



**SURFSIDE BEACH PLANNING & ZONING COMMISSION  
TOWN COUNCIL CHAMBERS  
JUNE 7, 2016 ♦ 6:00 P.M.**

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**1. CALL TO ORDER.** Vice Chairman Abrams called the Planning & Zoning Commission meeting to order at 6:00 p.m. Commission members present: Vice Chairman Abrams and members Gambino, Johnson, Lauer, and Lowery. Chairman Pruitt and Member Elliott were absent. A quorum was present. Others present: Town Clerk Herrmann and Planning Director Morris.

**2. PLEDGE OF ALLEGIANCE.** Vice Chairman Abrams led the Pledge of Allegiance.

**3. AGENDA APPROVAL.** Ms. Lowery moved to approve the agenda as presented. Ms. Johnson second. All voted in favor. **MOTION CARRIED.**

**4. MINUTES APPROVAL.** Ms. Johnson moved to approve the May 3, 2016 meeting minutes as submitted. Ms. Lowery second. All voted in favor. **MOTION CARRIED.**

**5. DISCUSSION ITEMS.**

(1) Limited/Light Industry District. Ms. Morris went through the proposed changes to this district, copies of which are on file. Mr. Lauer and Ms. Johnson believed the ordinance looked good. Vice Chairman Abrams asked if the commission concurred to bring the ordinance for business at the next meeting. **COMMISSION CONCURRED.**

(2) Business Committee Consensus Items for Sign Ordinance Changes. The business committee recommendations from March 1, 2016 were presented at the request of Administrator Fellner, a copy of which is on file. The business committee is reviewing the town's sign ordinance and will make additional recommendations. The business committee hopes to mirror the code from Isle of Palms as much as possible.

Ms. Gambino asked how much the fine is. Ms. Morris said \$500, plus court fees for a total of \$1,092.50; each day is a separate offense.

Ms. Abrams asked what the impact would be if grandfathering were enacted tomorrow. Ms. Morris said the business committee has been very good at contacting other businesses. She thinks the majority know this is coming. She did not think it would cause problems. There has been no negative feedback.

Mr. Lauer asked if the attorney had reviewed this. Ms. Morris said not as of yet. The town attorney will review everything the business committee submits before it is presented to the commission for business.

Ms. Lowery said many of the items were vague. She asked if Attorney Large was acting in a legal capacity or as a member of the business committee. Ms. Morris said Attorney Large was working with the business committee; not with her as erroneously stated in the letter in the package. Ms. Lowery asked why Isle of Palms was chosen for the model. Ms. Morris said it was because that code had the least number of pages; it was very simple to read and to the point. There is no town that matches Surfside Beach exactly, but many of the Isle of Palms codes are like the town's code.

Mr. Lauer wanted to know how much litigation the Isle of Palms has had regarding its sign ordinances. Ms. Morris would find out.

54 Ms. Gambino said that #5 "Change the window signage allowed to 25% per window or pane,"  
55 needs to be clearer. The definition of "window" and "wall" also have to be established. Ms. Lowery said  
56 that confused her as well. Ms. Morris said right now the definition of a window sign is a wall sign. A  
57 definition will have to be made. The business committee wants them separated. Ms. Lowery asked if the  
58 business committee was looking for a definition of a window sign and a wall sign. Ms. Morris said yes.

59  
60 Ms. Gambino asked if all grandfathered signs would be prohibited. Ms. Morris said yes. Vice  
61 Chairman Abrams said that was the request, but no action had been taken yet.

62  
63 Ms. Lowery referred to number 4, "Exclude interior walls from the exterior square footage  
64 calculation," and asked why interior walls would be included. Ms. Morris explained that under the current  
65 definitions if you can see an interior sign from a right-of-way or a street, it is included. The interior signs  
66 that are on the inside of the building should not be regulated. For instance, when you can see the cold  
67 drink sign at the back of the convenience store when driving by. Several spoke at once agreeing that  
68 should be amended.

69  
70 Ms. Lowery referred to number 6, "Charge a flat fee of \$50 for window signage per address," and  
71 asked if that was for the permit to put up a sign. Ms. Morris said for the window signs at businesses like  
72 Hardee's where window signs are changed regularly. One permit fee would be charged as long the  
73 square footage did not change to keep the business from getting a temporary permit every time the signs  
74 were changed.

75  
76 Ms. Lowery said number 9 regarding advertising on vehicles had been discussed several times.  
77 She asked what would happen if the vehicle was never moved. Ms. Morris said the business committee  
78 discussed that. The hope that "a. be used for another business purpose other than signage, and b. be  
79 operable," would prevent long term standing; staff would have to ensure that vehicles were moved  
80 regularly. Vice Chairman Abrams said the final ordinance should stipulate that. Ms. Gambino asked if  
81 vehicle just had to be moved for five or ten minutes. Mr. Lauer said that was the problem. Ms. Morris  
82 said the vehicle could be driven around the block and parked in the same place. Mr. Lauer thought it  
83 would be good to limit the vehicles to parking at the rear of the building. Ms. Morris said that was  
84 discussed. Other municipalities require that the delivery trucks, etc. are parked in the rear. The concern  
85 was the vehicle safety, because of theft, vandalism, etc. In town there are several businesses that do  
86 not have lighting in the rear, so that was the business committee's concern.

87  
88 Ms. Lowery asked if things like ice cream cones on trucks were considered signs. Ms. Morris said  
89 yes, unless it was moving. The vehicle just cannot sit as a permanent sign like many around town have  
90 done in the past.

91  
92 Ms. Johnson asked if the size of the parking lot versus shared parking lots could be considered,  
93 i.e. where parking an advertising vehicle would push customers away from other businesses. Ms. Morris  
94 said right, for the private business. Ms. Lowery said to keep advertising vehicles from infringing on other  
95 businesses; she wanted to ensure everyone had a level playing field.

96  
97 Vice Chairman Abrams said at first glance she thought most of the recommendations were okay.  
98 In regards to Attorney Large, she asked what the official relationship was with the town and whether he  
99 was being retained to draft a simplified ordinance. Councilmember Stevens, liaison to the business  
100 committee, said from the audience that Attorney Large was only a citizen volunteering his time to help  
101 the committee. Ms. Morris explained that she had never met Attorney Large; Ms. Fellner presented the  
102 consensus items. Ms. Morris said she works with the town attorney, Mr. Battle. Vice Chairman Abrams  
103 heard several complaints that the sign ordinance was too long and unwieldy. She agreed, and although  
104 she was not an attorney, but she took the mile long definition pages and all of the explanatory charts and  
105 placed them at the end for reference, which left 14 pages of actual code. She did not think it would be  
106 'rocket science' to shorten the code. Once the language is omitted that was not in compliance with *Reed*

Planning Commission  
June 7, 2016

107 vs. *Town of Gilbert*, it would probably be even shorter. She suggested as a starting point that a code  
108 with 12 pages of policy would not be too bad; charts could be placed at the end and referred to as  
109 needed.  
110

111 Vice Chairman Abrams said for the record, "There's a statement here that the business  
112 committee is still actively working on the full ordinance. You know, I firmly believe that the Town of  
113 Surfside Beach's Code of Ordinance is a hot mess, because of the piecemeal tweaking and the patching  
114 over a period of 50 years. I don't believe that the planning commission should be a party to any more of  
115 the same. We've patched these things. We've tweaked these things until none of them agree with each  
116 other, and we're just creating a terrible mess, and I think patching this a little bit at the time would just  
117 be contributing to that. So, I suggest that first we get this thing in compliance with *Reed vs. Gilbert*, and  
118 let the business committee complete its review, and then address the whole completed package rather  
119 than do some patches this week, and some tweaks next week, and we're just gonna perpetuate the mess  
120 that the town has gotten into, not just with this ordinance, but with a whole lot of them. That's all I've  
121 got."  
122

123 Ms. Gambino asked how long the business committee had been working on this. Councilmember  
124 Stevens said from the floor about three or four meetings. Ms. Lowery said the planning commission had  
125 beaten the sign ordinance to death over a four to six year period. It was discussed when the  
126 comprehensive plan was revised. Ms. Gambino thought it was important to have a code that the average  
127 person could read and understand. Vice Chairman Abrams agreed; take the jargon out. Ms. Gambino  
128 said micromanaging creates animosity; there is a lot of that among town businesses. She thought if the  
129 code were simpler the businesses would be happier.  
130

131 Mr. Lauer thought it was a good policy to have the business committee involved so the  
132 commission can hear their concerns and ideas. The commission may or may not accept them. He  
133 agreed that the information should be front loaded. So many times when you read through the code you  
134 get an idea of what the signs can be, but if you do not read the rest of it, you will be fined because there  
135 are "except for" items later in the code. Vice Chairman Abrams agreed, but said the commission had to  
136 be careful that the code is not edited to the point that nothing was legally enforceable. Vagueness will  
137 not work.  
138

139 Ms. Morris said the commission comments would be taken to the business committee and she  
140 would ask if they would present the sign ordinance as a whole to the commission. Ms. Lowery asked if  
141 there was any idea how much long the committee would be working on the sign ordinance. Ms. Morris  
142 said no; the last comment she heard from the chairman was that it may be another few months.  
143

144 Ms. Lowery asked how long it would take to amend the code to comply with *Reed vs. Gilbert*.  
145 Ms. Morris said that was a very complicated case that contradicted itself in several areas, so it will be  
146 difficult. Every entity in the United States that has sign codes will be amending their ordinances as a  
147 result of this case.  
148

149 Vice Chairman Abrams believed the code should be amended to comply with Federal Law before  
150 taking the business committee recommendations. Ms. Lowery hated for businesses to be in limbo while  
151 the town figured out how to deal with *Reed vs. Gilbert*. Vice Chairman Abrams said codes were in place.  
152

153 Ms. Morris said many of the rules would remain the same. The main concern of the US Supreme  
154 Court was content neutral signs along with the size and time allowed for temporary and portable signs all  
155 being equal.  
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160 (3) *Reed vs. Town of Gilbert.*  
161

162 Ms. Morris gave a PowerPoint presentation explaining highlights of the case. She is working with  
163 area municipalities so everyone will have similar ordinances. Ms. Morris referred to the letter sent to the  
164 planning commission and the case summary, copies of which are on file. The core of the ruling was that  
165 the US Supreme Court no longer allows sign regulations based on content as that is an infringement on  
166 Freedom of Speech, especially when dealing with temporary and portable signs. According to the  
167 Supreme Court, the town can still regulate signs according to  
168

- 169 • Size;
  - 170 • building materials;
  - 171 • lighting;
  - 172 • moving parts;
  - 173 • portability;
  - 174 • signs on public property;
  - 175 • warning signs marking hazards on private property;
  - 176 • signs directing traffic;
  - 177 • street numbers;
  - 178 • designations between freestanding and wall signs;
  - 179 • signs with fixed messages versus electronic;
  - 180 • signs placed on commercial property versus non-commercial property;
  - 181 • distinctions between on premise and off premise signs;
  - 182 • restrictions to the number of signs allowed per mile of roadway, and
  - 183 • imposing high restrictions on signs advertising a one-time event.
- 184

185 A discussion ensued regarding content based versus non-content based signs, like a road  
186 direction sign; there is no way to know whether a sign is on premise or off-premise if you do not read it,  
187 and imposing time restrictions for advertising a one-time event cannot be determined if the sign is not  
188 read. The opinions issued by the Court are contradictory, because obviously some content based  
189 regulations are necessary.  
190

191 Ms. Morris said the town's code is definitely content based. The code definition for political signs  
192 is temporary signs supporting political candidates; special events for temporary use for religious  
193 meetings, fund raisers, nonprofits, and construction signs are temporary signs displayed on site during a  
194 construction project. Each of these categories are subject to different restrictions, which depends  
195 entirely on the content of any given sign. Because the sign code is determined to be content based, and  
196 a much more difficult standard is triggered in order for the regulations to be Constitutional. The  
197 restrictions further compel the government interest and the regulations as narrowly tailored to achieve  
198 the interest. We have to make sure those two are done. There are a number of signs that will have to  
199 be addressed one way or another. Ms. Morris was not sure how that would be done. For example, a  
200 single family house could have three or more non-commercial signs, but if it was a multi-family, there  
201 could be six per lot. The allowable number signs have to be equal. Portable temporary signs shall not  
202 exceed 20 square feet. A portable sign cannot exceed 32 square feet. Several challenges have been  
203 made as to whether a banner is portable sign. It is not defined as anything else, so that definitely needs  
204 to be cleared up.  
205

206 Ms. Morris explained that the town needs to review the sign regulations that are content based,  
207 based on the content or subject of the message. The speaker base; based on the person or group  
208 delivering, and the event based; work with the attorney to review the entire sign ordinance; strive for as  
209 much content neutrality as possible; and distinguish between commercial speech and non-commercial  
210 speech, and consider a severability clause. The code currently has a severability clause in the beginning  
211 of the zoning ordinance. The attorney recommended that it be repeated in the sign ordinance section,  
212 because it needs to be there more than any other section.

213  
214 Ms. Morris said the signs that are exempted have to be reviewed, because the Court wants the  
215 town to regulate addresses. Addresses are a 9-1-1 requirement. But when those signs were exempted,  
216 we have be very detailed about why they were exempted. At the business committee meeting it was  
217 stated that if your residential property does not have a no trespassing and someone goes on your  
218 property, you cannot do anything about it. She believed a no trespass sign could be exempt, but a  
219 detailed explanation would have to be included in the code.  
220

221 Ms. Morris said she definitely thought the commission should strive to have a [shorter] ordinance,  
222 but that may not be possible with specific explanations for exemptions. According a class she attended,  
223 the town attorney and others she had spoken with, the advice was to be very specific with any  
224 exemptions. Real estate signs will have to be regulated and permitted. It was suggested at the business  
225 committee meeting that when the agencies renew their business license that they purchase a blanket  
226 permit, which is a good idea. The City of Conway is having their attorney consider political signs  
227 something other than temporary. When that decision is made, she would inform the commission. Ms.  
228 Morris said right now, the town can legally regulate signs by  
229

- 230 • Consider signs Constitutionally protected Freedom of Speech
- 231 • No signs in the rights-of-way, which is the current code and may be continued
- 232 • One standard for all temporary signage regardless of content
- 233 • Possibly consider political signs in another category
- 234 • Require a permit for all temporary signage with no exceptions; there will have to be some type  
235 exceptions for addresses. The opinion states that the beach house names along the boulevard  
236 should regulated, but those could be exempt. The code enforcement officer is trying to identify  
237 the largest house name sign so it can be used as the maximum size allowed so the code will not  
238 interfere with the existing signs.
- 239 • Limit the number of times per year a temporary sign could be allowed. We do that now, but all  
240 signs have to have a uniform length of time for display.
- 241 • Distinguishing between a temporary sign that hangs and one that sticks into the ground; limit the  
242 size based on that distinction and based on location. The town's business district is a walkable  
243 area. Smaller signs could be considered for that district. Along Highway 17, larger signs would  
244 be necessary to be seen from the roadway.
- 245 • Courts historically support sign ordinances that regulate aesthetics, including number, and  
246 location of sign. However, the aesthetic controls must be grounded in documented community  
247 character.
- 248 • Scenic or conservation areas may have stricter regulations to preserve the historic character or  
249 scenic vista.
- 250 • Sign regulations may provide for unique sign criteria in distinct district areas of the community.  
251 Areas where pedestrian traffic is desired, like the town's central business district could have  
252 smaller, eye-level signs, canopy signs, wall signs, suspended signs, and wall signs. Major  
253 highways would need larger signs to accommodate drivers. Each area has to be consistent.
- 254 • Balancing economic development and tourism are often reasons that communities regulate sign  
255 height, location, and design. Visibility is a top concern for businesses. The aesthetic impact from  
256 excessive signs could dampen tourism. The town has an overlay district; they said that the  
257 overlay district is a popular tool for customizing sign regulations for specific areas in our  
258 community as a tool to reinforce a desired design character.  
259

260 Mr. Lauer said the beginning of the presentation noted this was for temporary signs, but much of  
261 what was being discussed were not temporary signs. Ms. Morris said the discussion was about  
262 temporary portable signs, for instance, in this area you can have a 32 square foot banner, because you  
263 are off the highway and on Highway 17. In the downtown district, the banners would be much smaller,  
264 because it is a walkable area.  
265

266 Ms. Morris showed various signs with messages that could no longer be regulated by the town.  
267 The number of signs and the size had to be determined for each property or business for  
268 recommendation to Town Council. She said changeable copy signs also have to be addressed. She  
269 believed those signs could be exempt once a permit was issued. Changing the sign ordinances will be a  
270 difficult task, and every municipality wants to be the last one to adopt a code so they can rely on others  
271 for verbiage. The town or some other town will be challenged.  
272

273 Ms. Abrams asked, "Who's got the ball?" Ms. Morris said right now, the planning commission had  
274 the ball. This same presentation was given to the business committee, and its members were "scratching  
275 their heads, and so are we." She will prepare a spreadsheet of all temporary signs right now and what  
276 regulations apply. Then the commission can begin its review and make recommendations. She hoped by  
277 the next planning commission meeting some decision would be made on the political sign designation.  
278 The town may not regulate any existing content-based signs.  
279

280 Ms. Lowery asked if political signs be considered a special event. Ms. Morris said they could, but  
281 a special event sign was a temporary sign that has to be regulated. Mr. Lauer asked about patriotic  
282 signs. Ms. Morris said flags would also be considered. The American Flag will be allowed, but it will be  
283 considered one of the allowable signs on the property.  
284

285 Ms. Abrams said the town would only be able to control by size and quantity. Ms. Morris said  
286 that was correct, along with materials, lighting, and location. Mr. Lauer asked why a flag with a metal  
287 pole was considered temporary. Ms. Morris said flags can be taken down, i.e. the flag advertises "open."  
288 Temporary signs are any signs that can be replaced or moved.  
289

290 Ms. Morris said would like to have the town attorney meet with the planning commission to offer  
291 his recommendations and would invite him to the next meeting.  
292

293 Ms. Lowery asked if there was any way to save the mural on the building in the business district.  
294 She hated to see it removed, because it was so nice. Ms. Morris said that murals are not defined as a  
295 sign. Murals are defined as artwork. In the Court's opinion, a mural is defined as a sign even if it does  
296 not have a name on it. Staff is going to request that murals continue to be considered artwork and hope  
297 there are no challenges. If the business name was on the mural, then it would limit the size of the  
298 mural.  
299

300 Mr. Lauer said the problem is that it is all speech. Ms. Morris said that was exactly right. But, it  
301 does not advertise a business, so we are going to leave it as is in the ordinance. Ms. Abrams said she did  
302 not want various committees and lawyers all working on the sign ordinances going in different directions.  
303 Ms. Morris said this needs attention quickly.  
304

305 (4) Rezoning of the Pier area.  
306

307 Ms. Morris explained that the C3 district zoning in the pier area allows residential and commercial  
308 use. After speaking with several commission members either individually or in small groups, and with the  
309 town administrator, a suggestion was formulated to rezone a portion of the pier area to prohibit  
310 residential uses. The proposed area does not include any current residential property. The district is very  
311 small as it exists now, and the goal is to ensure commercial uses only around the pier. At least an acre is  
312 required to rezone to avoid spot zoning. Ms. Morris outlined the area suggested for commercial and  
313 entertainment use only on a map. Setback for this district would be zero lot lines. If construction is  
314 done, the buildings would be elevated to meet flood requirements and have parking under the building.  
315 After a brief discussion, the commission **CONCURRED** to move forward.  
316

317 **6. PUBLIC COMMENTS - General.** There were no public comments.  
318

319 **7. BOARD COMMENTS.**

320  
321 Ms. Johnson thanked everyone for attending.

322  
323 Ms. Lowery said she was tickled to see everyone in the audience. She invited them to come to  
324 the next meeting and to bring a friend. (*Laughter.*) Ms. Lowery welcomed the new member, Ms.  
325 Gambino. Other members also voiced welcome.

326  
327 Ms. Gambino thanked everyone for attending and said she enjoyed being at the meeting.

328  
329 Ms. Abrams wanted Ms. Morris to ask the business committee in which zoning districts they  
330 wanted the sign ordinances to apply so the commission would clearly understand. She also thanked  
331 everyone for attending.

332  
333 **12. ADJOURNMENT.** Ms. Johnson moved to adjourn at 7:09 p.m. Ms. Gambino second. All  
334 voted in favor. **MOTION CARRIED.**

335  
336 Prepared and submitted by,

337  
338 \_\_\_\_\_  
339 Debra E. Herrmann, CMC, Town Clerk

340 Approved: July 5, 2016

341  
342 \_\_\_\_\_  
343 Mikey Pruitt, Chairman

344  
345 Clerk's Note: This document constitutes action minutes of the meeting that was digitally recorded, and not intended  
346 to be a complete transcript. Appointments to hear recordings may be made with the town clerk; a free copy of the  
347 audio will be given to you provided you bring a flash drive. In accordance with FOIA, meeting notice and the agenda  
348 were distributed to local media and interested parties via the town's email subscription list. The agenda was posted  
349 on the entry door at Town Council Chambers. Meeting notice was also posted on the Town marquee.