

Deep Creek Watershed Sign Committee Minutes

November 28, 2018

I. Call to order

Deborah Carpenter welcomed and thanked attendees and discussed basic ground rules for meeting processes.

II. Attendance

The following members were present: Julie Mead, Mike Kennedy, Jim Lascaris, Morgan France, Karen Petrie, Rob Michael, Nicole Christian, Karen Myers, Bob Browning, Bill Ingram, Jonathan Kessler

The following subject matter experts were present: Mike Getty (law), Mike Kenney (sign industry)

The following staff from the Garrett County Department of Planning & Land Management were present: Deborah Carpenter and Bruce Metz

III. Old Business

Carpenter reviewed the events that led the Planning Commission to decide a complete overhaul of the sign chapter was needed at this time. She mentioned the 2015 Supreme Court decision about content neutral sign regulations and enforcement, a temporary sign complaint and subsequent violation notices, a denied digital sign permit, a complaint about height requirements and two requests for ordinance amendment.

Carpenter also reviewed the proposed timeline and procedure for interaction with the Planning Commission. She explained that this committee will recommend changes to the Planning Commission, the Planning Commission may hold a public hearing prior to sending recommendations on to the Board of County Commissioners, and the Commissioners must hold a public hearing prior to adoption. Interaction with the Planning Commission on a monthly basis is advised. To that end the committee voted to elect **Jonathan Kessler chairperson** of the committee. He will serve as the spokesperson for the group with the Planning Commission and provide monthly updates at their meetings. The next Planning Commission meeting will be held on December 5th.

A question was posed about cohesion between Deep Creek and town codes and signs in the rest of the county. Carpenter explained that the towns are autonomous and the rest of the county does not have zoning. The towns write their own ordinances and have full control over the content and enforcement. Countywide zoning would have to be in place to regulate signs outside areas that are currently zoned.

It was decided to invite the municipalities to participate in the group or at least invite them to keep abreast of developments. If they choose to alter their ordinances as well, they will have the opportunity to mirror the committee's efforts.

IV. New Business

Overview of Reed v. Town of Gilbert

Mike Getty stated that the ability to regulate signs comes under the Maryland Land Use Article. We are permitted to regulate certain aspects of development where comprehensive zoning exists. It is considered the lawful exercise of a police power to ensure public safety and community welfare. The state law does not give specifics on how to regulate signs, so what has developed prior to the Supreme Court ruling are ordinances which regulated size, location and density of signs using traditional land use concepts. Most ordinances did not pay close attention to content, but the Supreme Court has now made that an issue, by basically saying that any regulation that requires a regulator to read a sign in order to determine its ability to receive a permit or whether a violation has occurred is unconstitutional and an attempt to regulate free speech.

For the purposes of this group, Getty indicated that much of the current chapter would now be deemed unconstitutional. The new format can regulate size, location and density. They can be regulated by type of sign, provided some care is taken with the wording. For example, a real estate sign or for sale sign may now fall into the broader category of temporary signs. In addition, exemptions will need to be eliminated. The focus should be on taking a minimalist approach and keeping it simple.

Carpenter felt there was a good bit of ambiguity in the ruling. Getty emphasized that while all nine justices concurred in the result, they disagreed about what it all meant. We need to focus on the result, not the nuances of their discussion. Carpenter stated that the format of our sign chapter is commercial versus residential and on premise versus off premise. She stated that despite how broad those distinctions are, they all require the reading of a sign in order to determine what category the sign fits in. Getty expressed that we may maintain the concept of on and off premise but will need to limit the use of the sign to the owner of the property.

A question about residential versus commercial led to Getty's advice that signs can be regulated by zoning district which are generally residential, commercial or some combination thereof. We may be able regulate size, location, etc. by zoning district and achieve a similar affect.

Another question about exemptions arose. The exemptions in the current ordinance include things like real estate signs and other temporary signs with certain type-based restrictions. Those regulations are still valuable. How do we retain them? Getty stated that they would need to be defined as a separate category that is not content-based.

Kessler asked about cooperation between owners of property and the state or county government in regards to signs and right-of-ways. Getty stated that Garrett County has very little right-of-way deeded. Unless the road has been constructed in the last 20 years, it's likely we don't have easements either. Essentially what we have is property lines that run to the ditch line. '

Carpenter clarified the pending temporary sign violations and the definition of sign that is inclusive of 'anything that draws the eye'. That broad definition captures even signs or flags with no words or symbols. Temporary signs include sandwich boards, feather flags, banners, etc.

Discussion ensued about how to regulate by zoning district. Getty suggested that we may want to have separate regulations by sign category for each district or aggregate them based on the uses found in them (ie. commercial versus residential).

Kessler mentioned the value of the purpose statement and suggested that it's modification should be the group's initial focus. He stated that the current purpose statement is very negative, and fails to mention the benefits of signage. Getty noted that the state dictates the purpose and that language must be replicated in the purpose. That being said, the current purpose can be enhanced by an introductory paragraph that will state more than what is legally dictated.

Carpenter noted that talk of categories and types sounded very much like definitions. Currently definitions associated with signs are combined with other definitions for the entire ordinance. Getty suggested that the sign chapter would need its own definition section.

It was mentioned that there are a couple good examples of sign ordinances that have been modified since 2015 from resort areas. Staff can get copies of those ordinances upon request if asked, but Getty suggested that the group focus not just on resort areas but also resorts in a rural area.

A question about political signs led to a response from Getty that political signs are viewed as pure speech. Because of that governments stay away from regulating political signs. Within election laws there are prohibitions as to length of time they're allowed to be up.

People holding signs can be regulated if they are doing so on private property. If, however, they are standing on a public state right-of-way, it is up to the state to prohibit that action.

Mobile signs – signs on trailers or vehicles – were discussed. Getty was unsure if they were legal, but we only regulate land use, so anything on a mobile vehicle is most likely not able to be regulated. However, a sign on a mobile vehicle that is parked on the premise for a period of time may be able to be regulated.

Kessler proffered knowledge of other codes where signs had to be registered for a fee. The registered sign received a sticker and when a complaint came in the sign could be easily ascertained as to legality based on the presence of the sticker.

Further discussion included concerns about handling multi-tenant signs and leased off premise signage. Carpenter noted that grandfathering will need to be addressed and allowance made within the ordinance for existing permitted signage. Kessler asked if rather than allowing those signs forever, can a sunset provision be added. Getty stated that he would have to look into that.

Kessler suggested that it would be a good idea to devise an incentive type of program to encourage compliance. Most likely that incentive may involve a cooperative agreement with SHA. It was suggested that SHA be invited to participate in the meetings.

V. Review of Action Items

- **Kessler will attend the Planning Commission meeting on December 5th.**
- **Carpenter will gather examples of other sign codes.**
- **Getty will redline the current ordinance.**
- **Carpenter will gather examples of purpose statements.**
- **Kessler will send supplemental information for distribution.**
- **Carpenter will contact SHA and the municipalities to solicit representation with the committee.**

VI. Next Meeting – December 12, 2018

VII. Adjournment

Minutes respectfully submitted by: Deborah Carpenter, Director