Administrator

REQUEST: Proposed text amendment to the Campbell County Zoning Ordinance Article XIV Sign Regulations Modifying Sections 14.1 M and 14.7.2.b (2)

Background:

Campbell County leaders have submitted a request to modify the Zoning Ordinance to update provisions of the sign regulations.

Proposed Text Amendment:

Section 14.1 GENERAL RULES, REGULATIONS AND LIMITATIONS:

- M. No sign shall be erected, maintained or continued displaying flashing or intermittent lights, or lights, or lights of changing degrees or intensity except a sign **with a changeable electronic message board or electronic display screen** ~~indicating time or temperature~~, with changes alternating on not less than a five second cycle **or with messages scrolling steadily across the screen** when such ~~time or temperature~~ sign does not constitute a public safety or traffic hazard, in the judgment of the Planning Commission.

SECTION 14.7 PERMITTED USE AND LOCATION OF SIGNS: The following classes of signs may be erected and maintained in the following zones.

Zones	Uses	Permitted Sign Classes
RC-O & A-1	1. Any use permitted in this	1, 2, and 4
	2. In addition to sign classes permitted in (1):	
	a. off-street parking areas (excluding 3 parking garages)	3
	b. All the following uses permitted in this zone (including parking garages):	
	(1) Public owned and/or operated parks, and/or 5 and 8 or recreation areas including swimming pools	5 and 8 or 6 and 8*
	(2) Recreational uses other than those publicly owned and/or operated such as golf courses, country clubs, and semi public swimming pools	5 and 7 & or 6 and 7 &*
	(3) Conditionally permitted areas	5 and 8 or 6 and 8*

* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign of signs are to be located

Recommendation:

That the Planning Commission recommends that the Campbell County Fiscal Court adopt the proposed text amendments to the Campbell County Zoning Ordinance.

Supporting Information/Bases For Staff Recommendation:

1. Per Kentucky Revised Statutes (KRS) 100.203, the Campbell County Fiscal Court has the authority to enact zoning regulations within its jurisdiction. This authority includes the provision to amend its zoning classifications, uses, etc.

2. Pursuant to the Campbell County Zoning Ordinance Article XVII AMENDMENT PROCEDURE, the Planning and Zoning Commission has the authority to amend the zoning ordinance.
3. Proper notice has been given in accordance with Article XVII Amendment Procedure of the Campbell County Zoning Ordinance.

Mr. Klear asked if there were any questions for staff. Mr. Verst asked for the differences between a class 7 sign versus a class 8 sign. Mr. Klear showed the Commission an illustration from the Zoning Ordinance (specifically page 14-17). This illustration reflected a class 8 sign as a ground monument sign and a class 7 sign as a pole sign. There is some difference in the square footage of the signs with the class 7 being the larger of the two. Mr. Verst asked why this change was being proposed. Mr. Klear stated that question should be directed to the applicant who was present tonight. Mr. Verst wanted clarification as to the changeable portion of the sign. After reading the language, he remained confused if scrolling messages were allowed or not. Mr. Klear replied that as of this time, no message other than time and temperature is allowed. The proposed language will allow for any message. Mr. Verst asked if they could have a steadily scrolling message. Mr. Klear stated they could. Mr. Smith stated that he read the proposed change to allow for any message as well and did not see any issues with the language. Mr. Klear stated they could have the steadily scrolling signs or the changing message sign rotating every five seconds.

Mr. Barrow asked for a clarification of the size of the reader board. If the size of the sign is limited to ten square feet, can the entire ten square feet be used for the reader board? Mr. Klear replied that as the language was currently proposed, yes, it could. There was no limitation being proposed on the size of the reader board. Mr. Barrow commented that would allow for a complete photo to be flashed should they so desire. Mr. Klear replied he was correct. Mr. Klear stated the class 5 sign is much smaller. It is based upon the size of the building.

Ms. Harding stated that as she was reading the changes there appeared to be too many phrases “or lights”. Is the second “or lights” to imply no steady lights could be used or is this a typo? It already states intermittent lights, or flashing lights, so what does the remaining “or lights” refer to: External lights? Steady lights? Mr. Verst replied he remembered this conversation occurring previously and no resolution having been reached. Mr. Klear replied that you could not have a strobe light. You could not have a sign that would try to approximate a digital sign without being digital. Due to all the technological changes, Mr. Klear cannot specifically cite all the examples or types of signs that would be allowed. Mr. Klear does not recall to what originally led to the phrase originally being placed into the text in such a manner.

Ms. Minter asked if by having such a change to a pole sign would in any way conflict with the State Beautification Act. Mr. Klear replied that it would not as we have no authority to preempt any state legislation. All regulations for being the proper distance from the right-of-way, etc. would still be required to be maintained. Ms. Minter asked Mr. Klear where the idea for a five second time frame came from. Mr. Klear replied the time limit was an industry standard and was in no way a reflection of personal preference of the applicant or staff.

Ms. Minter asked if there were any additional questions for staff. There being none, Ms. Minter asked the applicant to come forth and identify themselves for the record. Mr. Robert Horine, Campbell County Administrator, came forward. Mr. Horine stated he agreed with Ms. Harding. He believes there is an extra “or lights” in the paragraph. Mr. Horine continued to explain that the issue with signs came to the attention of the Fiscal Court that several people had recently had to come before the Board of Adjustments for appeals of the Zoning Administrator as a result of the outdated ordinance. The Zoning Ordinance is almost 40 years old and a little out dated to the point where the time and temperature were all that banks wanted to flash to their customers. At this point, Mr. Klear advised that upon further review the first “or lights,” is a typo and will be stricken from the text. Mr. Klear apologized for not catching that prior to the meeting.

Mr. Horine continued that the Fiscal Court had the idea to update this section of the Ordinance to reflect the changes in technology. People are currently using the signs to advertise their location and specials. In the A-1 Zone, we allow conditional uses for uses such as golf courses. They have 100+ acres, but we limit them to a twenty-five square foot sign. It just seemed a bit restrictive to the people.

Mr. Smith asked Mr. Horine if they intended the entire sign to be used as a reader board. Mr. Horine stated the Fiscal Court had no preference if the sign applicant used the entire sign as a reader board or only a portion of the allowed square footage. Mr. Horine stated it is more common to have the reader board incorporated into a larger sign, but the Fiscal Court is in no way trying to limit them from using the entire sign as an electronic sign if they wanted. Mr. Barrow stated he knew for a fact that some local areas were changing their ordinances to reflect that only a maximum of 25% of the sign area could be reader board. Mr. Verst asked if the change was initiated by Mr. Horine at the direction of the Fiscal Court. Mr. Horine stated it was. Mr. Verst continued to ask if the time limit of five seconds was also used at his direction. Mr. Horine stated it was.

Ms. Minter asked if there were any additional questions for the applicant. There being none, Ms. Minter asked the applicant to be seated. There were no audience members to speak on the issue. Ms. Minter opened the floor for discussion among the Commission.

Ms. Minter started the discussion with the comment that she respects that changes are needed, but she is concerned about driving safety. Ms. Minter stated that a primary concern for her is when there is a split screen with double the advertising. It causes the driver to focus on twice the data and it is her concern that an increase in accidents will occur. Ms. Minter would like to place a restriction to prevent split screen advertising. Mr. Klear advised Ms. Minter that could not be done. The Commission does not have the authority to regulate content. This would infringe on their 1st Amendment rights, namely freedom of speech. Mr. Smith agreed and commented that the Commission can only regulate neutral items such as size of signs, the spacing of the board, or other items that do not affect the message contained on the board. Ms. Minter thanked both of them for their information.

Ms. Minter continued that the second item of concern for her is the five seconds of scrolling. It would take five seconds to read something and another two seconds to react to the information. Illumination is another concern. If the intensity is too bright, it can distract drivers from a dangerous road condition even if they are trying to concentrate on the road in front of them. There is a billboard in Newport and another on I-71 that already exist that demonstrate this principle.

Mr. Bass agreed with Ms. Minter. He also drives on I-71 and finds the blue illumination most distracting. Mr. Bass asked if regulating the color of the illumination is also infringement of their rights. Mr. Smith stated it could be if that shade of blue is their corporate color. It would once again be getting into the content of the board. Mr. Verst agreed with comments by Ms. Minter and commented that St. Elizabeth wanted to get their sign to adjust for daylight intensity. He is not aware if they ever got it to work out, but he was aware they were working on it. Mr. Verst stated that he does find scrolling messages very distracting, but also agrees we need to update the ordinances for the sign regulations to match the technological needs of today's environment. Mr. Klear stated it also depends on the speed you are traveling. Ms. Minter stated that scrolling message could potentially cause accidents if people were to try to slow down in an effort to read the entire message. Mr. Verst stated he wished he had more information on message boards and scroll times, but he thinks the underlying effort to update the Ordinance is needed.

Ms. Harding agreed with Ms. Minter's comments on the split screen advertising, but disagreed with Mr. Smith's advice that it would be considered "content" for regulatory purposes. Ms. Harding thinks the Commission could make recommendations against and they would stand in a court of law. Mr. Smith stated that she may be correct, but there was not enough information at this point to determine that one way or another. Ms. Harding agreed.

Mr. Barrow asked if we adopted this text change, would the Commission have any control over the amount of action, changeable signage. Mr. Klear replied no. The applicant would be able to use the maximum amount of allowed signage as a reader board that contained moveable scrolling text. Mr. Barrow stated that he knew for a fact that local neighboring jurisdictions were changing to allow only 25% of the allowed square footage to be moveable. He likes reader board signs because they are easier and safer, but doesn't like the idea that the whole sign can be used for action and scrolling text.

Ms. Minter asked if the Commission desired to make a motion. Mr. Verst stated that he is a little concerned about the cycle time and the scrolling, but at this time thinks the proposed language is a step in the right direction. The Commission has the opportunity to come back and make changes in the future should additional issues arise that need to be addressed. With that, Mr. Verst made a motion to recommend to Fiscal Court to approve case #103-12-TXA-01, by Campbell County Planning Dept on behalf of the Campbell County Administrator, a proposed text amendment to the Campbell County Zoning Ordinance Article XIV Sign Regulations Modifying Sections 14.1 M and 14.7.2.b (2) as submitted with the removal of the first "or lights." in Section 14.1 M. Mr. Verst cited for his basis that the application is consistent with the Kentucky Revised Statutes (KRS) 100.203 and Campbell County Zoning Ordinance Article XVII AMENDMENT PROCEDURE. The motion was seconded by Mr. Williams. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Mr. Bass and Ms. Minter abstained. Motion passed.

There being no other cases to come before the Planning Commission, Ms. Minter requested that Mr. Klear present his Director's Report.

DIRECTOR'S REPORT

Mr. Klear advised the Commission that it was time to hold the election of officers. Per the By-laws, the Commission could elect members to a nominating committee or they could all participate and dispense with the nomination committee. Mr. Verst made a motion to dispense with the nomination committee. Mr. Barrow seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor. Ms. Minter abstained. Motion passed.

After a brief discussion, Mr. Verst nominated Ms. Minter to continue to act as Chair. Ms. Minter accepted the nomination. Mr. Williams seconded the motion. Mr. Barrow nominated Mr. Williams as TPO. Mr. Williams accepted the position. Mr. Barrow nominated Mr. Verst as Vice-Chair. Mr. Verst accepted the position. Mr. Verst amended his motion to nominate Ms. Minter as Chair, Mr. Verst as Vice-Chair, and Mr. Williams as TPO. Mr. Williams amended his second to include the same. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams, and Mr. Verst in favor. Ms. Minter abstained. Motion passed.

Mr. Verst announced that there were vacancies on the Board of Adjustments. If the Commissioners would like to serve or are aware of anyone in the community that would like to serve, please contact Mr. Verst, Mr. Klear or Mr. Horine.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Williams made a motion to adjourn. Mr. Verst seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:46 PM.

Respectfully Submitted,

Approved:

Peter J. Klear, AICP

Cynthia Minter

