

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Scott Wiener, Chair
Land Use and Economic Development Committee

FROM: Andrea Ausberry, Assistant Clerk

DATE: July 28, 2014

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 29, 2014

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, July 29, 2014. This item was acted upon at the Committee Meeting on July 28, 2014, at 1:30 p.m., by the votes indicated.

Item No. 62 **File No. 140821**

Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code, Section 602.3, affirming the Planning Department's environmental determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

RECOMMENDED AS COMMITTEE REPORT

Vote: Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye
Supervisor Malia Cohen - Excused

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Rick Caldeira, Deputy Legislative Clerk
Jon Givner, Deputy City Attorney

File No. 140821

Committee Item No. 1

Board Item No. 62

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 28, 2014

Board of Supervisors Meeting Date July 29, 2014

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date July 24, 2014

Completed by: Andrea Ausberry Date 7/29/14

1 [Planning Code - Interim Controls; Clarifying Definition of a Business Sign]
2

3 **Resolution imposing interim zoning controls for an 18-month period to clarify the**
4 **definition of a Business Sign in Planning Code, Section 602.3, affirming the Planning**
5 **Department's environmental determination; and making findings of consistency with**
6 **the General Plan, and the eight priority policies of Planning Code, Section 101.1.**
7

8 WHEREAS, Planning Code, Section 306.7, permits the imposition of interim zoning
9 controls that promote the public interest, including but not limited to (a) development and
10 conservation of the City's commerce and industry to maintain the City's economic vitality and
11 maintain adequate services for its residents, visitors, businesses and institutions, and (b)
12 preservation of neighborhoods and areas of mixed residential and commercial uses and their
13 existing character; and

14 WHEREAS, Section 601 of the Planning Code recognizes the important function of
15 signs as well as the need to regulate them in order to, among other things, (1) protect the
16 distinctive appearance of San Francisco, (2) provide an environment which will promote the
17 development of business in the City, and (3) encourage sound practices and lessen the
18 objectionable effects of competition in respect to size and placement of signs. and thereby to
19 promote the public health, safety, and welfare; and

20 WHEREAS, Section 602.3 of the Planning Code defines a "Business Sign" as "a sign
21 which directs attention to a business, commodity, service, industry or other activity which is
22 sold, offered, or conducted, other than incidentally, on the premises upon which such sign is
23 located, or to which it is affixed"; and

24 WHEREAS, In circumstances where a number of commodities are sold with different
25 brand names or symbols on the premises, Section 602.3 allows advertising for such

1 commodities to occupy up to one-third of the area of a business sign, or 25 square feet of sign
2 area, whichever is the lesser, as "an accessory function of the business sign," provided that
3 such advertising is integrated with the remainder of the business sign; and

4 WHEREAS, Section 602.7 of the Planning Code defines a "General Advertising Sign"
5 as "a sign which directs attention to a business, commodity, industry or other activity which is
6 sold, offered or conducted elsewhere than on the premises upon which the sign is located, or
7 to which it is affixed, and which is sold, offered or conducted on such premises only
8 incidentally if at all"; and

9 WHEREAS, Planning Code, Section 602.3 was enacted in 1965 and never
10 subsequently amended, and therefore does not reflect current marketing conditions; and

11 WHEREAS, Planning Code, Section 602.7 was enacted in 1965, but amended in 2002
12 by a vote of the People to prohibit new general advertising signs; and

13 WHEREAS, The 2002 prohibition against new "General Advertising Signs" has, over
14 time, demonstrated the need to clarify and to update the limitations intended in the 1965
15 definition of "Business Sign"; and

16 WHEREAS, These proposed interim controls will allow time for the orderly completion
17 of a planning study and for the adoption of appropriate legislation; and

18 WHEREAS, These interim zoning controls further the City's interests set forth in
19 Planning Code, Section 601; and

20 WHEREAS, The Board of Supervisors ("Board") has considered the impact on the
21 public health, safety, peace and general welfare if the interim controls proposed herein are not
22 imposed; and

23 WHEREAS, The Board has determined that the public interest will best be served by
24 imposition of these interim controls in order to ensure that the comprehensive legislative
25

1 scheme that may be ultimately adopted is not undermined during the planning and legislative
2 process for permanent controls; and

3 WHEREAS, By adding additional criteria to the definition of "Business Sign" in Section
4 602.3 of the Planning Code, these interim controls advance Priority Policy 1, that existing
5 neighborhood-serving retail uses be preserved and enhanced, and Policy 2, that existing
6 neighborhood character be conserved and protected in order to preserve the economic
7 diversity of our neighborhoods, in Section 101.1 of the Planning Code and do not conflict with
8 Priority Policies 3 through 8 or with the City's General Plan; and

9 WHEREAS, The Planning Department has determined that the actions contemplated in
10 this Resolution are in compliance with the California Environmental Quality Act (California
11 Public Resources Code, Sections 21000 et seq.) and the Board hereby affirms that
12 determination. Said determination is on file with the Clerk of the Board of Supervisors in File
13 No. 140821 and is incorporated herein by reference; now, therefore, be it

14 RESOLVED, That the definition of a "Business Sign" in Planning Code, Section 602.3
15 is hereby amended to read as follows:

16 "BUSINESS SIGN. A sign which directs attention to ~~a~~ the primary business, commodity,
17 service, industry or other activity which is sold, offered, or conducted, ~~other than incidentally,~~ on
18 the premises upon which such sign is located, or to which it is affixed. Where a number of
19 businesses, services, industries, or other activities are conducted on the premises, or a number of
20 commodities, with different brand names or symbols are sold on the premises, up to 1/3 of the
21 area of a business sign, or 25 square feet of sign area, whichever is the lesser, may be
22 devoted to the advertising of one or more of those businesses, commodities, services, industries,
23 or other activities by brand name or symbol as an accessory function of the business sign,
24 provided that such advertising is integrated with the remainder of the business sign, and
25 provided also that any limits which may be imposed by this Code on the area of individual

1 signs and the area of all signs on the property are not exceeded. The primary business,
2 commodity, service, industry, or other activity on the premises shall mean the use which occupies the
3 greatest area on the premises upon which the business sign is located, or to which it is affixed"; and,
4 be it

5 FURTHER RESOLVED, That any proposed Business Sign which has not received a
6 final decision on any required approval action by any City department, board, commission, or
7 agency shall be covered by these interim controls; and, be it

8 FURTHER RESOLVED, That upon imposition of these interim controls, the Planning
9 Department shall conduct a study of the contemplated zoning proposal and propose
10 permanent legislation to address this identified problem with the "Business Sign" definition;
11 and, be it

12 FURTHER RESOLVED, That these interim controls shall remain in effect for a period
13 of 18 months unless extended in accordance with Planning Code, Section 306.7(h) or until
14 permanent controls are adopted, whichever occurs first; and, be it

15 FURTHER RESOLVED, That the Planning Department shall provide reports to the
16 Board pursuant to Planning Code, Section 306.7(i).

17
18 APPROVED AS TO FORM:

19 DENNIS J. HERRERA, City Attorney

20
21 By: 

22 JUDITH A. BOYAJIAN
Deputy City Attorney

23 n:\Vegana\as2014\1400620\00942481.doc

BOARD of SUPERVISORS



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July 17, 2014

File No. 140821

John Rahaim
Director
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Director Rahaim:

On July 15, 2014, Supervisor Wiener introduced the following proposed legislation:

File No. 140821

Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code, Section 602.3, affirming the Planning Department's environmental determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use & Economic Development Committee

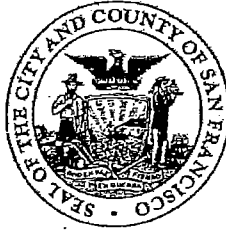
Attachment

c: Scott Sanchez, Zoning Administrator
Sarah Jones, Environmental Review Officer
Aaron Starr, Legislative Affairs Manager
AnMarie Rodgers, Senior Policy Advisor
Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning
Judith Boyajian, Deputy City Attorney

*Not defined as a project under
CEQA Guidelines Sections
15378 and 15060(c)(2) because
it does not result in a physical
change in the environment.*

J. Davis 7/25/14

BOARD of SUPERVISORS



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Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Andrea Ausberry, Assistant Clerk, Land Use & Economic Development
Committee, Board of Supervisors

DATE: July 22, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use & Economic Development Committee has received the following legislation (introduced on July 14, 2014), which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 140821

Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code, Section 602.3, affirming the Planning Department's environmental determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment
- Recommendation Attached

Chairperson, Small Business Commission

REUBEN, JUNIUS & ROSE, LLP

July 28, 2014

By Messenger and Email

Land Use and Economic Development Committee
 San Francisco Board of Supervisors
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102

**Re: July 28, 2014, Meeting, Regular Agenda No. 1 (File No. 140821)
 Our File No: 7606.01**

Dear Chair Wiener, and Supervisors Kim and Cohen:

Our office represents Contest Promotions, LLC, in connection with a settlement regarding business signs that the full Board of Supervisors approved on July 8, not three weeks ago. The proposed interim zoning controls before your committee today are intended to undermine the settlement. The legislation is fundamentally unfair, and should not proceed.

Imagine that you owned a business in San Francisco that sells widgets, and that the definition of widgets has been unchanged since 1965. Planning Department officials do not initially agree that your widgets fit the definition. After five years litigating the issue in court, you reach a detailed agreement with Planning Department officials, advised by the City Attorney and finally approved by the Board of Supervisors that affirms that your widgets are, indeed, widgets, and setting rules for the City to review, permit, and monitor your business.

One week after the agreement takes effect, "emergency" legislation comes before the same City legislature to change the 1965 definition of widgets, for the first time, ever. The new definition does not account for your own settlement. The "emergency," in fact, is the City's rush to change the definition of "widgets" before permits can be obtained, and so scuttle the agreement.

Would you say that the City is acting in good faith, as parties to an agreement must? Is enacting legislation to subvert an agreement even a legitimate object of government? However you feel about our client, signs, or widgets, the answers cannot vary, neither in fairness nor law.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin

Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevlin

Lindsay M. Petrone | Melinda A. Sarjapur | Kenda H. McIntosh | Jared Eigerman^{2,3} | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600
 San Francisco, CA 94104

tel: 415-567-9000
 fax: 415-399-9480

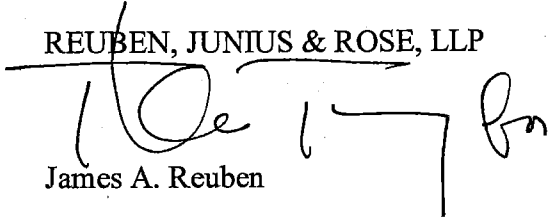
www.reubenlaw.com

Land Use and Economic Development Committee
July 28, 2014
Page 2

We urge you to delay action on the proposed interim controls until the settlement agreement is taken into consideration.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP

A handwritten signature in black ink, appearing to read 'James A. Reuben', is written over a horizontal line. The signature is stylized and includes a large 'R' and 'J'.

James A. Reuben

cc: James Emery, Deputy City Attorney
Judy Boyajian, Deputy City Attorney
Kate Stacy, Deputy City Attorney

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

REUBEN, JUNIUS & ROSE, LLP

www.reubenlaw.com

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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, July 28, 2014

Time: 1:30 p.m.

Location: Committee Room 263, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 140821. Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code Section 602.3, affirming the Planning Department's environmental determination; and making findings of consistency with the General Plan and with the eight priority policies of Planning Code, Section 101.1.

In accordance with San Francisco Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 25, 2014.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

DATED/POSTED: July 17, 2014
PUBLISHED: July 19, 2014

Member, Board of Supervisors
District 8



Orig: COB
c: Leg Dep, LU Clerk
City and County of San Francisco

SCOTT WIENER

威善高

DATE: July 24th, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener *SW*
Chairperson, Land Use and Economic Development Committee

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
24 JUL 24 AM 9:54

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, July 29th, 2014, as a Committee Report:

140821 Planning Code -- Interim Controls; Clarifying Definition of a Business Sign

Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code, Section 602.3, affirming the Planning Department's environmental Determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on Monday, July 28th, 2014, at 1:30 p.m.

Ausberry, Andrea

140821

From: Starr, Aaron (CPC)
Sent: Tuesday, July 15, 2014 3:45 PM
To: Power, Andres; Ausberry, Andrea
Cc: Rodgers, AnMarie (CPC)
Subject: RE: Wiener - Interim Controls - Definition of Business Sign

Thanks Andres. I didn't think a mailed note would be required.

From: Power, Andres
Sent: Tuesday, July 15, 2014 3:40 PM
To: Ausberry, Andrea; Starr, Aaron (CPC)
Subject: RE: Wiener - Interim Controls - Definition of Business Sign

This legislation is citywide.

Under Planning Code Section 306.7(g), any interim control which covers more than 30 acres (which this does), does not require mailed notice.

Andres Power
Office of Supervisor Scott Wiener
(t) 415-554-6968

From: Ausberry, Andrea
Sent: Tuesday, July 15, 2014 3:26 PM
To: Starr, Aaron (CPC)
Cc: Power, Andres
Subject: FW: Wiener - Interim Controls - Definition of Business Sign
Importance: High

Hi Aaron,

We have another Interim Control, it is to be heard on July 28th (See attached). Can you please provide the mailing list in Excel format by tomorrow?

Thank you,

Andrea S. Ausberry
Assistant Clerk
Land Use and Economic Development Committee
San Francisco Board of Supervisors
Office 415.554.4442
Website | <http://www.sfbos.org/>
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The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisor Wiener, *Chiu*

Subject:

Planning Code - Interim Controls; Clarifying Definition of Business Signs

The text is listed below or attached:

Resolution imposing interim zoning controls for an 18-month period to clarify the definition of a Business Sign in Planning Code Section 602.3, affirming the Planning Department's environmental determination, and making findings of consistency with the General Plan and with the eight priority policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor: *Scott Wiener*

For Clerk's Use Only:

140821