The Council of Neighborhood Associations of South Pinellas County
P.O. Box 13693, St. Petersburg, Florida 33733

LAND DEVELOPMENT & HISTORIC RESOURCES COMMITTEE
REPORT ON DIGITAL BILLBOARDS

April 2010

The CONA Land Development and Historic Resources Committee has reviewed the February 25th, 2010 draft proposal presented to City Council by Clear Channel Outdoor, Inc. This proposal would allow the installation of eight 14' x 48' digital billboards (commercial electronic variable message signs, or CEVMS) along the Interstate and Interstate feeders and major highway corridors (Roosevelt, Gandy, 34th Street, and Tyrone Blvd.) within the city limits of St. Petersburg, in return for the removal of eighty non-conforming static sign faces located elsewhere in the city. The majority of these eighty sign faces were installed prior to the introduction of the current sign ordinance and would not be permitted today, thus they are 'non-conforming' and cannot be relocated or replaced.

The City's current sign code prohibits changeable message signs. Thus, in order to allow CEVMS the City will have to modify its Land Development Regulations and the associated city sign code. This would be the first significant change to the sign code since it was adopted in 1992.

As the result of concerns raised by several neighborhoods the Committee held a series of meetings beginning in November 2009, and has met with representatives of the City and Clear Channel Outdoor in order to fully understand the advantages and disadvantages of the proposal.

The Committee appreciates the cooperation and support provided by the City Economic Development and Codes Compliance Assistance staff in the formulation of this report.

Analysis

The Committee finds there is one advantage, one neutral element, and four disadvantages should the City decide to allow off-premise CEVMS.

<u>Advantage:</u>

Reduction in visual clutter:

The proposed agreement would result in a net decrease of seventy-two sign faces within the city limits. The majority of these sign faces are located along neighborhood corridors and thus their removal would reduce visual clutter along those thoroughfares. It is noted that there will be a reduction in 72 sign "faces," not locations. In some places as many as four sign faces are located on a single site.

The Committee noted however, that these signs are low, unobtrusive, and at the end of their useful and permitted life. Many are obscured by trees and cannot be seen by passing motorists. According to City staff's February 25th workshop presentation from 2002 to the end of 2009, 22 percent of the city's non-conforming signs have disappeared due to attrition caused by obsolescence, land use changes, and redevelopment. Clear Channel stated during their presentation to CONA on March 17th that they expect that even without a swap deal the remaining non-conforming signs will disappear over the next 25 years.

Neutral Element:

Use of Signs for Public Safety Alerts

Clear Channel has proposed using their sign inventory for public safety messages such as Amber Alerts, Silver Alerts, and Hurricane Evacuations. The Committee noted that while the potential for such a use exists, there is no binding commitment regarding the frequency, time of day, or number of such messages that might be displayed. Secondly, tax dollars have already been used to put just such a system in place: the Variable Message Signs already located on the Interstate Highway System. Agreements are in place with FDOT to use these signs for public service messages; in fact, that is frequently being done. Additionally, many other mass media are available for such alerts, including radio and television public service announcements. The addition of eight additional alert locations would be of limited value.

Disadvantages:

Safety Concern

There is currently no available research that demonstrates that CEVMS are safe.

Discussion: The Two Second Rule

An analysis of the *100-Car Naturalistic Driving Study*, conducted by the National Highway Traffic Safety Administration and released in 2006, *showed that taking one's eyes off the road for more than two seconds for any reason not directly related to driving (such as checking the rearview mirror) "significantly increased individual near crash /crash risk.*"

According to the study, the following factors make drivers likely to look at an electronic sign for more than two seconds at a time, and therefore put themselves and others at risk:

- Digital signs are extremely bright and are designed to be visible in bright sunlight and at night. Brightness is measured in "nits." The Sun emits 6,500 nits. A digital sign can emit over 8,000 nits. At night, a CEVMS can be 10 times brighter than traditional illuminated billboards. The eye is drawn to them far more strongly than to traditional billboards. They are designed to be eye-catching, and they are.

- They can be seen from great distances, even as far away as a mile or more, making them distracting even before they begin to communicate their messages.

- The images would rotate every 6 to 10 seconds and drivers will naturally look at the sign long enough to see what comes up next. Complex messages often take 5 seconds to comprehend, during which time the driver's attention is distracted.

- The Florida Department of Transportation's position is that it takes a minimum of six seconds to comprehend the message on an electronic billboard, which is already three times the safe period for driver distraction.

- The human eye is hard-wired to be drawn to the brightest objects in the scene and to those that display motion, or apparent motion. Recent research (Theeuwes, 2004) shows that this response is both automatic and unavoidable.

- CEVMS use both brightness and image change "movement" to capture attention. Because the messages change every 6 to 10 seconds, even commuters who pass by the signs every day will be looking to see what's new. Traditional signs become visual background noise for local drivers, and thus have less safety impact; but electronic signs never blend into the background.

The billboard industry is noted for citing a Virginia study (Virginia Tech Transportation Institute, 2008) that states that CEVMS are safe. However, this study has been found to be biased. The study was conducted by Dr. Suzanne Lee and is often used in outdoor advertising litigation.

This study's uselessness was noted by a federal district court judge in New York. In *Nichols Media Group v. The Towns of Babylon and Islip*, the court held that *"the Lee Study is so infected by industry bias as to lack credibility and reliability."* The court based its opinion on several factors:

- The study was "*funded by the Foundation for Outdoor Advertising Research and Education, a close affiliate of the Outdoor Advertising Association of America."*

- Trial *testimony revealed that "representatives of the OAAA were intimately involved in the design and conduct of the Lee Study.*"

- The Lee Study has been neither widely disseminated nor subject to peer review. "*Nor have the conclusions of the Lee Study been replicated in any other study.*"

St. Petersburg should be wary of approving electronic signs pending the outcome of definitive objective studies regarding their safety. While the first phase of the Federal Highway Administration safety study currently being conducted will not result in regulation, it will proffer a finding as to whether CEVMS are distracting, or not. This by itself has significant implications for municipalities considering allowing such signs.

Aesthetics and City Image

CEVMS become the brightest objects in the landscape, and thus they become the dominant visual element. This changes the fundamental character of the cityscape. They distract from other visual and scenic qualities of the environment, and clash with established architectural elements, even at great distances (Scenic America, "Billboards in the Digital Age: Unsafe (and Unsightly) at Any Speed," 2007). This would have a negative impact on the scenic appearance of the City of St. Petersburg.

Because of their brightness, height and size, a 500' or even 1000' separation from neighborhoods may not be enough to prevent light pollution and spill over onto adjacent residential, park, or historic properties.

Environmental Concerns

CEVMS are large energy users. One digital billboard can consume more than 300 megawatts / year, and would have a carbon footprint the size of 13 homes, while causing the addition of 108 tons/year of carbon dioxide to the environment (U.S. Green Buildings Council Central Balcones, Texas Chapter).

Legal Risks

The proposed agreement is limited to signs to be removed from Clear Channel's billboard inventory. Other billboard industry players have not yet agreed to enter into similar agreements. The Committee is concerned that approving an ordinance that requires removal of existing billboards (of any quantity) in return for installation of a new billboard may shut out new entrants. Should litigation ensue, the city's ordinance could be overturned in whole or in part, leaving the city open to unintended consequences of their act.

If these signs must later be removed because they are deemed a hazard (or for that matter, for any other reason) the cost of compensating sign owners would be enormous, particularly along federal-aid highways where the Highway Beautification Act requires cash compensation.

State Legislation

It is argued by Clear Channel that the state may soon introduce legislation regulating billboards, and that any changes to be made in local ordinances need to be made before the state legislation goes into effect otherwise provisions that deviate from the state legislation will be prohibited. As of April 7, 2010 no such legislation is pending before the Florida Legislature.

Other Comments

Other than permit fees, the City and public would receive no revenue from these signs. Allowing the installation of CEVMS creates a situation where the city is giving special treatment to one or two companies within an industry, which will be using pubic airspace for their own gain. The public's interest in maintaining a scenic community would be encroached upon without compensation.

It is noted that Tampa Bay municipalities vary widely in their regulation of CEVMS. For example, while the city of Tampa is debating the appropriateness of such signs and the extent to which they should be regulated, Clearwater bans all new billboards, digital or otherwise. In Tampa the city has no choice; a 2008 settlement agreement between Clear Channel, CBS, and the city requires that the city make a provision for digital billboards. Clearwater banned all new billboards in 1992 over concerns about the visual pollution created by proliferating signs and the resulting detrimental effect on the city's appearance.

Committee Recommendations

The Committee recommends that City Council leave existing sign ordinance in place until, at a minimum, Phase I of the Federal Highway Administration's safety study has been completed.

Considerable research was previously undertaken by the City before enacting the current ordinance which prohibits changeable signs and placed a moratorium on new signs. The current ordinance should not be changed without good reason and substantial public benefit.

In the meantime, the use of *on-premise* digital electronic signs is proliferating, and new sign technologies such as electronic vehicle signs and building wraps are appearing in other Florida cities. Our current sign code did not anticipate the evolution of on-premise digital signs beyond the 'time and temperature' electronic message centers.

It is appropriate that the City undertake a comprehensive review of the sign code to deal with this and the other evolving new sign technologies. Mayor Foster has also indicated his support for this timely review.

CONA's Position

After hearing from both the CONA Land Development & Historic Resources and Clear Channel at its meeting on March 17, 2010, the CONA Board approved a resolution calling for maintaining the current ordinance which prohibits digital billboards and provides for a moratorium on new billboards, and calling for a comprehensive review of the current sign ordinance before undertaking any changes in the ordinance.

Respectfully submitted,

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Attached:
St. Petersburg Times Editorial, March 22, 2010

A Times Editorial

St. Petersburg should approach digital billboard deal with caution

In Print: Monday, March 22, 2010

The concept of ridding St. Petersburg of dozens of old billboards by agreeing to a few high-tech digital boards still has appeal — but only if the deal with a billboard company and an accompanying ordinance retain provisions to limit the impact on motorists and the environment. The City Council must stand firm against any attempts by the billboard company, Clear Channel, to whittle away at those protections.

With a Federal Highway Administration study of digital billboard safety due out within weeks, the City Council should see those results before agreeing to anything. The study won't make specific recommendations, but it will report the results of distraction tests done with drivers on roads where digital billboards are located. That could help the city determine where digital billboards can be safely located, how bright they should be and how often the sign faces should change.

Unlike traditional billboards, digitals have vivid LED screens and advertising messages that change as frequently as every six seconds. They are enormously profitable for billboard companies. Clear Channel, which owns three-quarters of St. Petersburg's billboards, approached former Mayor Rick Baker and said it would remove 110 of its 144 billboards if it could erect just 10 of the new digital boards along a handful of major roadways. A proposed ordinance allowing digital billboards in exchange for removal of old billboards has been drafted.

At a recent City Council workshop, Mayor Bill Foster said he has "a personal distaste" for digital billboards and will leave the decision to the City Council. The proposed ordinance has been improved from earlier versions, adding, for example, a 500-foot separation between homes and digital billboards. But the ordinance also would allow new traditional billboards along the interstates, which seems counter-intuitive when the goal is to reduce the number of billboards.

The separate agreement with Clear Channel remains a moving target, with numbers changing and Clear Channel making new requests. The city discovered the company doesn't have 144 billboards, but 132. Clear Channel now proposes to take down 88 old boards, not the original 110, in exchange for putting up eight digitals. It wants permits to build some digital boards before it removes all of the old boards. And the company said it would like signs taller than the 25 feet previously agreed upon.

Billboard companies are clever negotiators. The City Council should be wary of any changes and look for ways to get billboards removed without sacrificing safety or the city's charm.