

**CITY OF ELIZABETH CITY  
PLANNING COMMISSION  
SPECIAL CALLED MEETING  
TUESDAY, JANUARY 11, 2021  
4:00 PM**

**MEMBERS PRESENT**

Ernest Sutton - Chairman  
Johnson Biggs - Vice Chairman  
Gary White  
Kevin Johnson

Also present were Kellen Long, Director of Community Development; Brian Hall, Secretary to the Commission.

Chairman Sutton called the meeting to order at approximately 4:00 PM and stated a quorum.

Chairman Sutton called for a motion to approve the Tuesday, December 7, 2021 Planning Commission minutes. Commissioner White made a motion to **APPROVE** the minutes. Commissioner Johnson properly seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Chairman Sutton called for a motion to approve the agenda. Commissioner White made a motion to **APPROVE** the agenda as presented. Commissioner Johnson seconded the motion. **ALL IN FAVOR: BIGGS, WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

Mr. Hall, secretary to the Commission read the **STATEMENT OF DISCLOSURE** as follows:

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial, and responsible to the public; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and in keeping with the ethical standards of conduct for city public officials and its employees, disclosure of interest in legislative action must be stated for public record, as per City of Elizabeth City Code of Ordinances Section 32.04. Any official act or action before the Planning Commission shall be publicly disclose on the record of the Commission the nature and extent of such interest and the Commissioner shall withdraw from any consideration of the matter if excused by the Commission pursuant to G. S. 160A-75.

Chairman Sutton described the only item of new business as follows:

- **CASE No: TA 01-22** filed by the City of Elizabeth City to clarify the City's signage ordinance in Article 11 of the Unified Development Ordinance for temporary signage in the public right-of-way.

Prior to starting her presentation, Director Long asked the Commission to turn to statute 11-8 attachment A number I, in regard to the text amendment, so that a correction may be made. The word "commercial" must be underlined, along with "signs of commercial properties, including banners." It should be highlighted in red and underlined as it is not a part of the original text amendment at the present time.

Director Long began her presentation.

Director Long stated that text amendments are quite difficult, as there is much to consider when proposing said item to the Unified Development Ordinance. Staff asks for the Commission to relay any suggestions or concerns to them, in regard to this matter.

Director expressed that she is working with the City Attorney, in regard to this document, in order to make sure it is edited and approved prior to being presented before the City Council.

Commissioner White asked if those whom this text amendment would affect been notified.

Director Long stated that this is not in regard to billboards, but more so the signs that have been seen at major corridors. These signs have been placed in the ground advertising things such as yard sales, insurance needs, and so on and so forth. This does not involve any permitted billboards or signage on private property.

Chairman Sutton inquired upon whether this included political signs.

Director Long confirmed that it did, but stated that it clears up that language and does not prohibit those utilizing those sign by any means.

Commissioner White inquired upon the timeframe for having the signs up and for them to be taken down.

Director Long noted that said information will be explained background of this case.

In the staff analysis, three documents were referenced as they were of great importance to the research that was done by staff. It was critical to stay within the general statutes of North Carolina, along with gaining feedback from the UNC School of Government.

Chairman Sutton asked if staff was working with the City Attorney, Mr. Bill Morgan, for this case.

Director Long confirmed this inquiry, adding that she had been working with the City Manager as well. The blog that was provided from the UNC School of Government, which was placed in the meeting packet, talks about temporary signs in public right-of-way's.

It specifically references a general statute by North Carolina for political signs discerning what is allowed in a NCDOT right-of-way space. The statute in question, General Statute 136-32, has been included in the meeting packets and talks about the regulation of signage.

The first part of the general statutes provides information about commercial signage and is for the NCDOT right-of-way. The statutes went as follows:

- *No unauthorized persons shall erect or maintain upon any highway any warning or direction sign marker, signal or light, or imitation of any official sign, marker, signal or light erected under the provisions of general statute 136-30, except in the cases of emergency.*
- *No person shall erect or maintain upon any highway, any traffic, or highway sign or signal bearing barrel on any commercial or political advertising, except provided in subsections B through E of this section.*
- *Provided nothing in this section shall be construed to prohibit the erection and maintenance of signs, markers or signals bearing the name of an organization authorized to erect the same by the Department of Transportation, or by any local authority of reference to general statute 136-31. Any person who shall violate any of the provisions of the section shall be guilty of a class one misdemeanor.*
- *The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in subsection B of the section.*

### **Political Signs Permitted**

- *During the period beginning on the 30th day before the beginning date of one-stop early voting, under general statute 163-227.2, and ending on the 10th day after the primary or Election Day, persons may place political signs in the right-of-way of the state highway system as provided in this section.*
- *Signs must be placed in compliance with subsection D of this section and must be removed by the end of the period prescribed in this subsection.*
- *Any political sign remaining in the right-of-way the state highway system more than 30 days after the end of the period prescribed to this subsection shall be deemed unlawfully placed in abandoned property, and a person may remove and*

*dispose of such political sign without penalty.*

### **Sign Placement Standards**

- *No sign can be in a right-of-way or fully controlled access highway.*
- *No sign shall be clipped closer than three feet from the edge of the pavement of a road.*
- *No sign shall obscure motorist visibility at an intersection.*
- *No sign can be higher than 42 inches.*
- *No sign shall obscure or replace another sign.*
- *Removal of these a political sign is a cause for a misdemeanor.*

Director Long began to describe the process applying said standards within municipalities including private property, NCDOT right-of-way, and city maintained right-of-way. This in particular refers to a city maintained right-of-way.

*"Pursuant to Article Eight of Chapter 160A of the general statute, the city may by ordinance prohibit or regulate the placement of political signs on right-of-ways and streets located within the corporate limits of a municipality, maintained by the municipality."*

While political signs are allowed during the specified time under a NCDOT right-of-way, a municipality does have the choice to prohibit them in their right-of-way. However, if a city's ordinance does not state specifically on what their regulation is in their right-of-way, then they have to follow the same standard as NCDOT.

The city's sign ordinance previously did not state anything about a sign being placed in a right-of-way. It spoke of temporary signs stating the following:

*"Temporary signs shall not be placed more than 30 days prior to an event or election and must be removed within 10 days following the general election. Such sign shall be limited at 32 square feet in areas six feet maximum height."*

Director Long noted that said ordinance did not discern whether it involved private property, a city right-of-way, and it does not follow the same guidelines as NCDOT.

With the campaign season approaching, staff took the stance of utilizing the general statute so that both the city and NCDOT are following the same requirements. Staff thoroughly went through the ordinance in an effort to clarify what type of temporary signage, including political signs, is allowed.

The UNC School of Government has taken the stance that while this general statute is out there, that NCDOT does not allow any other commercial signage in the right-of-way from that general statute. The statute allows for political signs, 30 days before early voting, to be removed two days after the election day.

Director Long stated that however, commercial signs and temporary commercial signage has been seen in the ground all the time in the NCDOT right-of-way.

The blog from UNC was helpful as it referenced a court case where a ruling, that went against the ordinance, stating NCDOT is prohibiting all types of signs in the right-of-way except political signs, which is not allowed as the signs are being regulated based on their contents. So, staff cannot change the general statute, but they have to protect themselves and to regulate it.

Director Long began to read the text amendment, reviewing each section where staff has proposed a change. There are three definitions being added or edited. Any text underlined in red is new language that staff is proposing to be added to the Unified Development Ordinance, while text stricken in red is language that staff is proposing to be deleted.

Various definitions were added that had been needed for quite some time that are considered temporary signage. The first definition depicts feathered signs which state that a form of temporary sign composed of durable lightweight fabric with a sturdy frame, enclosing only a portion of the materials edge will remain upright. It will be flexible in degrees, generally shaped to be tall and narrow.

When it fits into the ground, or other bottom support affixed to a pole, which is located outdoors and contains language for advertisement, greeting or similar message purposes, which is aggravated by the wind and it's used by businesses or organizations to promote events, products or services.

Director Long presented the second definition that was added, which was in regard to noncommercial signs. With this definition not being present within the Unified Development Ordinance, staff proposed the text amendment of a noncommercial sign as a sign that carries no commercial message, statement, or expression. Noncommercial signs include signs expressing political views, religious views or signs for profit organizations related to their tax exempt purposes.

Political signs were the next proposed text amendment and was defined as a sign relating to the election of a person to public office, relating to a political party, or relating to a matter to be voted upon at an election called by a public body.

The next sign ordinance was actually a cross through that staff reworked the presiding definition and is in regard to portable signs. The previous definition spoke of a sign not permanently attached to any service surface. Staff added that any sign not permanently attached to the ground or other permanent structure or signed designed to be transported. Portable signs include, but are not limited to, signs designed to be transported by meaningful fields.

Director Long stated the next text amendment that is picked up is on page eight and under exempt signs. Exempt signs are signs that are usually temporary signs, smaller signs, vinyl logos, and other things considered to be signage, but has no fee requirement by staff for when a signed permit is submitted. Under exempt signage, real estate signage has always been listed under this category with no fee charged by staff.

Staff has received recent complaints of realtors using the public right-of-way to advertise for business. The NCDOT general statute states that technically they're supposed to be no commercial signs regardless. That aspect has not been articulated or enforced on their part. The city's ordinance was not clear at all on if they're allowed in a right-of-way or not.

The language in their ordinance spoke of private property and size restrictions if placed on private property, but really if somebody put it in the right-of-way, staff has no language to enforce it. So, the only thing being proposing with the real estate signs, added on letter G, is real estate signs shall not be placed in NCDOT or city maintained right-of-way at any time including real estate signage.

Director Long noted that under letter I, under signage, the language reads that temporary signs shall not be placed more than 30 days prior to an event or election and must be removed within 10 days following the event or election. It was further defined, in regard to political signs, with those stats in which staff crossed out "or election" and just left it at event.

Staff then added on this commercial temporary signs on private property including commercial banners shall not be placed more than 30 days prior to an event and must be removed within 10 days. Under political signs, on page 10, staff held the proposal to treat NCDOT right-of-way and the city maintain right-of-way in the same aspect. So, whatever that general statute is allowing in the NCDOT right-of-way is being carried. So, it will be 30 days before early election and then 10 days after the election. Staff used the same specifications on the signs as far as placement that NCDOT has.

The next section of the proposed text amendment is on page 11 number K, which involves commercial signage and is classify as commercial because this means any signage that's noncommercial. Anything that is listed as commercial signage shall not be located temporarily or permanently in any NCDOT or city maintained right-of-way within the city of Elizabeth city's municipal limits. Noncommercial signs excluded from this ordinance include any sign that carries no commercial message, statement, or expression. Noncommercial signs include signs expressing political views, religious views, or signs for profit organizations related to their tax exempt purposes.

Director Long expressed that the letter L was added this text amendment and it is



already enforceable. It states that any bills, posters or signs or advertisements on any telegraph, telephone, electric, light or other pole along any of the streets of the city provided that this ordinance shall not be construed to include street signs placed on the poles by the city or designated names of streets and is listed under prohibited signage.

The last item added by staff page 17 and is a permitted use table that staff has in regard to signage. On page six, going back into definitions, it speaks about temporary signs in which the lettering has been changed. Temporary signs are those signs which relate to such events as elections, foreign auctions, yard sales, agricultural production sales, for sales, festivals, and home show openings. Staff believes that they should cross out the "elections" depiction on that as it has been placed its own category even though it is temporary.

The main purpose of this ordinance really isn't political signage, as staff is simply further defining on what they're allowing. What they are putting in the text amendment and what they're currently allowing are the exact same. It's just giving further definition to that and while also trying to take care of the things that they are seeing in the public right-of-ways of which are consuming those corners as far as the commercial signage.

This concluded Director Long's presentation.

Vice Chairman Biggs asked that, based on the proposed text amendment, one can have a political sign their private yard as long as it's actually on their property.

Director Long expressed that the issue comes in regard to the major corridors in which they are trying to prevent these signage issues. Right now if you go to any of them, they're overrun with just all kinds of things.

Chairman Sutton inquired about if the signs in question can be on property that the owner considers to be private, such as residential.

Director Long stated that that is not addressed in this amendment, as the only aspect dealing with private property has an underline through it per request of staff. It primarily focuses on regulating the commercial side.

Vice Chairman Biggs presented the scenario of a roofing company fixing someone's roof, then asking if they can place their sign in that yard.

Director Long stated that said sign could be construed as commercial signage. Staff is still reviewing through this proposed text amendment and it will more than likely be brought back before the commission at the February 2022 meeting. There is a lot of thought that goes into this process, and staff does not desire to present this something

in front of City Council that is not well thought through.

There were no further comments.

Chairman Sutton asked the Commission if they were ready to entertain a motion.

Commissioner White made a motion to delay action on **CASE NO.: TA 01-22**  
Commissioner Johnson properly seconded the motion. **ALL IN FAVOR: BIGGS,  
WHITE, AND JOHNSON. NONE OPPOSED. MOTION CARRIED.**

This concluded the new business items on the agenda.

### **Old Business**

No old business was reported.

### **Staff Report**

Director Long began a discussion/update on wastewater capacity and potential funding streams. For this project, the engineering firm "Wither Ravenel" had been hired by the city to start tackling the data and to see where the city is at as far as sewer capacity. A lot of Withers Ravenel's research and data is focused on the "I and I", which is the city's inflow and infiltration.

In the previous Planning Commission meeting there were questions about potential funding streams and things like that to tackle these issues. Nothing has been narrowed down as of yet because there have not been any concrete choices made what project will be partaken or where they're going to start in this process once they physically get out there and start doing work. On slide 14, of the power point presentation for this item, it depicts some different projects that they identify that has the most influence infiltration in this area.

Director Long noted that one of the bigger projects is Main Street. The engineers stated that the city's older roads and streets have the most inflow and infiltration because they're older. They were here first before any of the other streets. They are usually piping clay unless there's been some sort of major repair due to something wrong that occurred within the past.

They identified five different projects, the estimated costs, and how much flow the city would get back from that project if it were implemented. Some possible funding streams include the "State Revolving funds" and the Community Block Grants." The pros and cons of each of those were given along with a list the eligible applicants, eligible projects, and then what they'll need for the application on that. City Counsel is waiting to get that information from this other engineering firm that is looking at the other side of the project. Besides "I and I," treatment plants are being looked at as



well along with the amount of capacity held and the idea of having another treatment plant and that would do.

Chairman Sutton asked if they have identified any other potential funding streams.

Director Long stated that they have not identified any others than the aforementioned ones. Those have been identified because they are common themes for these types of projects. The video for this presentation will be online on Wednesday, January 12, 2022 and will provide much more information than staff can relay.

Chairman Sutton inquired where the city was in regard to hiring a new City Manager.

Director Long stated that Mayor the mentioned that they hope to have a hire by the end of February.

### **Chairman's Report**

Chairman Sutton stated that he is pleased with the progress of the proposed text amendment.

That concluded the Chairman's report.

There were no Member Concerns.

Chairman Sutton asked the Commission if they were ready to entertain a motion to adjourn.

Commissioner White made a motion to **ADJOURN**. Commissioner Johnson properly seconded the motion. **ALL IN FAVOR: BIGGS, JOHNSON, AND WHITE. NONE OPPOSED. MOTION CARRIED.**

The meeting concluded at approximately 4:41pm.

Submitted Respectfully,

Brian Hall-Secretary of the Commission