

**CITY OF TAVARES
PLANNING AND ZONING BOARD MEETING
COUNCIL CHAMBERS
201 E. MAIN STREET
FEBRUARY 18, 2021**

BOARD MEMBERS PRESENT

Gary Santoro, Chairman
Dian Joy, Board Member
Gary Koerner, Board Member
Deborah Murphy, Board Member
Bruce Peterman, Board Member
James Sweeza, Board Member
Dara Treadwell, Board Member

LAKE COUNTY SCHOOL BOARD

Helen LaValley - Absent

STAFF MEMBERS PRESENT

Lindsay Holt, City Attorney
Mike Fitzgerald, Community Development Director
Antonio Fabre, Planning Coordinator
Jillian Roberts, Deputy City Clerk

CALL TO ORDER

Chairman Santoro called the meeting to order at 3:00 p.m. and asked those present to silence their cell phones. He led those present in the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Santoro asked if there are any additions or corrections for November 19, 2020 Planning and Zoning Board Meeting minutes. Board Member Treadwell noted the error on Page 1, under "Approval of Minutes" to correct the last name of Dara Treadwell.

MOTION

James Sweeza moved to approve the minutes, as amended, of the November 19, 2020 Planning and Zoning Board Meeting, seconded by Dara Treadwell. The motion carried unanimously 6-0.

SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX PARTE COMMUNICATIONS

Attorney Holt swore those in who wished to provide testimony for the quasi-judicial matters before the Board.

Attorney Holt asked each Board Member for disclosure of communications with contacts. There were none.

PUBLIC HEARING

1) Recommendation on Ordinance 2020-01 – Land Development Regulation Amendment – Chapter 21 – Amending Temporary Signs on Vacant Property & Miscellaneous Sign Content

Mr. Fitzgerald provided the following staff report;

A U.S. Supreme Court decision in Reed v Town of Gilbert ruled that regulating signs based on the message on the sign would be a restriction to free speech or conversely show favoritism to some category of speech. The court further determined that regulating signs based on the message would be unconstitutional and would invalidate the regulation or governing code.

The court did recognize that governmental type signs such as traffic signs in the street right-of-ways fall into a separate category and are necessary for public safety and protection. The court also stated that sign design such as size, height, location, number allowed, etc. could be regulated provided no reference is made to the sign message. At their August 5, 2020 meeting City Council directed staff to propose an amendment to the Land Development Regulations regarding allowances for temporary signs. City staff presented Ordinance 2020-12 to the Planning & Zoning Board on November 19, 2020 and City Council (second reading) on December 16, 2020. However, City Council voted to deny the ordinance as the proposed changes to the sign regulations did not meet acceptable criteria. Ordinance 2021-01 proposes changes to temporary sign regulations that temporary signs shall be displayed for a period of 120 days in a calendar year, may be displayed on vacant and developed land, and shall be limited to two (2) signs per parcel of property. Ordinance 2021-01 also proposes to remove a provision pertaining to flag content in conformity with Supreme Court decisions.

OPTIONS:

- 1. That the Planning & Zoning Board moves to recommend approval of Ordinance 2021-01 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions.*
- 2. That the Planning & Zoning Board moves to recommend denial of Ordinance 2021-01.*

STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Board moves to recommend approval of Ordinance 2021-01 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions

Chairman Santoro asked if the board or audience had any comments.

Kyle Tetzlaff, Realtor Association of Lake and Sumter Counties, 3001 State Road 19, Tavares read a speech and noted his concern regarding burden on property owners and the real-estate agents listing the properties. He stated he would prefer a less restrictive ordinance.

Rich Gonzales, wrote an email and noted his concern regarding the 120-day limit in the proposed ordinance.

Chairman Santoro closed public comment.

Chairman Santoro asked the Board for comments.

Board Member Peterman stated he understand the amount of time needed to sell a property and that people searching for property can search online. He noted his concern of the longer amount of time is a free billboard for the realtors, not particularly for the property. He stated he is opposed to 120 days and should remain at 90 days.

Board Member Joy stated the Ordinance should remain at 90 days and noted her preference for an amendment for realtors and for property owners. He also noted her concern that during the pandemic it is taking longer than 90 days to sell property. She stated that for regular signs, not including real-estate, should have a limit of 90 days.

Board Member Koerner confirmed that there is no cost to have a sign for 90 days and asked what is in place to prevent an individual from taking a sign down after 90 days for 30 days and putting it back in place. Mr. Fitzgerald confirmed that there is no permit required for a temporary sign. He also stated that if an individual was to put the sign back up then it would need to be monitored by Code Enforcement.

Board Member Treadwell noted her concern of placing a temporary sign for 90 days, removing it for 30 days, and placing it back. Mr. Fitzgerald stated that the new ordinance proposes an increase from 90 days to 120 days within a calendar year and if placed for more than 120 days in a calendar year then the individual would be in violation which Code Enforcement would be required to recognize.

Mr. Fitzgerald stated the Ordinance presented is based on a review of the minutes of the council meeting and what Council's intention is in reference to the Ordinance. He stated what is being struck though is Section 21-17 under Miscellaneous Signs in the Ordinance is "flags or insignias containing any phrase identifying property for real-estate purposes" because it

pertains to content such as “for sale” or “property available”.

Board Member Sweeza noted his preference for the 120 days and his concern for the lack of a permit process and asked how the sign ordinance would be monitored and enforced by Code Enforcement. He stated his preference for required permit to enable Code Enforcement monitoring abilities.

Mr. Fitzgerald stated the Ordinance that was presented to the Planning and Zoning Board in November 2020 did have a provision for a permit to be required, however it was struck out of the current Ordinance by City Council.

Chairman Santoro noted his concern for the number of flags, banners and signs present in the city. He said according to the minutes from the Council Meeting, the City Council does not want the flags or banners. He also stated his concern for Officer McCormick being able to properly enforce the Ordinance. He stated he will not approve an item that he does not agree with and noted the importance of requiring a permit.

Attorney Holt stated that permitting is a mechanism. The temporary signs without a permit does not mean the City cannot enforce the duration of time. She noted that Officer McCormick would make an assessment and neighboring owners can testify at a hearing as to the location and the timeliness of the signs. She stated under Section 21-16 A 6 – the Ordinance limits 2 per parcel, to account for both this board and the Councils concerns about the esthetics and possible safety issues.

Chairman Santoro asked for Mr. Fitzgerald’s definition of a sign. Mr. Fitzgerald stated that per the definitions in the regulations “a sign is any object or device or part thereof situated outdoors or indoors visible from the exterior of the structure which is used to display words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images”. Mr. Fitzgerald stated that a person must follow the regulations that are codified.

Board member Treadwell asked what prompts Officer McCormick to look at a potential code enforcement violation and noted her concern of no permit being required therefore there would be no start or end date for the sign. Mr. Fitzgerald stated that the City is complaint driven in regards to Code Enforcement. He also stated that Officer McCormick would need to develop a method for enforcing the regulation presently and in the future. Mr. Fitzgerald stated there is not a start date or end date tracked in the building permit system and tracking by Code Enforcement would be up to Code Enforcement.

Board Member Murphy confirmed that the board is not in favor of the changes made by Council.

Mr. Fitzgerald stated that the current ordinance before the board changes it to 120 days from 90 days.

MOTION

Deborah Murphy moved to recommend denial of Ordinance 2021-01, seconded by Dara Treadwell.

Mr. Fitzgerald gave an overview as follows:

- Changing it from 90 days to 120 days
- Clarifying the 32 sq. ft. in size rather than copy area.
- Reinforcing that there are 2 signs per parcel of property, which is currently a codified part of the City Code.
- Eliminating flag content portion of the ordinance.
- Section 21-15 - Struck out 1 temporary sign would be allowed per parcel under construction. – inconsistent with allowing 2 signs per parcel.
- Allowing temporary signs on the property going from 90 to 120 days.
- Signs are permitted on vacant property as well as developed property.

Mr. Fitzgerald noted that there was never a permitting requirement for temporary signs. Ordinance 2020-12 that was presented in November 2020 added in a requirement for permitting which Council denied. Prior to Ordinance 2020-12 being presented, a temporary sign did not require a permit. Requesting a temporary sign have a permit would be a change to the regulation.

Mr. Fitzgerald stated that if a sign is in the right of way then Code Enforcement would notice, remove and dispose of the sign. If the sign is on a property, he would make a note of it and if the sign is there for longer than 120 days, then he can start a code enforcement case against the property owner.

Attorney Holt noted anyone is allowed to make a complaint to code Enforcement. Officer McCormick can go there and see if it is in the confines of the code or if it needs to be violated.

Chairman Santoro stated his intent is to give a mechanism to be able to track to be able to help the citizens of Tavares and it would give everyone a chance to track the signs. Board Member Sweeza concurred.

The motion was denied unanimously 6-0.

OTHER BUSINESS

Mr. Fitzgerald noted there will be items before the Board in March.

PUBLIC COMMENT

February 18, 2021
Planning & Zoning Board Meeting

Kyle Tetzlaff, Realtor Association, noted the concern of only having 120 days.

ADJOURNMENT

James Sweezea moved to approve to adjourn the meeting at 3:48 PM, seconded by Dian Joy. The motion carried unanimously 6-0.

Respectfully submitted,

Jillian Roberts,
Deputy City Clerk