CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 5, 2016 **ITEM NUMBER: NB-1**

SUBJECT: CHANGES TO THE TEMPORARY SIGN CODE/POLICY

DATE: DECEMBER 18, 2015

FROM: DEVELOPMENT SERVICES, CODE ENFORCEMENT

PRESENTATION BY: GARY ARMSTRONG, DIR. OF ECONOMIC & DEVELOPMENT/ DEPUTY CEO

FOR FURTHER INFORMATION CONTACT:

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RECOMMENDATION:

Provide direction to staff as to any changes City Council wishes to make to the existing Sign Code or policy as it applies to all temporary signs, including political campaign signs. Also direct staff on their participation in filming/video production of candidates' forums and inclusion of such forums on the City's website.

BACKGROUND:

At the end of last year's election season, it was suggested that the City's Sign Code and policy, as it pertains to temporary signs (which includes campaign signs but does not distinguish between types of temporary signs) be reviewed for possible modifications based on issues such as number of signs displayed throughout the City; overall cost to remove the signs; and where the signs were placed.

During the November 2014 general election season, a total of 1,813 temporary/campaign signs were removed. The majority were placed in public rights-of-ways outside the permissible display time of Friday morning to Sunday evening. Experience with temporary/campaign signs in 2012 led the Building Official to hire two contractors to remove signs on Mondays and Tuesdays starting the last week of September and ending the last week after the election; final cost for the contractors was $9,600.00.

Additional costs – albeit as part of regular staff salaries – were incurred: In-house staff also removed signs when complaints were received on Wednesdays and Thursdays, and the signs had to be stored and then disposed. (Code requires that campaign signs be retained until after Election Day.)

Since that time the United States Supreme Court has made a ruling in the *Reed vs. Town of Gilbert* case which impacts most cities' sign ordinances. The Court held that the Town

of Gilbert's sign ordinance amounted to a content based restriction on speech due to its categorization of temporary, non-commercial signs into different types.

The ordinance included various restrictions on the size, location, and duration that political, directional, and ideological signs could be displayed in the city. As such it was determined that the ordinance was not content neutral. To avoid this, cities now need to treat all temporary, non-commercial signs the same, irrespective of their nature including, but not limited to, campaign and other political signs.

Additionally, concerns regarding City staff filming any of the candidates' forums and placement of these forum recordings on the City's website has also been raised.

ANALYSIS:

Depending on the changes Council may wish to institute, processing of a Code amendment will be required. As a starting point for this discussion, staff included three options for Council to consider:

Option A:
Retain the existing Code and retrieval policy without change. (Existing standards listed in the political sign "primer", attached as Exhibit "A".) However, as noted above, staff believes that this approach is not consistent with the *Gilbert* decision; consequently, we will likely need to revise the ordinance as a result of this decision.

Option B:
Amend Code and policy to regulate all temporary, non-commercial signs in the same manner. The City could place reasonable restrictions on the total permissible signage per parcel, regulate the total time that temporary signs may be displayed, and prohibit or otherwise regulate signs within the public right-of-way.

Option C:
Amend Code to:

- *Allow some degree of flexibility for temporary signs to be posted shortly before the election:*
  Add a provision that temporary signs be allowed to be displayed throughout the City except in front of properties with I&R or I&R-S zones (includes public facilities such as parks, schools, City Hall, and fire stations) but *only for four weeks* before an election (they would not be removed after the weekend). An exhibit, showing where the signs may be installed, could be prepared. While this type of provision is most likely defensible under *Gilbert*, it has not been expressly approved of by the Courts.

- *Remove a Code provision that has not be enforced due to the impracticality:* Remove the 10 sign limit per issue.

- *Encourage signs to be retrieved and recycled (rather than stockpiled for disposal at the end of election season):*
  Staff suggest reducing the retrieval fee from $15 per sign to $10 per sign.

As to filming of candidate's forums, staff and the City Attorney would also recommend that City staff be directed to not participate in the filming or video production of any candidates' forums and that such forums recordings not be placed on the City's website. Staff feels that with the new technology available today there are many alternatives and options available for City residents to view the various forums without involvement of City staff.

WILLA BOUWENS-KILLEEN, AICP ZONING ADMINISTRATOR	GARY ARMSTRONG, AICP ECONOMIC DEVELOPMENT AND DEVELOPMENT SERVICES DIRECTOR / DEPUTY CEO

ATTACHMENTS: 1 – Political Sign "Primer"
2 – Article 6 Political Campaign Signs/Portable signs within public right-of-way

cc: Chief Executive Officer
Assistant Chief Executive Officer
Director of Economic & Development / Deputy CEO
City Attorney
Public Services Director
Transportation Svs. Mgr.
City Engineer
City Clerk (9)
Staff (7)
File (2)