

**June 13, 2018  
Public Hearing  
City of Gaston**

**Present:** Mayor Tony **Hall**, Jerry **Spaulding**, David **Meeker**, Bill **Martin**, and Don **Richter**

**Absent:** Jon **Wismer** & Rod **Hale** (excused)

**Staff:** City Recorder Wenonah **Blanchette**, Public Works Director Brent **Whittaker**, City Clerk Sharon **Bregante-Candau**, Washington County Deputy Rob **Richards**, and City Planner Carole **Connell**.

**PUBLIC HEARING**

Mayor Tony **Hall** called the quasi-judicial hearing on a Conditional Use Permit and Variance Request by Ramsay Sign company for the Knights of Pythias to install an internally illuminated message sign adjoining Hwy 47/Front Street, Gaston at 7:07PM.

**HEARING DISCLOSURE STATEMENT:** Mayor **Hall** read the hearing disclosure statement.

Mayor **Hall:** Again, this is a quasi-judicial application. At this time, I'd like to ask for a declaration of conflict of interest, ex-parte contact or personal bias by an Council Members? Let the record reflect there are none. Are there any challenges of impartiality from the audience? Let the record reflect there are no challenges of impartiality from the audience. At this time the Chair recognizes the City Planner to issue the staff report.

**STAFF REPORT**

Carole **Connell:** Tonight, there's a hearing putting up a new sign on the building for the Knights and the sign ordinances are really detailed and there's a lot of minutiae in here, I don't want to bore everybody to tears. But that's the way it goes with signs; highly regulated. This starts out with the applicant wanting to put up a message board that is called a projecting sign where it comes out of the side of the building and is hanging over the sidewalk. It's projected over the sidewalk. That's the first part, a message board. The second part is they want it lighted internally; that is light that comes from inside the box rather than indirect light that shines on the sign. You've got two things going on here, one is a conditional use permit for the message board; that's one decision. The second is a variance to allow it to be internally illuminated. This particular applicant is considered a semi-public use; it's not a business use, not an industrial use, not a commercial use or residential, its semi-public. So, they're in a special category of their own. The property is zoned commercial. ODOT has been notified and I'll be talking a little bit about them because this is the highway and the sign on the highway and is potentially over their right-of-way. The sign will be located on the front of the building and similar in terms in the building is also occupied by the HUB, is that right? —Not at

all, okay? (No, it is not) There are a number of signs on the wall already that faces the HUB. So, my question, I have one question for the applicant, as we get into this? Is if the existing sign is going to come down?

**Ed Yates:** We don't see any need for it.

**Carole Connell:** So, you'll have one sign facing the highway and the other sticking out over the sidewalk.

**Ed Yates:** Yeah, since 1908.

**Carole, Connell:** Right. Okay, I need to know the square footage of that and you'll find that out for that in a second. But you don't know sign's square footage for that do you? The existing sign?

**Ed Yates:** Oh, the existing sign that's up there, yeah it's 4x8'? Isn't it?

**Carole Connell:** Okay, that's pretty close. Now when you get into Gaston's Sign Code there's the definition of what is internal illumination. What's a message sign? It's sign you can change electronically. There are some out there already; temperature signs, other changing signs. And then signs subject to State approval from all sides visual to the traveling public from the highway and subject to their regulations if they would apply in this case. So, first of all we find that the sign is internally illuminated and its subject to state approval. The state was notified and unfortunately did not get to us until today, a couple of hours ago and their first question is their sign in the street right-of-way. And their right-of-way measured to be 30 feet from the center of the road and Brent measured the right-of-way and the building is 30 feet and half—

**Brent Whittaker:** Thirty feet, one and half inches to the foundation.

**Carole Connell:** And that means that your sign is not on the right-of-way, but since it projects five feet over the sidewalk it's projecting into the right-of-way. ODOT says—they say a lot of things—but the only thing that really matters here is that you cannot have lights that projects onto the roadway or impedes the sight of traveling motorist and only official traffic signals or devices are allowed to be on or overhang state right-of-way. Does that mean that all signs that are hanging over the sidewalk—there's a few of them already out there—are not allowed to be hanging over the right-of-way? Because they are hanging over the right-of-way if they're five feet into hanging over the sidewalk. Big question. I didn't know that until a couple hours ago. It's going to take going back to them and finding out exactly if; what I think it means is they can't put a sign hanging over the right-of-way and this one is and all those that are up already are preexisting signs and whatever they did then doesn't count today. It's a grandfathered sign.

**Ed Yates:** But were replacing a sign that is in the same place and we still have that old sign that we took off from in front of the building.

**Carole Connell:** I didn't know anything about that.

**Ed Yates:** But it did have lights on it. That's the "pre"(existing).

**Carole Connell:** Do you have a picture of the old sign?

**Ed Yates:** Possibly, somewhere, in the archives.

**Carole Connell:** And how long has that been gone?

Ed Yates: It was put back about two years after the church was remodeled. And that's been gone about five or six years now.

Carole Connell: Then that sign is gone. This is a new sign and the new sign has to comply with whatever permitting and sign regulations that we have. That's one hurdle that I know of right now. The size is okay, the square footage if you've got two signs you get up to sixty-four square feet and if you figure thirty plus twenty-eight you're at sixty square feet, so that's okay. It looks to be five feet-three inches over the sidewalk. Seventeen feet above the sidewalk. This is your option; do we go into all the criteria of what the Council needs to find in order to approve the conditional use permit for the message board and the variance for the internal illimitation, subject to ODOT's approval or do you wait to find out if the sign permit is not permitted period because of the language that I read to you? Probably want to go ahead and make your decision—

Mayor Hall: —subject to ODOT approval.

Carole Connell: If they say no, then they say no. So again, there's these two sections; the conditional use permit has eight criteria's; question to the council is do they meet those criteria? I need to go through those, starting on page four in my staff report if you want to follow along. I've made a case that you can approve the conditional use permit for the message board based on the findings. The first one is: *will it significantly increase the street level sign clutter, or is the sign adversely dominating the visual image of the area?* Well there are an estimated six existing projecting signs out there right now: there's the Ace, Scoggins Coffee, the Hub, Ralph's Market, the One-Horse Tavern and the Screamin' Chicken. This would add another one. Question is, are we at a level of clutter and distraction and so on? We don't know. There's no evidence yet that there is. I say that there's no evidence. The second criteria is: *does the sign as conditioned will adversely affect surrounding areas to a significant degree?* It's commercial industrial, that's where the signage mainly is. It is not a residential area and seems to reflect existing character of signs that are already there. So, to that criteria: check. *Does it propose or present a traffic or safety hazard?* This is where ODOT comes in because really all they care about is safety. It's not a business, it's a semi-public use and we don't know if it will create a traffic hazard by putting a message board up there. So now you've got something that's changing, you have coffee and coming in from another light and, drinking coffee and not paying attention. *Does it cause a safety or traffic hazard?* And that is also up to ODOT. But right now, we have to say they have to get a building permit; we know it's not going to fall down on somebody if they get a full-blown building permit to put it up and should be safely erected. But we don't know if it will cause distractions but we also don't know either so there's no evidence it will unless ODOT says it's not safe. That is up to them. The next criteria are *if the application is for a flashing or message sign, there shall be no rotary beacon lights or zip lights, strobe lights, or similar devices allowed. No chaser affects or flashing affects consistent with*

*external lights, lamps, bulbs, neon tubes and so on.* The staff recommends that you add that with any kind of approval that you can't have any of those kind of distractions and ODOT has some similar wording that would go along with their permit if they decide they can approve it. So, the fifth criteria: *is the application for the sign as that such it cannot flash, or illuminate interment light, rotate more of the same,* so also a condition. Criteria six the total area of sign for the business shall be reduced by twenty-five percent if the business has a flashing or rotating—well we already said that we cannot do that, so that's fine. And the site for the sign is not for a business. That does not apply either. And with the site comply with the other regulations of height and placement. There's not a height limit in your code and the size is within the size. So, in summary of the message board itself and the conditional use I recommend you approve that. And when I get to the end I'll offer some motions for you. Okay, now were to the variance and the variance is for the internal illumination. At some time, probably somewhere around 2006-2008 when the zoning ordinance was adopted last by the city, the City decided they did not want internally illuminated lights downtown or definitely, for public—excuse me, not downtown, for public or semipublic uses, or in the residential zone. None, no internal illumination. Now some zoning administrators will state that you can't have it; can't get a variance, you just can't have it because it's not allowed. Variances are only permitted for quantifiable kinds of requirements; like size and height. This is not a quantifiable thing, this simply says you can't have internally illuminated signs; you do have some out there, they were probably there before you started prohibiting them at the City. And so, it says lighting, except for semi-public uses, shall be illuminated only by indirect light and the use interior lighted signs and flashing lights shall be prohibited. Here we are at the variance. Here are the criteria that I found are not totally met; at least by my analysis but it's up to you to decide. I felt you could approve, yes, on the conditional use for the message board. But I don't think everything's in line here for the variance. And the first criteria being *are there unique circumstances for this lot, this building or the traffic pattern such that the sign regulations create an undue hardship on the applicant?* Well there's no unique situation based on the lot, or the traffic patterns or anything that's creating a hardship on the applicant that you have to allow this internal illumination. And maybe a circumstance might be that the Church has an internal illuminated freestanding sign; so why can't the Knights? That's not exactly a hardship but I'm not sure the Church was actually legally permitted. And as soon as I'm finished, unfortunately I have to finish and then you'll get to talk when we get to talk. That's just the way it works.

**Terry Clark:** I just had a question—

**Carole Connell:** I'll be happy to answer your questions as soon as I finish this report. So, okay, again I don't know what the hardship is that clearly a hardship in this case. Number two, *is it consistent with the purpose of the sign*

*ordinance in your zoning code and the purpose of the chapter to provide equitable rights?* Maybe it's equitable that the Knights get a sign like some of the others have on the commercial strip here. Does it reduce conflicts? Does it promote traffic and pedestrian safety? Does it increase the aesthetic value? I think that it was decided that internal illuminated signs were prohibited for some reason. Maybe it was the settings, maybe that's why you prohibit them, in which case it wouldn't be increasing the aesthetic value. That one's hard to say. And by all classifying and regulating the location, size and type of number of signs and related matters \_\_\_\_\_. Is it consistent with the chapter that I just read is the purpose? Maybe and maybe not. The sign ordinance clearly prohibits it in a semipublic use. Internally illuminated signs are not prohibited though, in commercial and industrial uses, so there's an equitable issue there. The applicant finds a variance to this permit, to permit an internally illuminated sign for semipublic uses justifiable and equitable because the Knights building is in a commercial zone. It's not in the residential zone like schools often are, they don't allow big illuminated lights either, and Churches too because the Knights are in a commercial zone, that gives them an advantage to asking for equitable rights. Alright, the third criteria. If you grant it, it compensates for those circumstances in a manner equitable with other property owners and this is not a special privilege for this business. The requested variance shall be reviewed when necessary. Okay this is not a business, so I think we know that approval grants a privilege to a semipublic use which may establish a precedent for future requests. That the problem with variances, if you approve and someone comes in tomorrow and wants one then your stuck with a precedent of proving a variance for something that, maybe you need to change the code first to allow for internally illuminated signs instead of giving variances. You get yourself in a corner for the next person that comes along or the next agency or organization. As I said, there currently are six projecting signs; five are internally illuminated; the Ace, the Coffee, the Hub, the Supermarket, and the One-Horse Tavern. I think all of those were there before this sign ordinance was developed. Alright, the fourth criteria (then there's only two after that); *granting the variance will not decrease traffic safety or detrimentally affect any other items identified of public welfare.* We don't know that it will affect safety or other public welfare, there's no evidence either way. A variance will not result in a special advertising advantage in relation to neighboring businesses. And so, the applicant states the variance should be approved because businesses are allowed to have internally illuminated signs but semipublic uses are not. That's where they feel it's unfair in relation to the businesses on the street. What I don't know is if the applicant intends to provide any business advertising on the sign because, then you would be giving an advantage to a business that would be (he's shaking his head that 'no' they do not intend to provide any business advertising). And the final question is *if the variance will result in a self-imposed condition or hardship?* The

sign, unfortunately was constructed before the application was submitted and they found out that they needed these permits. So that's a self-imposed mistake that can only be remedied by you granting the variance. I think you've got at least two criteria that are tough to prove; one they have a hardship they think they should be allowed one and the second is, is this a self-imposed condition: and yeah, it is and because they built the sign it's there waiting to be put up, so I think before they knew they had to do this. Okay, I'm moving to the last page, page eight. It's got some recommended decision options for you. After you hear from the applicants and after you've heard from the public testimony. And one is I would recommend you approve the conditional use permit for the message board subject to the following conditions: that one, not be allowed those flashing, rotating, zip, strobe, or other similar light display or distractions that might impact traffic or pedestrian safety, that two, they not be allowed to advertise for any other business, and three: that they obtain approval from ODOT prior to installation, (which is not on there (*on the staff report*)) I think a phone call to ODOT is warranted, like tomorrow if they can extend five feet over the right-of-way based on the wording they gave me. That would be the first motion suggestion and then on the variance, it's up to you. You could move to approve the variance for the internal illumination based on your feelings about what their case is. My findings are not bulletproof as they are, but that's up to you. You could continue this to another meeting if you weren't comfortable with that yet and needed some more findings or you could deny it based on the fact number one, it's not a quantifiable requirement like your code says it needs to be and that it doesn't clearly meet criteria one, three, four, and six. So with that I can answer any questions now or wait.

**Mayor Hall:**

The Chair recognizes **Terry Clark:**

**Terry Clark:**

Didn't I hear you say in the code; that its existing, it's for non-residential light or signs? Self-illuminated from the inside are not allowed in residential areas?

**Carole Connell:**

No, it's identified; the prohibition is by use. It's prohibited for residential use. For a public use or a semipublic use and your classified as semipublic use. All I was saying was typically you see those kinds of uses in residential zones and that's why it's restricted.

**Terry Clark:**

I misunderstood that. One thing I'd like to mention is this sign is deeply involved in safety of this area. For any happenings for the Fire Department, if there's a road closure or high water, things like that. That's all going to be put on that board.

**Carole Connell:**

I think the intent is certainly about that. The question is more about traffic and cars and distractions, lights and so on. Now it's up to the applicants next.

**Ed Yates:**

**Ed Yates**, I'm kind of the Chairman to this sign committee. I've been involved since the very beginning. On the illumination of this sign, we're talking about a one and half by five-foot section of this sign that is going to be back lit. And it's not going to be back lit by florescent lights or

anything like this. It's all the new high-tech low-resolution LED lighting so you don't get the bright look of the sign it just the Knights of Pythias emblem will be backlit with these LED's so as far a lot of the safety issues, and so forth you're talking about. You know when this ordinance went into effect, everyone was using florescent lighting and everything. They're really famous for flashing on off and all that kinda stuff. And I see in the past that this was a reason to look at but with the new LED lighting; it's very soft, it's basically just a back lit light, (I'd wish I brought my forms of what this is, but it's actually one point four inches, I mean one foot four inches wide by five-foot long. For the Council's consideration, this sign is being manufactured and installed by Ramsay's Sign Company in Portland which has been in business since the early teens. They're a very conscientious company that deals with ODOT and deals with cites all across the Portland area. And it's not that we're going to EBAY and buying a sign and throwing it up on a building. It's pre-engineering, engineered by Ramsay Signs. It has all the stress tests enveloped into the sign. As you know, this town needs some way to get information out to let people know what's happening. We're the only people who have ever stepped up to say "Okay, we will step forward and take care of this." So, I request that if we can get the approval from ODOT let's go with this because we have a lot of community happenings this summer that's going to take place and it sure would be nice to get this all approved and get this sign up before the 15<sup>th</sup> of August.

**Mayor Hall:**

Chair recognizes Councilor **Martin**

**Councilor Martin:**

I've got a question for the City Planner; what did ODOT say about it? About putting up the sign? Or have they been contacted?

**Carole Connell:**

Yeah, they were contacted and they just got back with me today and I read the part, it was a long, kind of a redundant email, but the part that was most important is safety. And the mentioning of no rotating parts or lights. It cannot resemble an official traffic signal or device or cannot have lights that project along the highway or impede the sight of traveling motorist and only official traffic signals and devices are allowed to be on or to overhang the right-of-way. And that last part is the critical part.

**Councilor Martin:**

Could we have ODOT come out and look to see where they want to place the sign to see if it would be alright or no?

**Carole Connell:**

They pretty quickly went online and got a picture of it and I was able to describe where it was going to be. So, I was able to describe exactly where it was going to be. You're going to be adding the condition that you can't have any rotating or moving parts; everything I just read. That won't be allowed in this one. They only want to know where it is. And that one statement that, only traffic signals or devices are allowed can hang over the right-of-way. And this sign will be hanging about five feet over the right-of-way.

**Mayor Hall:**

Chair recognizes Councilor **Spaulding**.

**Councilor Spaulding:** I want to make a motion to take a vote on this.

Mayor **Hall**: Well, we're not finished with the hearing yet. We have to continue with the hearing. Alright? Any further questions from the Council?

Mayor **Hall**: The Chair recognizes Ed **Yates**

Ed **Yates**: I think we have to get Garrett **Gibson** who is the permit guru at Ramsay Sign to discuss with ODOT if we, or if this sign does; either yes or no if the—

Carole **Connell**: I did ask him to please check with ODOT and he didn't so you'll—

Mayor **Hall**: Okay, let's continue on. Next is the applicant's report—

Councilor **Richter**: Are we going to make a motion on this or something—

Carole **Connell**: No, this public hearing hasn't been—

Councilor **Richter**: Oh, okay.

Mayor **Hall**: Yeah, we have to go through all the steps with the public hearing. Next is the applicant's report, I know you just kind of gave a report right there. Do you have further information that would add to your report?

**APPLICANT'S REPORT:**

Ed **Yates**: I've dealt with the City Council here for going on three months. They know what this sign is going to do for the City. And any way we can get this sign installed, it's going to be something that this, we're trying to move into the twenty second century here and we're just spinning our wheels. If we can get the Council to do what you recommended; approve the variance and conditional use permit now and with the condition that ODOT will allow us to put up the sign over there that way we can move forward. Because Ramsay Sign is willing to work with us and ODOT, as well as everyone else involved this. I just want to make sure that you realize this is a top of the line type situation. It's not a five by nine, cheap, five-hundred-dollar sign. It's a substantial, substantial sign that people in the area and Knights of Pythias and other people have stepped up and realize that we need this in the City that have made substantial donations for this. We do have the money to finish the project, all we have to do is get this approved.

Mayor **Hall**: Okay, thank you are there any proponents? Any proponents on the list to speak?

**PROPONENTS** (none heard)

Mayor **Hall**: Okay, any opponents to speak? None signed up, good.

**OPPONENTS** (none heard)

Mayor **Hall**: Any opponents to speak? Okay, none signed up to speak.

**NEUTRAL COMMENTS** (none heard)

Mayor **Hall**: Any neutral comments signed up? Nope

**APPLICANT'S REBUTTAL**

Mayor **Hall**: Do you have any rebuttals at this time? There was no one who—



Ed Yates: No, I think the everybody knows were trying to do a good thing here.

**HEARING CLOSURE:** Mayor Hall closed the hearing at 7:40PM

**DELIBERATIONS**

Mayor Hall: Now the Council will enter into discussion.

Carole Connell: I'm going to request again, two motions; making it perfectly clear that you're making two decisions, one for the conditional use and message board, as it says on page eight. And one for the variance for the internal illumination.

Mayor Hall: Alright, thank you, so if the Council will turn to page eight and those motions are there for your review.

Councilor Richter: Yeah, let's make a decision.

Mayor Hall: Is there any further discussion? No further discussion, the Chair will entertain a motion on number one to approve the conditional use permit for the message sign based the three conditions on A, B, and C. And I listed C as under ODOT approval (if you'll add C under A and B..

Councilor Spaulding: I have a question.

Mayor Hall: The Chair recognizes Councilor Spaulding.

Councilor Spaulding: We don't have to include A or B on the motion, right? We can just say we want to approve a conditional permit based on the findings in the staff report, we don't have to add A, B correct?

Carole Connell: That's true.

Councilor Richter: If you do make the motion, I'll second.

Councilor Spaulding: I move that we approve the conditional use permit for the message sign based on the findings in the City's staff report.

Councilor Richter: I second that motion.

Mayor Hall: Motion has been made by Councilman Spaulding seconded by Councilor Richter. Is there any further discussion? (none heard). I do have one more question to ask for clarification for the City Planner. It's based about the staff report, did we not put in there subject to ODOT approval also, because that's not in the staff report? Was it?

Councilor Richter: The variance we did.

Carole Connell: I think you're right. I don't think you can pass go without getting ODOT approval. You want to make sure it meets ODOT requirements with your approval. So, I would keep your number C.

Mayor Hall: Yeah

Carole Connell: Unless you don't care what ODOT says.

Councilor Richter: I don't care what ODOT says.

Councilor Spaulding: I don't really care what ODOT says. Right, so we'll add C to the motion, subject to ODOT approval. I think we're going to need to fix it. I'm not sure the procedure for reconsideration since we left that out.

Carole Connell: I think it's a good faith message of cooperation with ODOT that you're trying to work with them on this situation. It's their highway and you want

a safe situation, you don't know about distractions, you don't know about flashing lights.

Mayor **Hall** I remember now, would you like to amend your motion?

Councilor **Spaulding**: No

Mayor **Hall** To add subject to ODOT approval?

Councilor **Spaulding**: No

Mayor **Hall**: Alright

Councilor **Richter**: I would like to amend the motion to add ODOT approval

Councilor **Spaulding**: It's going to happen—

Councilor **Martin**: I'll second.

Carole **Connell**: You're supposed to vote on the first motion.

Mayor **Hall**: We're supposed to vote on the first motion, we'll vote on the first motion. It's been motioned and seconded. All those voting aye all in favor:

Councilor **Spaulding**: Aye

Mayor **Hall**: Nay

Councilor **Meeker**: Aye

Councilor **Richter**: Aye

Councilor **Richter**: Aye

Mayor **Hall**: I guess we're not adding subject to ODOT approval. Okay.

Recorder **Blanchette**: I need to know who voted, is it 4:1?

Councilor **Martin**: That's for ODOT approval, right?

Mayor **Hall**: No

Recorder **Blanchette**: No

Carole **Connell**: No

Mayor **Hall**: Alright, so the next question is, can we do a conditional use permit subject to ODOT's approval? Do a whole new motion?

Carole **Connell**: Well you just passed a motion without ODOT's approval.

Councilor **Richter**: We can do the variance without ODOT's approval—I mean with ODOT's approval.

Carole **Connell**: That's the internal illumination. That does not make any sense because ODOT has to approve the sign hanging over their right-of-way first. And then the lighting is a separate motion.

Councilor **Martin**: So, we still have to have ODOT's approval to hang the sign. I think the applicant is going to make the point that they can't put it up anyway if ODOT doesn't give them a permit. They don't have to follow this.

Mayor **Hall**: Alright, let's move on. So, the motion has been carried for the conditional use permit for the message sign.

Carole **Connell**: The second part is for the sign variance.

Mayor **Hall**: Yup, sign variance.

This has no conditions attached to it. Yes or no on the internal illumination. That is the question.

Mayor **Hall**: Alright, is there a motion to approve the sign permit for a variance for an internally illuminated sign?

Councilor **Richter**: I make a motion that we approve the sign variance for the internal illuminated.

Councilor **Spaulding**: And I second that.

Motion has been made by Councilman **Richter**, seconded by Councilman **Spaulding**. Any further discussion? (None heard). All those in favor:

Councilor **Spaulding**: Aye

Councilor **Martin**: Aye

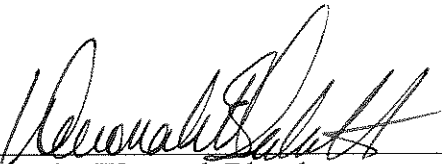
Mayor **Hall**: Aye

Councilor **Meeker**: Aye

Councilor **Richter**: Aye.

Mayor **Hall**: All opposed: (none heard). Motion passed unanimously. Alright. Let's see this hearing is now adjourned at 7:48PM.

  
\_\_\_\_\_  
Mayor Tony Hall

Attest:   
\_\_\_\_\_  
City Recorder Wenonah Blanchette