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

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

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

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

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

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

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

Vice Chairman Abrams said at first glance she thought most of the recommendations were okay. In regards to Attorney Large, she asked what the official relationship was with the town and whether he was being retained to draft a simplified ordinance. Councilmember Stevens, liaison to the business committee, said from the audience that Attorney Large was only a citizen volunteering his time to help the committee. Ms. Morris explained that she had never met Attorney Large; Ms. Fellner presented the consensus items. Ms. Morris said she works with the town attorney, Mr. Battle. Vice Chairman Abrams heard several complaints that the sign ordinance was too long and unwieldy. She agreed, and although she was not an attorney, but she took the mile long definition pages and all of the explanatory charts and placed them at the end for reference, which left 14 pages of actual code. She did not think it would be ‘rocket science’ to shorten the code. Once the language is omitted that was not in compliance with Reed
vs. Town of Gilbert, it would probably be even shorter. She suggested as a starting point that a code
with 12 pages of policy would not be too bad; charts could be placed at the end and referred to as
needed.

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

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

Mr. Lauer thought it was a good policy to have the business committee involved so the
commission can hear their concerns and ideas. The commission may or may not accept them. He
agreed that the information should be front loaded. So many times when you read through the code you
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
are “except for” items later in the code. Vice Chairman Abrams agreed, but said the commission had to
be careful that the code is not edited to the point that nothing was legally enforceable. Vagueness will
not work.

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

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

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

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

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

- Size;
- building materials;
- lighting;
- moving parts;
- portability;
- signs on public property;
- warning signs marking hazards on private property;
- signs directing traffic;
- street numbers;
- designations between freestanding and wall signs;
- signs with fixed messages versus electronic;
- signs placed on commercial property versus non-commercial property;
- distinctions between on premise and off premise signs;
- restrictions to the number of signs allowed per mile of roadway, and
- imposing high restrictions on signs advertising a one-time event.

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

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

Ms. Morris explained that the town needs to review the sign regulations that are content based, based on the content or subject of the message. The speaker base; based on the person or group delivering, and the event based; work with the attorney to review the entire sign ordinance; strive for as much content neutrality as possible; and distinguish between commercial speech and non-commercial speech, and consider a severability clause. The code currently has a severability clause in the beginning of the zoning ordinance. The attorney recommended that it be repeated in the sign ordinance section, because it needs to be there more than any other section.
Ms. Morris said the signs that are exempted have to be reviewed, because the Court wants the town to regulate addresses. Addresses are a 9-1-1 requirement. But when those signs were exempted, we have to be very detailed about why they were exempted. At the business committee meeting it was stated that if your residential property does not have a no trespassing and someone goes on your property, you cannot do anything about it. She believed a no trespass sign could be exempt, but a detailed explanation would have to be included in the code.

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

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

Mr. Lauer said the beginning of the presentation noted this was for temporary signs, but much of what was being discussed were not temporary signs. Ms. Morris said the discussion was about temporary portable signs, for instance, in this area you can have a 32 square foot banner, because you are off the highway and on Highway 17. In the downtown district, the banners would be much smaller, because it is a walkable area.
Ms. Morris showed various signs with messages that could no longer be regulated by the town.
The number of signs and the size had to be determined for each property or business for
recommendation to Town Council. She said changeable copy signs also have to be addressed. She
believed those signs could be exempt once a permit was issued. Changing the sign ordinances will be a
difficult task, and every municipality wants to be the last one to adopt a code so they can rely on others
for verbiage. The town or some other town will be challenged.

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

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

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

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

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

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

(4)  Rezoning of the Pier area.

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

6. PUBLIC COMMENTS - General. There were no public comments.
7. BOARD COMMENTS.

Ms. Johnson thanked everyone for attending.

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

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

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

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

Prepared and submitted by,

_____________________________________
Debra E. Herrmann, CMC, Town Clerk

Approved: July 5, 2016

________________________________________
Mikey Pruitt, Chairman

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