

STROUDSBURG BOROUGH COUNCIL
NOVEMBER 14, 2017
MINUTES – SPECIAL MEETING

A special meeting of the Stroudsburg Borough Council convened at 6:00 P.M. in the Council Chambers of the Stroudsburg Borough Municipal Building with the following members present: Joanne Kochanski, Boyd Weiss, James Smith, Matt Abell, and Mark Connors. Mayor Tarah Probst, Code Enforcement Officer Ron Kimes, Solicitor Joseph McDonald, Jr., and Interim Borough Manager Mary Pat Quinn were also in attendance. Council President Ken Lang and Councilman Patrick Maurath were absent.

Adequate notice of the meeting was provided by publishing notice in the legal section of The Pocono Record in the issue of November 1, 2017 and by posting notice on the Stroudsburg Borough website.

Solicitor McDonald explained that the Borough Council declared that the Stroudsburg Borough Zoning Ordinance, Chapter 27 of the Stroudsburg Borough Code of Ordinances or portions of it substantively invalid at its last meeting on October 17, 2017. Solicitor McDonald and staff were directed to prepare a resolution for Council's consideration and action at this special meeting. The purpose of the resolution is to recommend specific sections of the subject Ordinance that require review. On the advice of Solicitor McDonald, a motion was made by Mrs. Kochanski, seconded by Mr. Abell to enter in to an executive session at 6:05 P.M. for the purpose of discussing identifiable threats to the Borough of Stroudsburg. The motion was carried with all present voting affirmatively.

The executive session concluded at 7:00 P.M. on a motion made by Mrs. Kochanski, seconded by Mr. Abell. The motion was carried with all present voting affirmatively.

A motion was made by Mrs. Kochanski, seconded by Mr. Connors to adopt the following Resolution. The motion was carried with all present voting affirmatively.

RESOLUTION NO. 25 - 2017

BOROUGH OF STROUDSBURG, MONROE COUNTY, PA

WHEREAS, Section 609.2 of Pennsylvania's Municipalities Planning Code, 53 P.S. § 10609.2, sets forth the procedure for a municipal curative amendment of a zoning ordinance; and

WHEREAS, Section 609.2 requires a municipality to declare by formal action that its zoning ordinance or portions thereof are substantively invalid and propose to prepare a curative amendment to overcome such invalidity; and

WHEREAS, the Borough Council of the Borough of Stroudsburg, on October 17, 2017 passed a formal motion declaring its Zoning Ordinance, Chapter 27 of the Borough's Code of Ordinances or portions thereof substantively invalid; and

WHEREAS, the Borough Council's October 17, 2017 formal motion also directed the Borough's solicitor and staff to prepare a resolution with recommended specific findings for Council's consideration and action; and

WHEREAS, Section 609.2 requires a municipality to adopt a resolution making specific findings setting forth the declared invalidity of the zoning ordinance; and

WHEREAS, the Supreme Court of the United States in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) found that defining and regulating signs by their content, for example "real estate signs", is contrary to the protections set forth in the First Amendment of the United States Constitution; and

WHEREAS, the Borough of Stroudsburg Zoning Ordinance defines and regulates signs based on content; and

WHEREAS, the Borough of Stroudsburg Zoning Ordinance defines the term "Billboard" in § 27-202 (Specific Definitions); and

WHEREAS, the Borough of Stroudsburg Zoning Ordinance, Part 8 Sign Requirements, does not list "Billboard" as a use in any zoning district within the Borough; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Counsel of the Borough of Stroudsburg as follows:

1. The definition of the term "billboard" in Chapter 27, Part 2 Definitions, § 27-202 (Specific Definitions), is declared invalid pursuant to the holding in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) because it defines the term by the information to be conveyed by such sign.

2. Chapter 27, Part 8 Sign Requirements, is declared invalid in its entirety pursuant to the holding in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) because it defines and regulates signs based on the information to be conveyed by such sign.

3. Chapter 27, Part 8 Sign Requirements, is declared invalid in its entirety because no specific provision is made for a "billboard" use anywhere within the Borough of Stroudsburg, despite there being a definition of such term in §27-202 of the Zoning Ordinance.

4. Chapter 27, Part 2 Definitions, shall be amended to satisfy the requirements set forth in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015).

5. Chapter 27, Part 8 Sign Requirements, shall be amended to satisfy the requirements set forth in *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015).

6. Chapter 27, Part 8 Sign Requirements, shall be amended to provide for all sign uses, but shall not be required to provide for the most profitable form of any particular use.

7. The solicitor and staff shall take the steps and actions necessary to prepare an amendment of the Borough of Stroudsburg Zoning Ordinance as set forth hereinabove.

A motion was made by Mrs. Kochanski, seconded by Mr. Weiss to approve the proposal from Gawthrop Greenwood, P.C. with offices at 17 East Gay Street, Suite 100, West Chester, P.A. not to exceed \$2,500.00. Anthony T. Verwey, Esq. of the firm will assist Solicitor McDonald and the Borough during the Municipal Curative Amendment process. The motion was carried with all present voting in the affirmative.

The meeting was adjourned at 7:20 P.M. on a motion made by Mrs. Kochanski, seconded by Mr. Connors. The motion was carried.