

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

April 9, 2013 – 7:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENEED ON APRIL 09, 2013 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS

A. The meeting was called to order at 7:00 p.m. and the roll of appointed officers was taken. Commissioners present were:

Chairman, Debra Mergel	Tom Eustace, Commissioner
Barbara Freeman, Commissioner	Joyce Berube, Commissioner
Rick Faircloth, Commissioner	Michael O’Neal, Commissioner

Commissioner George Ohler was not present.

Council Liaison, Justin Ray was present at this meeting. This meeting was also attended by Council Member Harry Beckwith III, PE.

Staff in attendance: Lorri Coody, City Secretary; Bobby Gervais, City Attorney; Danny Segundo, Director of Public Works; Mark Bitz, Fire Chief; and Christian Somers, Building Official.

City Manager, Mike Castro did not attend this meeting.

B. Consider approval of the minutes for the meeting held on March 11, 2013 and March 18, 2013.

Commissioner Faircloth moved to approve the minutes for the meeting held on March 11, 2013 and on March 18, 2013. Commissioner Freeman seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, Faircloth, and O’Neal
Chairman Mergel

Nays: None

The motion carried.

C. Receive Report from City Secretary regarding City Council’s actions concerning the request of Brownstone Development, LP and WBC Land LLC to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

Lorri Coody, City Secretary, introduced the item. She reminded the Commission that on February 26, 2013, Brownstone Development, LP filed an application for a zoning amendment, requesting a change in the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse). On March 11, 2013 the Commission preliminarily recommended

that Council deny the applicant's request and presented its report to Council on March 18, 2013.

Ms. Coody told the Commission that after receiving the preliminary report at the March 18, 2013 Council Meeting, Council considered Ordinance No. 2013-09, which provided for the calling of a joint public hearing with the Commission. However, there having been a motion to approve the Ordinance with no second, the Ordinance failed. Therefore, the request to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse) will not be brought to a joint public hearing and no further action will be taken on this request.

Ms. Coody explained that this item was placed on the agenda to receive this report regarding Council's actions. She told the Commission that a copy of this agenda item request form, City Council Ordinance 2013-09, and a copy of the letter to Applicant will be included as an exhibit to the meeting minutes in order to bring closure to this application.

D. Receive comments (no discussion) from citizens who have signed a card and wish to be heard concerning digital billboards. Citizens are limited to a three (3) minute presentation.

Allen Bammel, 15301 Clevedon, Jersey Village, Texas (713) 466-0626 – Mr. Bammel spoke to the Commission about digital billboards. He stated that he has visited the internet regarding this topic and has reviewed the associated safety concerns. He mentioned that these concerns were pointed out in a recent Council Meeting by Council Member Klein. He told the Commission that he too is concerned about the safety hazards these signs pose. He also stated that he felt that the signs were all about producing revenue for the sign companies and not so much about any benefits for Jersey Village. He stated that the signs will be a distraction for drivers. He stated that with the expansion of US 290 safety should be our utmost concern and if the US 290 project provides an opportunity to remove signs; the signs should be eliminated and not relocated. Finally, he stated that the signs should not be permitted because of beautification reasons. He gave the example of the auto dealers along Jones Road and the beautification concerns that residents had for that issue. He told the Commission he sees digital signs hindering the beautification aspects of the City.

Mark Maloy, 7803 Hamilton Circle, Jersey Village, Texas (713) 461-1430 – Mr. Maloy stated that the digital signs will be a distraction to drivers. He gave examples of other distractions that drivers already face and he feels that this will be just one more distraction that will affect safety. He went on to say that there are no "real" benefits for Jersey Village in permitting digital signs. Digital signs benefit the companies that install them by increasing the ability to earn more revenue through an enhanced advertising method. He closed by saying that safety should be the City's top priority in making its decision to allow the signs. In support thereof, he noted that the Harris County Toll Road Authority does not permit these signs, or any bill boards, along the toll road. He stated that the City of Jersey Village should not permit the signs either.

Harry Beckwith, 8006 Senate Avenue, Jersey Village, Texas (713) 248-5449 – Mr. Beckwith began by stating that he is not a fan of billboards. Nonetheless, he pointed out that

the City does have existing billboards within the City limits because these billboards were permitted at one time and then outlawed. As a result, any billboards remaining exist as a non-conforming use. He went on to explain what “non-conforming use” means in terms of the existing billboards and the criteria that has to be met in order that a sign would lose its non-conforming use status. Basically, he stated, the existing signs are here to stay – for quite a long while. With this in mind, he stated the benefits that could come with the sign-swapping program being proposed by Clear Channel Outdoor. He also stated the benefits that digital signs would bring to the local small business man in terms of lower cost advertising. He stated that it is his belief that the City would realize an increase in its sales tax revenue as a result of the benefits created by permitting digital signs.

LC Beckwith, 8006 Senate Avenue, Jersey Village, Texas (713) 542-4457 – Ms. Beckwith spoke to the Commission about digital signs. She told them that she is a local business owner and that she would benefit from the advertising that the digital billboards would offer. She stated that an increase in advertising would increase sales tax dollars and sales taxes drive the City. She also mentioned that the City’s sign ordinance is restrictive, which makes it difficult for local businesses to advertise. In closing, she mentioned that the swapping program being offered by Clear Channel provides a mechanism for the City to get rid of some of the old standard billboards and replace them with fewer better landscaped ones, giving an improved look.

After receiving the citizens’ comments, Chairman Mergel reported that a written letter concerning the digital billboards had been received from James Pulliam. Chairman Mergel asked City Secretary Coody to read the letter aloud for the record.

E. Receive presentation from Lee Vela with Clear Channel Outdoor pertaining to digital billboards.

Lee Vela with Clear Channel Outdoor gave a presentation pertaining to digital billboards. He explained that not all digital signs are alike. He stated that there is a difference between on-premises and off-premises digital signs. He explained the difference. He also explained LED lighting and told the Commission that all of Clear Channel’s digital billboards have no motion, video, or special effects in accordance with Federal guidelines.

A brief history of the laws surrounding digital billboards was given to include the Federal Highway Administration Law as well as the State of Texas law passed in 2007. The presentation covered dimming capabilities of digital billboards as well as ambient light and foot candle requirements.

Information was provided on the amount of energy it takes to operate an electronic billboard and a video was shown to demonstrate the difference between lighting for a digital sign and a vinyl sign. The presentation provided information on Community Alerts and Emergency Warning features provided by/with digital signs.

Mr. Vela provided information regarding traffic research using the US Government crash statistics and stated that digital billboards are not linked to accidents. He provided a list of cities in Texas that are TxDOT certified and a list of cities that have digital signs installed by Clear Channel Outdoors.

Mr. Vela explained that as far as the US 290 expansion project, all but one of Clear Channel's signs are in the railroad right-of-way so the project will not affect their signage. He then explained the location and particulars about the sign that Clear Channel wishes to convert from a standard billboard to a digital billboard. He showed a before and after picture and stated that for every one foot of new digital billboard installed, Clear Channel will remove 3 feet of standard billboard. He stated that the City will also receive Community Alerts and Emergency Messaging.

In completing the presentation, the Commission engaged in discussion about the sign-swapping proposal. They wanted information about which signs and where the signs are located for removal. They also discussed the state of repair of the signs slated for removal.

Discussion was had on the 8 second interval required before the digital signs change information. The Commission wanted to know how this time interval was determined and was curious if it was tied to safety. Mr. Vela stated that part of it is tied to safety but not necessarily all of it.

The Commission also wanted to know the difference in advertising rates for a digital sign versus a standard billboard sign. Mr. Vela stated that there are many factors that go into pricing, and Clear Channel has flexible rates that are affordable. No specific rates were quoted.

The assurance of negotiation was discussed as well as the proposal process as a whole.

F. Receive presentation from Margaret Lloyd with Scenic Texas pertaining to digital billboards.

Margaret Lloyd with Scenic Texas gave a presentation pertaining to digital billboards. She began by stating that there are currently 4,000 digital signs installed in the United States, and there are four states that do not allow the signs at all. She stated that of the 4,000 signs, 142 of these signs are located in Texas and of the 142 signs only 53 are located within cities in Texas.

With these statistics in mind, she went on to show why cities consider allowing digital billboards. She presented several reasons for allowing digital billboards, but stated that the most important consideration must be for a city to decide what the community wants and how the community will look if billboards are approved.

Ms. Lloyd presented the Commission with a hand-out concerning driver distraction. It contained several studies wherein driver attention had been studied in connection with billboard distraction. She went over each study and discussed the findings. She reminded the Commission that billboards are designed to distract or gain attention and as a result are unsafe.

Ms. Lloyd touched briefly on the concern that billboards reduce property values, and went on to state that the newer improved digital billboards will be around a long time. She stated that anytime during the lifespan of the signs should the governmental entity need the land upon which the sign is located it will have to follow the condemnation process. A solution to this problem would be to implement sunset provisions with any ordinance changes.

Another area of concern raised by Ms. Lloyd was legal issues. She told the Commission that any changes to the ordinances cannot exclude other billboard companies and to keep in mind that litigation involving signage is extremely high.

She explained that when a Federal Highway or Primary Highway is involved a billboard must have a State Permit. She stated that Scenic America has brought a lawsuit against the Federal Highway Administration and the US Department of Transportation alleging that all billboards are illegal because they do not comply with the Federal Highway Beautification Act.

Ms. Lloyd closed her presentation with a list of considerations for the Commission should they desire to move forward with allowing digital billboards as follows:

1. Determine the City's goal in relation to digital billboards;
2. Obtain an accurate billboard sign inventory;
3. Value the billboard sign inventory;
4. Determine if a sign-swapping program makes sense for the City; if so, create certainty by designating which signs are to be removed and which are to be converted. Be sure to state when the removal is to take place and make sure it is before the conversion;
5. Draft clear and enforceable ordinance changes with sunset provisions/conditions; and
6. Expect lawsuits.

G. Receive and discuss information presented by the City Attorney regarding the TxDOT Certified City Program.

Bobby Gervais, City Attorney, began his presentation with background information covering the history of the laws governing outdoor advertising, including the Federal Highway Beautification Act and the Texas Highway Beautification Act. He explained the requirements of the current sign laws (both federal and state) and how the city can regulate signs under these laws. He explained that in conjunction with the state and federal requirements there are also city ordinances. He explained that all these laws work together to form sign regulations.

Mr. Gervais reminded the Commission that during the March 11, 2013 meeting of the Planning and Zoning Commission, information was presented pertaining to the TxDOT Certified City Program. Since he was not present at that meeting to answer questions, a list of questions was prepared for discussion at this meeting. That being said, Mr. Gervais proceeded to discuss the following list of questions with the Commission:

1. Does TAC Title 43, Chapter 21 apply to signs located in the Railroad ROW situated alongside US Highway 290? In other words, what entity is going to be issuing the permit for the sign being requested by Clear Channel? If it is the State of Texas, can the City of JV regulate if it is not TxDOT certified?
2. Given that TxDOT issues permits for signs in Commercial and Industrial areas along Interstates and Primary Highways, if JV decides to amend the ordinances to include digital signs and wants to limit them to the US 290 corridor and then even limit the

location further to say no signs permitted near the TOD area, can this limitation be made without becoming a TxDOT certified city?

3. Perhaps the vehicle to limit location of the signs is a Specific Use Permit (SUP). If the City were to opt for regulating the signs through a SUP, could it do so, setting special conditions (outside the parameters of the State) without becoming a TxDOT certified city?
4. Please explain the regulation of signs in our ETJ. Since we do not have digital signs now, and if we change the ordinance, a City can regulate signage in the ETJ. What then is meant by TAC 21(c) which states: “The authorization does not include the area in a municipality’s ETJ.”
5. What are the benefits of proceeding with permitting digital signs via an agreement with Clear Channel and NOT amending our Code? How does this method affect the TxDOT certified city requirement?

In completing the question and answer period, discussion was had by the Commission concerning non-conforming use and how this practice comes into play with damaged signs. City Attorney Gervais explained when and how billboard signs can be rebuilt in connection with the concept of “non-conforming use.”

The Commission also discussed the sign swapping program and how such a program would work with more than one company involved and when the companies involved may only have one existing billboard sign. The discussion expanded into how a swapping program could be made fair among companies.

H. Discuss with possible action a request from Council to review city requirements relating to digital billboards.

Danny Segundo, Director of Public Works, presented a power point presentation wherein he developed the pros and cons of having digital billboards in Jersey Village.

He presented slides supporting the following statements in support of digital billboards:

- Possibility of removal of existing billboards; although how many and which signs will be taken down is subject to negotiation.
- City will be able to have limited advertising on digital billboard at no cost.
- Billboard will be available for emergency management notifications.
- Beautification and landscaping are a possibility within the billboard area.

He then presented slides supporting the following statements opposing digital billboards:

- Potential to be distracting to drivers.
- Potential for other outdoor advertising companies to request digital billboards within Jersey Village city limits.
- Potential to have only small “poster board” billboards along railroad easement taken down. (7 poster board signs along 290 within JV city limit)
- Perceived detracting from aesthetic improvements the city is seeking within the Transit Oriented Development area.

- Large information asymmetry with Clear Channel: they understand the game much better than the city does. The implications of a poor decision will last for decades.

In completing his presentation, the Commission engaged in conversation concerning digital signs. The consensus of the Commission was that this issue is still very new and the Commission needs to be deliberative in its approach. The Commission felt more information is needed and requested the following information be presented at its next meeting to be held April 29, 2013:

1. Information from the TOD consultants pertaining to the effects of digital signs on development, growth, property values, etc. in the TOD area.
2. The US Highway 290 expansion project creates a unique major interchange between US 290 and Beltway 8. What does this look like? How does digital signage figure into this picture?
3. How many local businesses want this sign for advertising? How will it impact local businesses? Will it cost the City for putting the ads on the signs, especially when there are changes in the ads? For example when the ad for the golf course is placed, who will prepare the lay-out for this advertising? What skills are needed? How much staff time is needed? Does the city currently have this skill set within the existing employee base etc.?

The Commission wondered if HOT Funds could be used to pay for advertising costs for the City. The City Attorney explained that as long as the advertising “puts heads in beds” the HOT Funds can be used.

The Commission again expressed the need for more information. There was concern by the Commission about Clear Channel’s schedule in placing the sign. Mr. Vela confirmed that there was no time schedule to be met on behalf of Clear Channel Outdoor in placing the sign.

I. Adjourn

With no additional business to conduct Commissioner Faircloth moved to adjourn the meeting. Commissioner Berube seconded the motion. The vote follows:

Ayes: Commissioners Eustace, Berube, Freeman, Faircloth, and O’Neal
Chairman Mergel

Nays: None

The motion carried and the Commission adjourned at 8:47 p.m.

Lorri Coody, City Secretary

**THE PLANNING AND ZONING COMMISSION
CITY OF JERSEY VILLAGE, TEXAS - AGENDA REQUEST**

AGENDA DATE: April 9, 2013 **AGENDA ITEM:**

AGENDA SUBJECT: Receive Report from City Secretary regarding City Council's actions concerning the request of Brownstone Development, LP and WBC Land LLC to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

Dept./Prepared By: Lorri Coody **Date Submitted:** March 20, 2013

EXHIBITS: [City Council Ordinance No. 2013-09](#)
[Letter to Applicant](#)

BACKGROUND INFORMATION:

On February 26, 2013, Brownstone Development, LP filed an application for a zoning amendment, requesting a change in the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

On March 11, 2013 the Commission preliminarily recommended that Council deny the applicant's request and presented its report to Council on March 18, 2013.

After receiving the preliminary report, Council considered Ordinance No. 2013-09, which provided for the calling of a joint public hearing with the Planning and Zoning Commission. However, there having been a motion to approve the Ordinance with no second, the Ordinance failed. Therefore, this item will not be brought to a joint public hearing and no further action will be taken on this request.

This item is to receive the report from the City Secretary regarding Council's actions. Once received, this agenda item request form, City Council Ordinance 2013-09, and a copy of the letter to Applicant will be included as an exhibit to the April 9, 2013 meeting minutes in order to bring closure to this application.

RECOMMENDED ACTION:

Receive Report. The City Secretary will include same as part of the meeting minutes.

ORDINANCE NO. 2013-09

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS CALLING A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION CONCERNING THE PROPOSAL TO AMEND THE ZONING ORDINANCE AT CHAPTER 14, SECTION 14-103.1(B)(2) OF THE CODE OF ORDINANCES TO CHANGE THE MINIMUM HOME SIZE FROM THE EXISTING 1,400 SQUARE FOOT MINIMUM (EXCLUDING GARAGE) TO 750 SQUARE FOOT MINIMUM (EXCLUDING GARAGE) IN ZONING DISTRICT C2 (TOWNHOUSE).

* * * * *

WHEREAS, at its March 11, 2013 meeting the Planning and Zoning Commission of the City of Jersey Village (“City”) preliminarily recommended that Council deny the applicant’s request to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse), and asked the City Council to conduct a joint public hearing with the Commission on such proposal; and

WHEREAS, the City Council desires to call a joint public hearing with the Commission on the proposal; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS THAT:

Section 1. The City Council and the Planning and Zoning Commission of the City of Jersey Village, Texas will conduct a joint public hearing at 7:00 p.m., April 15, 2013, at the Civic Center Auditorium, 16327 Lakeview, Jersey Village, Texas on the proposal to amend the zoning ordinance at Chapter 14, Section 14-103.1(b)(2) of the Code of Ordinances to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

Section 2. The City Secretary be, and she is hereby, directed to give notice of such public hearing as may be provided by law.

PASSED, APPROVED, AND ADOPTED this 18th day of March, 2013.

Russell Hamley, Mayor

ATTEST:

Lorri Coody, City Secretary



CITY OF JERSEY VILLAGE, TEXAS

16501 Jersey Drive Jersey Village, TX 77040
713-466-2108(office) 713-466-2177(fax)

March 20, 2013

Mr. William L. Brown
Brownstone Development, LP
6517 Mapleridge
Houston, Texas 77081

Dear Mr. Brown:

Please be advised that the following item was placed on the March 18, 2013 Council Agenda for action:

Consider Ordinance No. 2013-09, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend the zoning ordinance at Chapter 14, Section 14-103.1(b)(2) of the Code of Ordinances to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

There having been a motion to approve the Ordinance with no second, the Ordinance failed, and this item will not be brought to a joint public hearing. Accordingly, no further action will be taken on your request to amend the zoning ordinance at Chapter 14, Section 14-103.1(b)(2) of the Code of Ordinances to change the minimum home size from the existing 1,400 square foot minimum (excluding garage) to 750 square foot minimum (excluding garage) in zoning district C2 (townhouse).

Thank you for your attention.

Sincerely,

s/Lorri Coody, City Secretary

cc: Eshagh Malekan - Manager
WBC Land LLC
111 E. Jericho Turnpike, 2nd Floor
Mineola, New York 11501

Mr. David A. Bankus
Attorney-at-Law
5615 Richmond, Suite 160
Houston, Texas 77057