

BILLBOARDS *in the* DIGITAL AGE

UNSAFE

AT ANY SPEED

IMAGINE DRIVING along a twisting, two-lane Alabama road at night. As you slow for a curve, suddenly an enormous television screen pops into your field of vision, temporarily blinding you before flashing an ad for an insurance company.

The glaring lights of this particular sign, slapped up in suburban Vestavia Hills, blindsided city zoning officials as well. They had unknowingly given entrée to digital billboard technology when they approved what appeared to be a routine application to add lighting to a sign grandfathered in years ago. The application made no mention of changeable messages and gave no indication it would transform an old, static board into a giant vehicle for digital TV-like images.

Police officers immediately complained the board posed a major safety hazard. Neighbors complained about the glaring lights. Lamar Advertising Company, which owns the board, claimed they'd made the changes in "good faith."

Anyone who has been following the digital-billboard movement may recognize that argument as a popular tactic employed by an industry that finds it easier to ask localities for forgiveness than permission. It's one of many strategies being used to bring digital technology to as many cities and towns as possible, before localities have a chance to explore the implications of the new technology, update their sign ordinances, or ban digital signs outright.

"There's a full-court press going on at the national, state, and local level, being waged by Lamar, Clear Channel, and CBS Outdoor," said Bill Brinton, an attorney specializing in sign law and a member of the board of Scenic America. Lobbyists are pushing state legislators to pass bills that clear the way for LED (light-emitting diode) signs on state and federal roads, and the industry is pressuring state departments of transportation to rewrite regulations to allow them to transform static signs into digital boards. And in cities and counties across America, they are pressing for looser sign ordinances or simply installing the new technology without permission to do so.

"For in-your-face results that won't end in a restraining order, out-of-home is the only way to go."

www.lamaroutdoor.com

Digital signs are far more of a threat than their predecessors, said Kevin Fry, president of Scenic America. They're brighter, which makes them visible from far greater distances; they're much more distracting, because of their brightness and because the messages are constantly changing; they're often taller than regular boards, giving the appearance of large, plasma-screen TVs; and they're substantially more expensive to remove, so localities without amortization laws could find themselves unable to afford taking them down. This would be especially true for signs along federal-aid highways where the use of amortization is prohibited by the Highway Beautification Act.

Despite higher installation costs, the profitability of digital boards provides a powerful incentive for companies to put up as many as possible. Clear Channel Outdoor spent \$3.5 million converting seven static boards to digital in Cleveland, but watched revenue jump from \$300,000 to \$3 million in the network's first year, according to Mark P. Mays, Clear Channel's CEO.

That's because digital boards allow companies to sell ad space to 10 times as many clients as static ones; most signs change messages every six seconds. They also allow advertisers to change content several times a day or week, and unlike the static boards, which require contractors to change messages manually, digital boards allow operators to change content from remote locations in a matter of seconds, with just a click of a mouse.

Lamar Advertising boasts that it has digital billboards in as many as 44 states. Clear Channel, the world's largest outdoor advertising company, is similarly upfront about its goals for spreading digital technology. In a November 2006 press release announcing the launch of multi-sign digital networks in Milwaukee and Tampa, Clear Channel Outdoor Global President Paul Meyer put it bluntly: ▶

DIGITAL AGE

continued

"New digital technologies provide us with the capability to execute both general market and targeted advertising campaigns that *consumers can't mute, fast forward or erase,*" he said. [Emphasis added.]

When digital comes to town, local governments are often caught off guard. As was the case in Vestavia Hills, billboard owners are not always upfront about what they are doing, and the technology may be installed without notice.

But in a rare victory for billboard opponents, the Vestavia Hills Board of Zoning Adjustment (BZA) ordered Lamar to turn off the lights and shut its board down—at least until they could hold a hearing for a zoning variance. The board ruled that the switch had been made under "false pretenses." Had Lamar asked for permission to add digital animation, the board likely would have said no, particularly for that location, zoning officials said. *In fact, Vestavia Hills' new sign ordinance, which was under consideration at the time, would outlaw this kind of sign entirely. The BZA later denied the variance request, and the billboard company filed a lawsuit which is now in the county court system. In the meantime, the digital board has been covered with a traditional sign. A permit request to install a digital face on the other side of the sign was denied.*

City officials in several Minnesota communities were likewise surprised last year when digital billboards began to appear on Clear Channel and Lamar sign structures. In most cases, the companies that leased the signs had sought building permits only to upgrade them, omitting from their applications any indication they planned to hang digital displays on those structures after the upgrades. Their chosen locations included communities with some of the strongest billboard prohibitions.

Clear Channel's strategy backfired, especially in Minnetonka, which for more than 41 years has carried a prohibition on illuminated signs that change in color or intensity. The City pulled the plug on the signs, issued stop-work orders, and then defeated an effort by Clear Channel to obtain an injunction. As Judge Lloyd Zimmerman later found, "there is substantial evidence to support Minnetonka's claim that Clear Channel avoided disclosing its plans to deploy LED billboards in the City of Minnetonka, and operated 'under the radar' in order to get the billboards up and running, in order to meet its expansion and profit goals for 2006."

Meanwhile, one Minnesota community after another has adopted a moratorium on digital display devices to temporarily protect themselves against a repeat of the companies' subterfuge.

It's not unusual for billboard operators to erect digital signs even when State-Federal agreements or local ordinances prohibit them, knowing that local enforcement can be difficult due to lax or inefficient enforcement or the prospect of the lengthy and costly litigation that inevitably follows.

The Texas Department of Transportation's State-Federal agreement clearly prohibits digital billboards. In fact, when state transportation officials requested clarification from the Federal Highway Administration (FHWA) to see if they could allow the boards, they were told in no uncertain terms they could not.

"While the technology for LED displays did not exist at the time of the agreement, the wording in the agreement clearly

prohibits such signs," the FHWA wrote to Texas transportation officials in a letter dated March 15, 2006.

Nonetheless, LED signs have gone up in several cities around the state. And in a recent media interview, Clear Channel Communications CEO Mark Mays made it clear his company had big plans for Texas, particularly San Antonio.

"The question becomes how big an opportunity it will be over the next 10 years," he said. "Is it going to be half the signs in San Antonio, is it going to be a quarter of the signs in San Antonio or is it going to be 10 percent?"

"If Texas is going to allow this, the public should be involved," said Margaret Lloyd, policy director for Scenic Texas. "In my judgment, we need at least three things: first, a safety study funded by a neutral, objective party; second, a cost study to determine the taxpayer burden if these signs have to be condemned for highway widenings; and finally, a public opinion survey to determine if citizens want these signs to be erected along their publicly funded highways."



Photo by Leighton Powell.

One state where the industry hasn't been successful in getting what it wants is Kentucky, where state transportation regulations prohibit both Tri-Vision and LED signs.

Tom Fitzgerald, director of the Kentucky Resources Council, said the outdoor advertising industry has tried on several occasions to push through legislation that would allow them to add the new technology, but lawmakers in the House have stood firmly against it. They came closest in 2004, when the industry had someone insert language allowing Tri-Vision signs into a bill that focused on tree-cutting around billboards.

"That bill got through the Senate and into the House before people realized the provision was even in there," Fitzgerald said. But the House leadership killed the bill, as it has done to tree-cutting bills consistently over the years. This year, a bill that would have allowed electronic billboards and Tri-Vision signs was introduced but died in committee.

"We've not really had a toe-to-toe fight on electronic billboards yet," Fitzgerald said. "I believe there are strong public safety issues at stake."

For many outraged citizens, traditional concerns about "litter on a stick," have now been supplanted by the prospect of confronting "PowerPoint on a stick" along their communities' roadways. The advent of digital technology has opened a new front in the battle against blight—with more at stake than ever before.

ARE THEY SAFE?

The billboard industry often tries to win support for its signs by offering to display public service messages. But no amount of these inducements can compensate for the potential public safety consequences of these devices.

BILLBOARDS ARE ADVERTISEMENTS. They are designed to grab our attention, and hold it, just like a television or radio commercial or an ad in a magazine. The latest in billboard technology—the digital or electronic sign—tries to hold our attention even longer by changing messages and pictures every few seconds using a series of extremely bright, colorful images produced mainly via LED (light-emitting diode) technologies.

Common sense tells us that if we are looking at a billboard and not at the road when we are driving, that's a dangerous thing. Brightly lit signs that change messages every few seconds compel us to notice them, much the same way our eyes move to the television screen when it's on. They lure our attention away from what's happening on the road and onto the sign. It's just human nature. And it works. That's why these signs are so incredibly lucrative for the billboard industry.

Proponents of digital billboards say nobody has ever proven that they increase traffic accidents. This statement is only partially true. Some studies have shown a link between digital billboards (as well as static boards) and traffic safety problems, while others remained inconclusive. *Importantly, no objective studies have shown them to be safe, nor have studies been conducted since these signs have started to proliferate.*

What does the research currently say?

■ A Wisconsin Department of Transportation study conducted in the 1980s examined crash rates on I-94 East and West adjacent to the Milwaukee County stadium, after a variable message sign that showed sports scores and ads had been installed. The study found that *sideswipe and rear-end collisions were up as much as 35 percent where the sign was most visible.*

THE TWO SECOND RULE: What Every Community Should Know

An analysis of the *100-Car Naturalistic Driving Study*, conducted by the National Highway Traffic Safety Administration, released in 2006, *showed that taking one's eyes off the road for more than two seconds for any reason not directly related to driving (such as checking the rearview mirror) "significantly increased individual near-crash/crash risk."*

Are electronic signs especially attention-getting?

"Nothing's as eye-catching as an electronic LED display. The brightly-lit text and graphics can be seen from hundreds of feet away, drawing the attention of everyone within view."

Source: Voiceover narration of Trans-Lux promotional video (www.impactmovie.com/trans-lux)

What factors make drivers likely to look at an electronic sign for more than two seconds at a time, and therefore put themselves and others at risk?

- They are extremely bright and are designed to be visible in bright sunlight and at night. The eye is drawn to them far more strongly than to traditional illuminated billboards. They are designed to be eye-catching, and they are.
- They can be seen from great distances, even as far away as six-tenths of a mile, making them distracting even before they begin to communicate their messages.
- The images rotate every 6–10 seconds and drivers will naturally look at the sign long enough to see what comes up next. There may be as many as 10 messages in the rotation.
- The Florida Department of Transportation's official position is that it takes a minimum of six seconds to comprehend the message on an electronic billboard, which is already three times the safe period for driver distraction.

Will people stare at a changing sign to see what's next?

"The reason [electronic] advertising works is because it is impactful. If you see people parked at the stoplight watching it, you see their eyes waiting for it to change."

Source: Clear Channel Outdoor Des Moines division president Tim Jameson, quoted in the *Des Moines Business Record*, Feb. 4, 2007

- Because the messages change daily or even hourly, even commuters who pass by the signs every day will look to see what's new. Traditional signs become visual background noise for local drivers, and thus have less safety impact; but electronic signs never blend into the background.
- Younger drivers may be more easily distracted by electronic media, and older drivers may require longer viewing times to comprehend often confusing, elaborate, and colorful images.

See Additional Resources on the back page for links to the studies referenced above.

"No empirical studies are necessary for reasonable people to conclude that billboards pose a traffic hazard, since by their very nature they are designed to distract drivers and their passengers from maintaining their view of the road."

—*Major Media of the Southeast v. City of Raleigh*, 621 F.Supp. 1446, 1450 (E.D.N.C. 1985), *aff'd*, 792 F.2d 1269 (4th Cir. 1986), *cert denied*, 479 U.S. 1102 (1987).



ADDITIONAL RESOURCES

A definitive study on the safety of electronic billboards has yet to be done, but the following documents contain information that is important to the current debate. The research papers referenced below are available as PDF files at the Scenic America website at www.scenic.org/billboards/electronic. You will need to have the Adobe Acrobat Reader on your computer to read them.

The Impact of Driver Inattention on Near-Crash/ Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data

*April 2006, National Highway Traffic Safety Administration,
U.S. Department of Transportation*

A major study of driver inattention, primarily involving distractions inside the car, but finding that any distraction of more than two seconds is a potential cause of crashes and near crashes.

Traffic Safety Evaluation of Video Advertising Signs

*Transportation Research Record: Journal of the Transportation Research Board,
No. 1937, 2005*

A study of electronic signs in Toronto, which finds that "On the basis of the eye fixation study and the public survey data, it is apparent that video advertising can distract drivers inappropriately and lead to individual crashes," but calls for additional research due to other conflicting data.

Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction

*September 11, 2001, Federal Highway Administration,
U.S. Department of Transportation*

A summary of existing research (as of 2001), on the subject of the safety of electronic signs and a call for additional studies.

Milwaukee County Stadium Variable Message Sign Study: Impacts of an Advertising Variable Message Sign on Freeway Traffic

December 1994, Wisconsin Department of Transportation

Study of the dangers posed by an electronic sign in Milwaukee along I-94, that concluded that "It is obvious that the variable message sign has had an effect on traffic, most notably in the increase of the side swipe crash rate."

**BE SURE TO VISIT THE SCENIC AMERICA WEBSITE AT WWW.SCENIC.ORG
FOR ADDITIONAL AND UPDATED INFORMATION ABOUT THIS AND OTHER SIGN CONTROL ISSUES.**



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Scenic America is the only national nonprofit organization dedicated solely to preserving and enhancing the scenic character of America's communities and countryside. Through national advocacy efforts and technical assistance services, local and national projects, and the support of its 11 state affiliates, Scenic America fights to reduce billboard blight and other forms of visual pollution; preserve the scenic character of the nation's highways and byways; promote context-sensitive highway solutions; ensure the mitigation of the visual impact of cell phone towers and other intrusions in the landscape; and promote scenic easements and other strategies to protect open space and preserve irreplaceable scenic resources.

Change is inevitable. Ugliness is not.

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- A 1998 FHWA memo noted that digital signs raise “significant highway safety questions because of the potential to be extremely bright, rapidly changing, and distracting to motorists.”
- A 2001 FHWA review of billboard safety studies found that “the safety consequences of distraction from the driving task can be profound.”
- A 2003 report titled External-To-Vehicle Driver Distraction, by the Development Department Research Programme in Scotland, found that “there is overwhelming evidence that advertisements and signs placed near junctions can function as distracters, and that this constitutes a major threat to road safety.” It further noted that, “Young (aged 17–21) drivers are particularly prone to external-to-vehicle driver distraction.”

If other studies have remained inconclusive, there is good reason, researchers say. First, many of the studies have been funded, and directed, by the billboard industry (see sidebar). Second, there are inherent difficulties in conducting traffic safety research.

Jerry Wachtel, an engineering psychologist with 25 years of experience in the field of driver behavior, said too many variables contribute to traffic accidents to make it possible to prove causality from a single source. “Most accidents are not caused by one thing, but multiple things happening at once,” he said.

According to Wachtel, digital billboards undoubtedly contribute to the growing number of distractions that vie for a driver’s attention today. Cell phones, navigational systems, and DVD players constitute in-car distractions, while billboards, especially those that change messages, constitute external distractions. Both, he said, contribute to traffic safety hazards that he believes are growing increasingly worse.

“The outdoor advertising industry in my opinion is one part of the problem, but a significant part,” he said.

Wachtel co-authored a report for the Federal Highway Administration back in the 1980s, updated in 2001, which concluded that “some studies showed a clear relationship between the presence of outdoor signs and driver error or accidents and other studies hadn’t shown anything.” It recommended government-funded research into the issue, but the research was never funded.

The Federal Highway Administration in January 2007, however, announced that it will initiate a study to examine the safety issues related to electronic signs. Details on the scope and timing of the research have not been released, but results are not expected until 2009.

Court Rules Virginia Tech Billboard Safety Study Lacks Credibility

To overcome the argument that billboards are a distraction to drivers, the outdoor advertising industry often points to a study it says “definitively” shows the signs create no safety risks whatsoever. This study, conducted by Dr. Suzanne Lee of the Virginia Tech Transportation Institute, often pops up in outdoor advertising litigation, or may be given to lawmakers in hopes of persuading them of the supposed safety of highway signs.

This study is not only inherently flawed and biased; its uselessness was noted by a federal district court judge in New York. In *Nichols Media Group v. The Towns of Babylon and Islip*, the court held that “the Lee Study is so infected by industry bias as to lack credibility and reliability.” It based its opinion on several factors:

- “The study was funded by the Foundation for Outdoor Advertising Research and Education, a close affiliate of the Outdoor Advertising Association of America.”
- “Trial testimony revealed that representatives of the OAAA were intimately involved in the design and conduct of the Lee Study.”
- “The Lee Study has been neither widely disseminated nor subject to peer review. Nor have the conclusions of the Lee Study been replicated in any other study.”

Don’t let industry lobbyists use this discredited study as “proof” that billboards are safe. The only thing it proves is how much money the billboard industry is willing to spend making bogus arguments.

Digital signs are often the brightest objects in the landscape, especially at night. They dominate the field of view and offer dangerous distractions for the traveling public.

25% Off Sale Going on Now
Champion 798-3030
 Windows • Siding • Patio rooms

ARE THEY LEGAL?

THE FIRST STEP in fighting a digital billboard that has been erected or proposed in your locality is to find out whether your state's agreement with the Federal Highway Administration (FHWA) already prohibits them. Many do. While that hasn't stopped the billboard industry from erecting the signs anyway, it can give you some powerful ammunition with which to challenge them and argue for their removal.

Flashing, Intermittent, or Moving Lights

On July 17, 1996, the FHWA issued a memorandum clarifying the status of "changeable message signs." It noted that many State-Federal agreements would allow for changeable messages such as the Tri-Vision signs that use rotating panels or slats. However, it also noted that, even if Tri-Vision signs were allowed, the agreement probably wouldn't allow LED signs. "In nearly all States, these signs may still not contain flashing, intermittent, or moving lights," the memo states.

A 2006 letter to Texas Department of Transportation officials goes even further. If the state agreement prohibits signs "illuminated by any *flashing, intermittent or moving light* or lights...including any type of screen using animated or scrolling displays, such as LED (light-emitting diode) screen or any other type of video display, *even if the message is stationary*," then "the wording in the agreement clearly prohibits such signs," it states.

Nonconforming Signs

Another industry trick is to convert a static, nonconforming sign to an LED sign and claim that the change is not an "improvement," and therefore not prohibited. The 1996 FHWA memo clearly states that this is not permitted, as "applying updated technology to nonconforming signs would be considered a substantial change and inconsistent" with federal regulations.

A July 1998 FHWA memo offers further guidance. It declares that signs with animation or scrolling messages should be considered nonconforming signs and notes that they raise "significant highway safety questions because of the potential to be extremely bright, rapidly changing, and distracting to motorists."

Additionally, nonconforming signs on state or local roads not covered by the Highway Beautification Act are often governed by local ordinances that do not allow them to be substantially altered or expanded either. Local jurisdictions have denied permits for conversion to digital technology, although some of those denials have been challenged.

Local cities, towns or counties may usually impose stricter regulations on outdoor advertising than the state or federal government does.

Can Local Governments Prohibit Signs Allowed in State-Federal Agreements?

Yes, in almost all states. Local cities, towns or counties may usually impose stricter regulations on outdoor advertising than the state or federal government does. The State-Federal agreements govern signs on interstate and federal-aid highways. Localities may also create stricter standards for state and local roads.

The First Amendment

Often, billboard industry representatives try to convince local governments that if they ban billboards, they will be violating the First Amendment right to free speech. *This is not true.*

In almost all states, localities may ban billboards outright, or may restrict the size and types of billboards that are allowed. The only thing they cannot restrict is what they say.

"It's only when you get into banning content that you get into trouble," said Eric Kelly, an attorney and professor of urban planning at Ball State University, who often helps local cities and towns draft or revise their sign ordinances.

Kelly recommends that local governments also make any rules regarding sign technology consistent between on-premise and off-premise signs to avoid potential litigation that might charge they are giving preferential treatment to one type of business over another. But that doesn't mean that you have to allow digital billboards if you allow banks to show the time and temperature, or gas stations to regularly change the prices posted on their signs, he said.

Allowing signs to change messages no more than once per minute, or restricting the size of the sign to no more than 30 square feet, allows for time and temperature signs, gas stations and church message boards but essentially bans Tri-Vision billboards and digital message boards that show new ads every six or eight seconds.

It also helps, said Kelly, to include language in the ordinance explaining why the restrictions are there. If the ordinance states that its mission is to promote safety and aesthetics, and ties this goal back to goals in the local comprehensive plan, it strengthens the ordinance and helps protect it from legal challenges.

Follow this sign's instructions and you may regret it. By taking extra seconds to watch the sign change (and change and change), drivers place themselves and others in potential danger.



2

ELECTRONIC
SIGNS

Photo by William Jonson

TALKING POINTS

Studies show drivers who take their eyes off the road for more than two seconds are far more likely to suffer a crash or near crash. Digital billboards often attract drivers' attention for more than two seconds because they are extremely bright and colorful and employ messages that change frequently.

Most images change every six seconds because that's how long it takes to comprehend the message. That's also three times longer than it takes to cause an accident. Motorists stay focused on the sign to see what's next. Many signs have up to 10 different messages in rotation.

Commuters can learn to tune out traditional boards because the message doesn't change. But digital signs change messages frequently, creating fresh, daily distractions. Young and elderly drivers are particularly susceptible to distractions, making these signs especially problematic for drivers already at higher risk.

Local and state governments should enact moratoriums on digital signs until definitive safety research is concluded. Severe liability issues could ensue if governments approve signs that are later proven to be unsafe. The costs of buying out those signs would be enormous.

Many state agreements with the Federal Highway Administration prohibit digital billboards but are not being enforced or are being interpreted to favor the new signs. The FHWA declared in 1996 that if a state agreement bans boards that contain "flashing, intermittent, or moving lights," it effectively bans digital billboards.

Banning digital billboards does not violate the First Amendment right to free speech. Most local jurisdictions have the right to enact strict bans on digital signs in spite of state rules that may permit them.

Digital billboards can often be seen from more than a half-mile away, uselessly and adversely affecting visual quality long before the viewer is close enough to read the sign. This violates the spirit of requirements regarding the spacing of signs along the highway.

State and local governments should reevaluate their rules related to on-premise signs, which often permit electronic signs using highly distracting full-motion video, in spite of being located adjacent to highways. On- and off-premise electronic signs should not be regulated differently when safety is at issue.

Donated ad space and Amber Alerts cannot compensate for the threat to public safety or the aesthetic harm done by digital signs. Alternatives exist for emergency communication along highways.



Bright electronic signs with complex, changing messages contribute extra distractions to motorists already confronted by visually cluttered environments. How long would it take you to comprehend the messages on this sign? More than two seconds?

A Word of Caution for Local and State Governments

Local and state governments should be wary of approving electronic signs, pending the outcome of definitive objective studies regarding their safety. If research proves these signs to be unsafe, governments could face significant liability and negligence issues if accidents occur in the vicinity of the signs. Additionally, if the signs must later be removed because they are deemed a hazard, the cost of compensating sign owners would be enormous, particularly along federal-aid highways where the Highway Beautification Act requires cash compensation and prohibits compensation via amortization.

There is no objective evidence that these signs are safe. To protect themselves from potentially catastrophic costs in the future, governments at all levels should enact immediate moratoriums on these signs until it is known for sure whether or not they pose a hazard to the motoring public.

WARNING SIGNS: Industry Tactics to Watch Out For

Billboard owners often lament on industry websites that current regulations and public sentiment present their biggest hurdles to mass deployment of digital signs. But in addition to the industry's normal political influence, it frequently employs some common strategies with local officials for overcoming those roadblocks. Here is what your community can expect to encounter if permission is sought for electronic signs:

Amber Alerts and Other Public Service Announcements

When Clear Channel installed a network of 10 digital billboards in Albuquerque, part of its deal with the state was that it would run Amber Alerts and other emergency messages for free. It made the same deal in Cleveland. "Strategic relationships with the community are important," a company representative told the *Albuquerque Tribune*.

But many cities and states don't need digital billboards to run Amber Alerts. Existing government-operated digital highway signs, which have been in place for many years, as well as television and radio, already provide a system for emergency communication.

Nonprofits and police departments should not allow themselves to be used as justification for the visual degradation of their community. No amount of donated ad space or Amber Alerts can compensate for the aesthetic and safety damage done by these signs.

Let's Trade

To erect seven digital billboards on highways entering Cleveland, Clear Channel took down several hundred billboards elsewhere in the city.

This might look like a good deal, but the truth is most of the boards taken down in these swaps are nonconforming or unprofitable signs anyway. Billboard companies are willing to make the swap because

DON'T TAKE OUR WORD FOR IT...

How Big is the Issue?

Electronics industry analyst, iSuppli, "predicts that by 2010, 75,000, or 15 percent of total billboards in the U.S., will be digital displays, up from a mere 500 digital billboards, or 0.1 percent, of all billboards in 2006."

Source: "Channel Viewpoint: Consumer electronics—just the sideshow to the advertising at CES," *eChannelLine Daily News*, January 9, 2007

What's Bad for You is Good for Them

"Nobody likes being stuck in a traffic jam, but Clear Channel executives are coming to love them. 'Hey, traffic is a good thing,' quips Clear Channel Communications Inc. CEO Mark Mays. 'People listen to more radio, and they have more time to look at billboards.' Now that's a captive audience."

Source: *Business Week Online*, June 20, 2005

And You Thought You'd Never Get that Big-Screen TV

"As one drives along Hwy. 101 between San Jose and San Francisco, there are many billboards that vie for your attention. But just as you near San Carlos, it is tough if not impossible to miss one particular two-sided billboard.... Its excellent positioning allows it to be seen by traffic as far

the digital boards are so much more profitable, and because they would otherwise be unable to erect them, since many localities have limitations on erecting new boards. And once the digital signs go up, they become cost-prohibitive to remove should the government later need to buy them out due to road improvements, commercial development, or if the signs are proven to be hazardous.

Governments should not fall for offers to take down old signs in exchange for permitting new digital ones. Whatever perceived benefits accrue from such deals don't outweigh the introduction of devices that will potentially lead to traffic deaths and injuries and degrade the visual character of the community. Further, in the absence of a complete moratorium on new signs, the old signs will inevitably be replaced somewhere within the jurisdiction.

When an Improvement is Not an Improvement

These days, governments should be wary of seemingly innocuous applications to "improve" old signs or "add or upgrade lighting," which may hide a plan by a sign company to replace a static billboard with a digital sign. Installing digital technology over a regular board is not an update or "improvement," but should be treated as construction of an entirely new sign.

Some sign companies, in their eagerness to convert their signs, simply ignore rules and regulations and make changes without permission, hoping to intimidate local governments with the prospect of long and expensive legal battles or counting on a lack of political will to enforce the law.

What Does the Public Think?

Billboard companies often claim that digital signs are very popular with the public, but never cite data to back up the claim. Perhaps that's because research shows the opposite.

A 2005 survey conducted in Arizona found that by a margin of 73 percent to 21 percent, citizens opposed laws that would allow electronic billboards on the state's highways. When the 21 percent favoring digital signs were then asked if they would still support the signs if they "might distract drivers," the opposition to electronic signs grew to 88 percent.

The survey of 682 adults had a statistical precision of plus or minus 3.8 percent.

as one kilometer from either side.... But then you couldn't miss a 34 ft. x 19 ft. Hi Definition TV on the side of the road that stands almost 40 feet above the ground, could you? And that's exactly what SiliconView's LED billboard looks like, a giant TV."

Source: *Outdoor Today*, January 2005

If You Build It, They Will Stare... for More Than Two Seconds

"[Electronic] Billboard scheduling is based on a 'repeating loop' of advertising messages. The SiliconView loop contains six different messages, each displayed for five seconds with a one-second pause between each message. Thus, one message loop lasts approximately 36 seconds. The loop continuously repeats on a 24-hour basis, which gives each advertiser at least 2,880 viewing exposures per day.... A factor that determines dwell time, or the amount of time a commuter sees a billboard, is the vehicle's speed approaching the board. *At 65 mph, a Highway 101 driver sees one full rotation of the SiliconView billboard. During peak hours, when traffic slows, a driver could see three to five loops.*" [emphasis added]

Source: "Pixels and Prints: Outdoor's Future Fusion," *Signs of the Times*, August 2003

TC



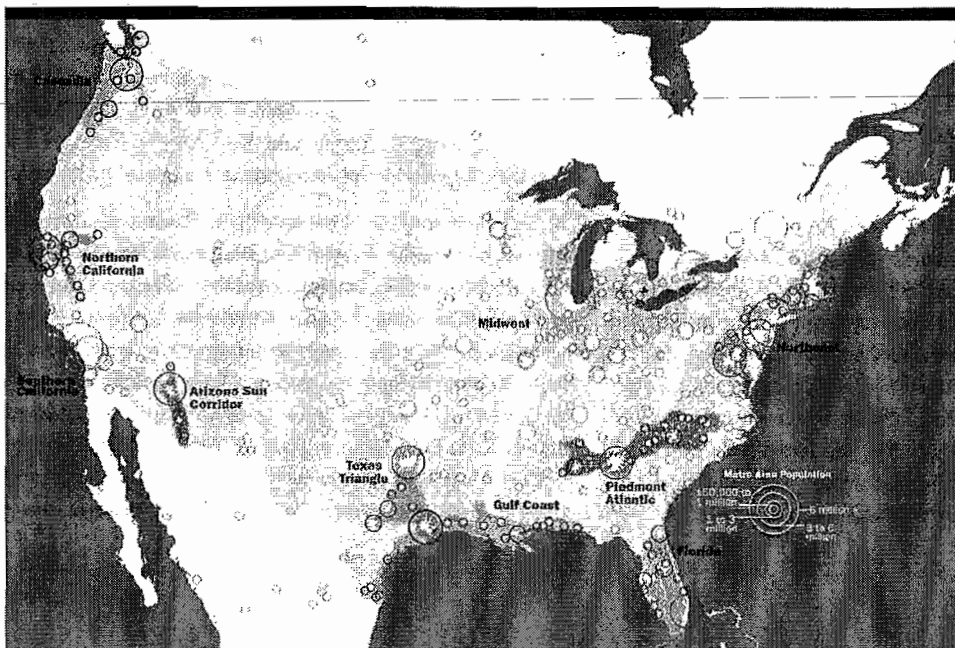
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Anticipating U.S. Population Growth: Regional Planning Becomes "Mega" By Petra Todorovich America is poised for a population boom. Unlike other industrialized nations, where population has leveled off or faces decline, the U.S. is projected to grow by over 40 percent to reach almost 420 million by the year 2050, according to the U.S. Census. But the growth will not occur evenly across the country. Researchers at the University of Pennsylvania have estimated that over 70 percent of the population growth and over 80 percent of the economic growth will take place in 10 or more emerging "megaregions"—networks of metropolitan areas hundreds of miles wide that share ecosystems and topography, draw

continued on page 2

These 10 megaregions are changing the approach to regional planning in America.



Regional Plan Association

continued from page 1 workers from overlapping labor markets, and are linked by highways, railways, business relationships, and shared cultural affinities.

The relationships that define megaregions—the flows of people, goods, and services that power America's economy—do not correspond to political boundaries or administrative regions. Most of the megaregions encompass several states and some span national boundaries, including the emerging megaregions of Cascadia (Portland–Seattle–Vancouver), Southern California (Los Angeles–San Diego–Tijuana) and the Great Lakes (Milwaukee–Chicago–Detroit–Cleveland–Toronto). This mismatch between the scale at which economic interactions occur, and the level of governance at which transportation systems and land-use planning decisions are organized, provides the impetus for megaregional planning.

To address the challenges and the opportunities of America's projected growth and the emergence of megaregions, a group of regional planners, civic leaders, and researchers have

The committee is acting as a clearinghouse for megaregional research and planning efforts across the country, and as a resource to local and regional planners, public officials, and business leaders engaged in megaregional collaborations. It will foster voluntary partnerships between multiple states and local governments to address common policy objectives and establish working relationships in megaregions. The committee's long-term goal is to engage the federal government in developing a megaregional framework for major transportation infrastructure systems and land-use planning in America.

The committee is staffed by Regional Plan Association (RPA), a nongovernmental planning organization based in New York City and founded in the 1920s to create the Regional Plan for New York and its Environs, which laid out the first long-term, physical plan for the New York–New Jersey–Connecticut region. In 1969, as part of a series of reports that comprised The Second Regional Plan, RPA released "The Region's Growth," which documented the urbanization of the Northern Atlantic Seaboard. This report built on Jean Gottman's seminal 1961 study, *Megalopolis: The Urbanized Northeastern Seaboard of the United States*, which first recognized the intense network of urbanization that stretches from Boston to Washington, D.C. Today, in addition to a program of research, planning, and advocacy for the Tri-State region, RPA is staffing the National Committee for America 2050 and moving forward with a program to engage civic and business leaders around issues facing the Northeast, such as passenger rail service, goods movement, growth management, and the preservation of key environmental landscapes and water supply areas.

The proof of concept for megaregions is whether effective partnerships can be formed at the megaregional scale to address challenges that span local, state, and regional boundaries. To achieve success, these partnerships should be motivated by mutual self-interest and shared policy concerns, not by a top-down mandate from the federal government. Already, there are a few examples of partnerships emerging at this scale. In Southern California, the associations of governments of Los Angeles, San Diego, and Kern County have collaborated on a Southern California Megaregion Case Study that outlines common challenges in the areas of land use, transportation, environmental quality, and social equity. They are now working together to promote investments in goods movement systems to manage the increasing traffic generated by the Ports of Los Angeles and Long Beach in their megaregion. They have also met with the state government of Baja Norte, Mexico, to address crossborder truck traffic.

In the Southeast, efforts to promote collaboration in the Piedmont Atlantic Megaregion (Birmingham–Atlanta–Charlotte–Raleigh–Durham) were launched in January with a major conference in Atlanta that convened southeastern mayors, state legislators, and Sen. Johnny Isakson (R-Ga.) to address environmental sustainability, regional transportation, growth concerns, and economic competitiveness. The host of this conference, the Center for Quality Growth at Georgia Tech, will follow up with research on how to finance transportation investments at the megaregional scale. Other efforts are under way in the Texas Triangle (Dallas–Fort Worth–Austin–San Antonio–Houston), the Great Lakes, Central Florida, the Arizona Sun Corridor, Cascadia, and Northern California to study their megaregions and convene megaregional policy makers and stakeholders.

The seeding of local initiatives to convene leaders of adjacent regions to work together on issues of common concern is at the heart of the National Committee's work in the near term. Building local acceptance for the existence of megaregions and fostering working relationships among adjacent metropolitan areas will lay the groundwork for implementation of major megaregional infrastructure systems and collaborations. Over the long term, megaregions may provide a framework for shaping federal programs of infrastructure and aid, such as future surface transportation bills and the reorganization of Amtrak. APA's 2007 National Planning Conference in Philadelphia will feature a special track on "Megaregions, Sustainability, and Transportation," providing a forum for further discussion of the role of megaregions in shaping national land-use policy. □



ESA Satellite Image Gallery

The Northeast megaregion is defined by landscape elements and the stretch of urbanized land that extends from Boston to Washington, D.C.

formed the National Committee for America 2050. The committee is preparing a national strategy for America's growth and prosperity, motivated by the need to address transportation, economic, and land-use systems that span regional boundaries. The America 2050 strategy identifies megaregions as the appropriate scale at which to organize investments in multimodal transportation systems, protect region-shaping environmental systems, and strengthen America's competitiveness in the global economy. (The America 2050 website is www.America2050.org.)

The Billboard Shakedown Scheme

By William Brinton



Over the past few years, there has been a sharp spike in the number of lawsuits filed against municipalities seeking to strike down the entirety of a municipal sign code. These lawsuits are part of a strategy to force the erection of new billboard structures in locations where they are not otherwise allowed. The success of such schemes can undo years of work on the part of citizens, planners, and elected officials who have spent countless hours in formulating land development regulations to make their communities more attractive places to live, work, and visit.

The billboard developers have structured their arguments around multiple First Amendment theories. One federal judge described a series of cases as an attempt by billboard companies to "transform the proverbial First Amendment shield, intended to protect noncommercial speech, into a sword that assures their commercial well-being."¹

Billboard structures, as well as permits to erect them, have become increasingly valuable. Billboard industry experts have recently testified that billboard structures will trade in the marketplace based upon a multiple of monthly gross revenue, often pegged at around 70 times monthly gross revenue. The monthly revenue will depend upon location and traffic counts from adjoining roadways. Assuming that the monthly gross revenue is just \$6,000 for a double-sided structure (\$3,000 per side), a single billboard structure may be worth \$420,000. The cost to erect a modern steel monopole structure may run approximately \$80,000 or more depending upon height and components; therefore, a permit to erect such a structure under the foregoing assumptions may be worth \$340,000.

Due to the financial rewards, it is easy to understand why such unwanted structures have attracted

the attention of those who would use the courts in what amounts to personal enrichment schemes. The goal of these suits appears to be to strike an early settlement to secure permits for a small percentage of the total number of billboard structures applied for. The financial rewards could be in the millions of dollars.

Rather than free speech issues, these lawsuits are really about erecting giant structures that will dominate a landscape for generations. According to a recent government study, modern steel structures can have a normal lifespan up to 70 years.² Billboards can adversely impact community character and roadside beauty in many ways. There is now a push by the billboard industry to secure view zones for billboards along roads and highways that prohibit the use of public land for tree planting. Most courts have been unaware that it is more than just the billboard structure itself that can have an adverse aesthetic impact on an area.

What can planners do to thwart these shakedown schemes?³

- A surprising number of local governments still have not codified their practice of allowing noncommercial copy to be substituted for commercial copy. The adoption of

a "substitution clause" can protect a local government against allegations that its sign code unconstitutionally favors commercial copy over noncommercial copy. As a practical matter, the absence of a substitution clause does not mean that noncommercial copy is disfavored and nearly all jurisdictions do not prohibit a change of message from commercial copy to noncommercial copy, but a challenger invariably argues that the absence of a substitution clause is precisely what must be inferred.

- Most sign regulations have not been reviewed or updated in many years. Some jurisdictions have adopted sign regulations from other communities without a critical look at many of the problematic provisions that may be contained therein. The tangled web of published decisions in this area left one federal judge to comment that it is

Substitution Clause: Notwithstanding anything herein to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure.

nearly impossible to craft a constitutional ordinance.⁴ Every jurisdiction should periodically seek a legal review of their codified sign regulations. Once every five years is recommended.

- When adopting or readopting sign regulations, a comprehensive

preamble may provide important support if and when a court seeks to understand the context of a community's sign regulations.

- A comprehensive description of the purposes, intent, or goals of a sign code is similarly important in the face of a legal challenge. Several published judicial decisions have illustrated good examples of such clauses.⁵ Take a look at your sign regulations to see if the purpose/intent/goals section is comprehensive.

- Billboards are a business unto themselves. Many sophisticated jurisdictions with zoning authority will specifically prohibit outdoor advertising as a permissible use in all zoning districts, or will provide that outdoor advertising is a prohibited use in all zoning districts. Alternatively, if billboards are to be allowed within a zoning district as a permissible use, there should be cri-

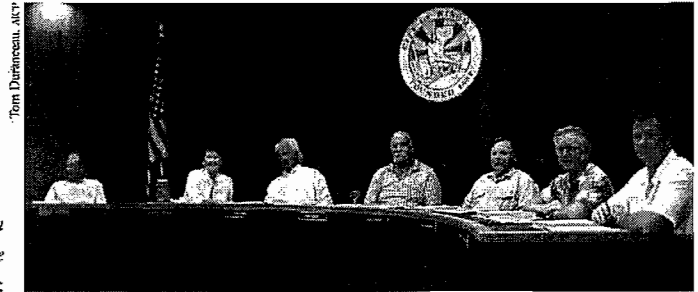
teria for operating outdoor advertising by setting forth height, size, setback, spacing, number, and other content-neutral criteria for outdoor advertising as a limitation on its use.

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Greg Englehardt, Englehardt, Hammer & Associates, Inc.

A Long History of Planning

Kingman, Arizona, Planning and Zoning



The Kingman Planning and Zoning Commission. From left: Mike Schoeff, Dorian Trahan, Jim Cave, Chair Mike Blair, Dave Adams, Jim Chapman, Matt Laudendecker.



Since the city's first plan was developed nearly 125 years ago, Kingman, Arizona, has been looking to the future. The purpose of Kingman's 1882 town site plan was to centralize intensive land uses and return investments to the railroad. By contrast, the city's most recent general plan says its goal is "Balancing the needs of Kingman's growth in a cost-effective and orderly manner, while at the same time maintaining a high quality of life. . . ."

"Our job is to look at what's going to be best for the city not just right now, but down the road," says Mike Blair, chairman of the planning and zoning commission. "We don't always agree with staff and we don't always agree with developers. What we try to agree on is what's in front of us is in everyone's best interest."

Deciding whether or not to approve land-use and zoning proposals has taken an increasing amount of commissioners' time, according to Blair, as Kingman has experienced enormous growth in housing development. "We try to go on a drive-around the week before our meeting," he says. "Seeing a place helps. Sometimes projects fit and sometimes they don't."

Commissioners made numerous site visits over a three-year period as

they helped develop the City of Kingman General Plan 2020. "We met at least once a month, in addition to our regular monthly meeting, and visited each of our six planning areas four or five times to listen to and work with citizens," he says.

"The plan update was required as the result of Arizona's Growing Smarter legislation," says Tom Duranceau, AICP, the city's planning and zoning administrator. The law required not only the approval of the commission and city council, he says, but voters as well. "We got it on the ballot and then did a bunch of presentations throughout the city. In the end, ours passed. Had it not, we would've been stuck trying to figure out why without much to go on."

Kingman has seven commissioners who may serve two three-year terms. Generally, two seats are up for appointment every year. "We use a talent bank system," says Duranceau. "Individuals can go to the city's website (<http://ci.kingman.az.us/pages/depts/cityclerk/boards.asp>) and fill out an application to serve on any board or commission." The council seeks recommendations from current commissioners before holding interviews to fill the seats. Recent changes in the political environment have led to a temporary freeze in appointments. "No one has gone on or off for almost a year," says Duranceau.

The Planning and Zoning Division supports the commissioners. "We

Commission

Kingman derives its character from its contemporary housing and dry-climate landscaping, as well as its historic buildings. Pictured here are the Bonelli House and old courthouse, both built in 1915.



provide background material, comments, staff reports, and information from other public agencies," says Duranceau. Staff members also offer recommendations. "We used to give three or four, a preferred and a few others," he says. "Recently they've said they want a clear yes or no."

Because the city council has the final word on any issue that comes before the commission, a council member attends commission meetings. "It helps to have a liaison who can answer questions about why certain decisions were made," says Blair. Most commission actions appear on the council's consent agenda, he says, "and they go along with our recommendations about 95 to 98 percent of the time."

Occasionally the two bodies part company, as happened with a proposal for a Wal-Mart Supercenter. The commission twice denied a request for a partial rezoning based on traffic concerns. On its second try, the council overturned the commission's decision. "We did what we thought was best for the city, but not everyone agreed," says Blair. "Now the people who wanted it have to live with traffic congestion." □

Anticipating the Boom

Kingman, Arizona, is a city poised for growth despite a recent slackening in the housing market.

"We will eventually be a bedroom community for Las Vegas," says Tom Duranceau, AICP, the city's planning and zoning administrator. When a \$234 million bypass replaces a winding, two-lane bottleneck across the Hoover Dam in 2008, it is expected to cut at least half an hour off the 98-mile commute.

The city's history is replete with booms in housing and commercial growth. The designation of the Old Trails Highway in the 1920s (later Route 66) brought people into the area, as did construction of the Hoover Dam in the early 1930s and activities at Kingman Army Airfield during and after World War II.

Kingman's population grew more than 50 percent between 1990 and 2000—from 13,208 to 20,069. As of July 1, 2005, the planning division estimates a population of 25,860.

By issuing 914 new single-family housing permits in 2005, the city set a record for the third year in a row. Some of the building was speculative, but some of it was fueled by "California refugees," says Duranceau. "We've had an influx of retirees. They sell a house for \$500,000 that they bought for \$50,000 and then come here and buy a really nice home for \$250,000."

The median house price in Kingman rose from \$130,000 to \$230,000 in just 18 months, according to Duranceau. "It's taken a lot of people in the middle- to lower-income brackets out of the housing market."

"Because housing is getting kind of pricey here, apartments are filling up," says Mike Blair, chair of the city's planning and zoning commission. "Our apartments are about 90 percent full."

The commission has begun encouraging more affordable housing, Blair says. "We're promoting infill housing, especially in places that can handle a duplex or a fourplex."

Unfortunately, says Duranceau, higher density development, such as town houses, often meets with community resistance. "There seems to be a concern over the type of buyer these homes would attract," he says. "It's disappointing because many of the sites are located close to schools, fire stations, and commercial areas that residents can walk to."

While Kingman is far from built out, water eventually will become an issue in the subdivision approval process, predicts Duranceau. "Kingman is almost all ground water and we've had bad droughts for several years," he says. The city also must decide how far out to extend city water service. "We'll need to look at things such as whether to extend water out into the community or whether a property should be annexed before providing water," says Duranceau. "Should we accommodate builders on the fringe or let them go it on their own? Which is worse?"

With the most recent development boom behind them and another on the horizon, Duranceau sees it as a time to step back. "We need to look at what's happened and where we want to go so that when the time arrives we'll have some consensus about how to deal with it."

Credibility, Respect, and Power: Sending the Right Nonverbal Signals

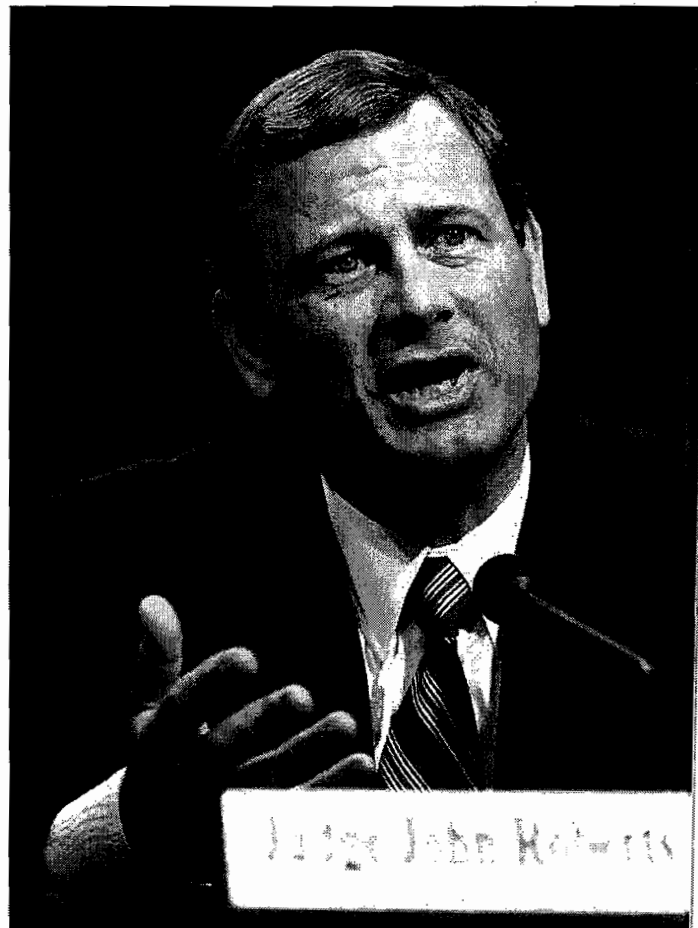
By Debra Stein

Planning commissioners spend a lot of time choosing the right words to avoid sending the wrong message, but it is equally important to monitor the nonverbal communication signals that accompany your words. In fact, research shows that more than 93 percent of communications effectiveness is determined by eye contact, body language, facial expression, and voice quality. When you are trying to send important messages like, "I am telling you the truth" or "I respect you," or when you're establishing the power positions of the parties, the nonverbal signals you send can be even more important than the particular words you speak. Understanding nonverbal communication can help you monitor your own physical cues and understand what other people are telling you, even when they're not speaking out loud. Some of the following suggestions are most relevant in planning commission meetings; others apply to less formal circumstances, when you are still in the role of planning commissioner.

Honestly, Now . . .

People involved in high-tension civic discussions often feel very distrustful, and planning commissioners need to carefully monitor both incoming and outgoing nonverbal signals of honesty. How can you tell if a witness is exaggerating or lying? How can you make sure you aren't inadvertently sending signals of dishonesty? Here are some tips on how to enhance your own credibility and double-check to see if you're really getting the straight story from other people.

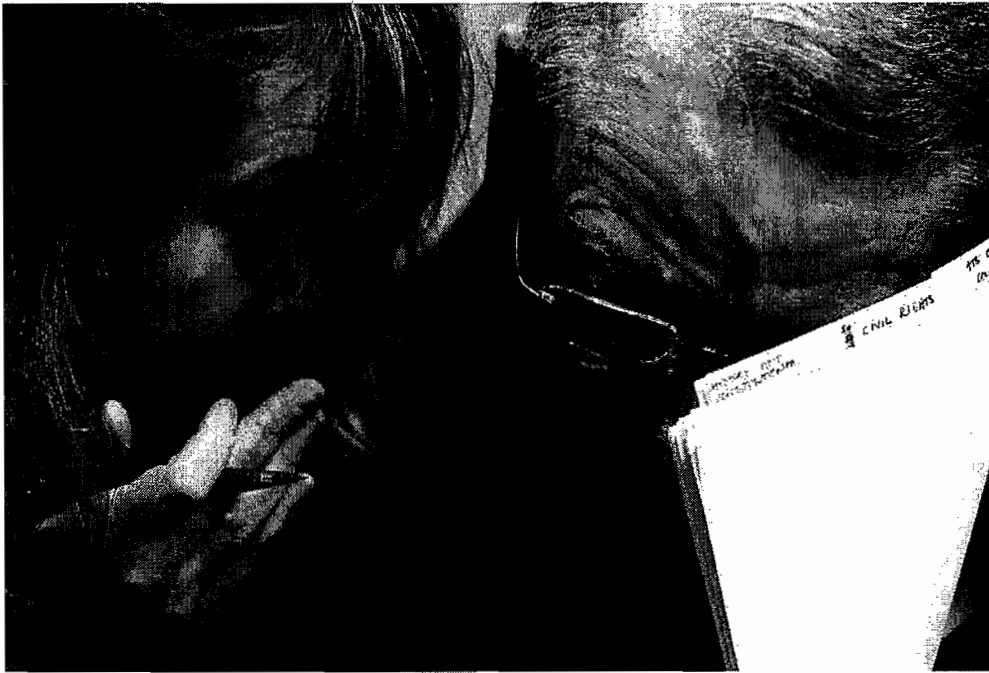
We are very suspicious of people who won't look us in the eye. Speakers rated as "sincere" make eye contact three times more often than "insincere" speakers. For 90 percent of Americans, intensive, personal eye contact means using your right eye to look into the right eye of the listener. Whether you're right-handed or left-handed, chances are that you use your right eye to gather data and use your left eye only for depth perception. To test this theory, use your left eye to look at someone else's left eye . . . feels awkward, doesn't it? Making sincere, respectful eye contact, then, involves using your right eye to look into your counterpart's right eye. Do not stare vaguely at a speaker's nose or forehead, and avoid shifting eye contact between the left and right eyes, which can send messages of aggression or attraction.



John Roberts, now Chief Justice of the Supreme Court, positively reinforced his testimony at his confirmation hearing with forceful, but not domineering, hand gestures.

Maintaining sincere eye contact doesn't mean you have to stare like an unblinking lizard. Honest speakers blink between 10 and 20 times per minute. Yet excessive blinking can also send messages. When Richard Nixon attended his first Watergate press conference, he blinked up to 40 times a minute. It is especially important to avoid excessive blinking when facing a news camera or when sitting on a brightly lit podium, where strong lights may naturally trigger a lot of blinking.

There really is something called the "Pinocchio Syndrome." Stress and tension can cause delicate nerves in the face to tingle, so people who are lying or otherwise stimulated really do scratch their noses,



These two people are sending a message of exclusion at this hearing by covering their mouths with a file folder and a hand.

All photos this spread: Vin McNamara/Getty Images

We are very suspicious of people who won't look us in the eye. Speakers rated as "sincere" make eye contact three times more often than "insincere" speakers.

touch their cheeks, and rub their eyes more frequently than calmer speakers. Keep your hands away from your face!

The same autonomic response that makes the nerves in your face tingle can also thicken the consistency of saliva. Dishonest or uptight speakers often lick their lips, swallow, or clear their throats more often than relaxed and happy speakers. So have a cup of water on hand when making a stressful presentation so that you don't send inadvertent messages of dishonesty.

People with something to conceal often conceal their hands. In stressful situations, keep your hands where people can see them. People who talk with their hands are also perceived as being more powerful and confident than communicators with hidden hands.

Showing Respect

It is easy to say, "Treat citizens with respect," but what do you actually do to demonstrate your esteem and regard? Let's start by paying attention. In casual conversation, we tend to prove that we are listening merely by making a sensible response to the speaker's statement. A teenager who appears to be ignoring a parent's instructions to turn off the television will suddenly demonstrate adequate listening by turning the TV off. In more formal settings or where there is distrust between the parties, it is important to demonstrate attention towards a speaker long before the citizen actually begins speaking.

The first way to show a speaker that you are paying attention to what is being said is to abandon other activities competing for your attention. Set aside reports and turn off your cellular telephone. Put your pen down as soon as a citizen approaches the microphone to indicate that you are now turning your attention to the speaker. Needless to say, turning away from the witness to exchange private whispers or jokes with a fellow commissioner is an obvious and inappropriate misdirection of attention.

Leaning forward is an effective way to convey attention to and interest in a speaker. By inclining forward in your chair, you create a more intimate environment between yourself and the speaker that seems to exclude other people or distractions. Leaning back, on the other hand, signals that you feel distanced from the speaker or unwilling to get personally interested in the issues.

Eye contact is a crucial way we signal our respect for another person. In an audience setting, some commissioners adopt a machine gun approach to eye contact, shifting their heads from side and quickly skimming their eyes over the entire audience. No personal relationship is formed with individ-

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ual audience members, who feel both disrespected and more likely to view the planning commission as impersonal targets to attack.

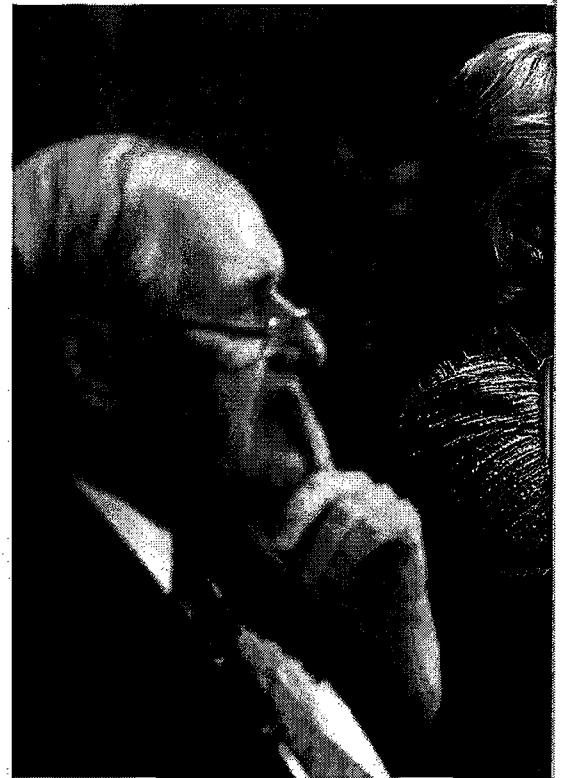
No matter how big the audience is, genuine, respectful eye contact involves looking at one individual at a time, using your right eye to look into the other person's right eye. Select one audience member and make personal eye contact with that citizen, then look at another part of the audience and make eye contact with another individual. Even if you cannot make personal eye contact with each person in the room, attendees will perceive that you are respecting each citizen as a unique individual and trying to interact on a personal level.

We have a natural tendency to make more eye contact with people we know and like, and with an individual who has asked a question and is now listening to the answer. In an audience setting, however, looking exclusively at one person for too long can actually send messages of disrespect to everyone else. Yes, the one person you are looking at will feel important, but everyone else in the audience will feel excluded and offended. If you have something to say of interest to one audience member, assume that it is of interest to everyone, so shift eye contact regularly throughout the audience to convey your respect for everyone.

Planning commissioners, who process information best when it is in writing, may alternate between looking at the witness and looking at staff reports and other printed materials, trying to link what they are hearing to the written evidence before them. Other commissioners are such focused listeners that they need to eliminate visual distractions that could compete with auditory evidence. These commissioners may close their eyes to listen to a witness, or seem to stare straight "through" the speaker without really seeing anything, or gaze vaguely at their desk or off into space. While these can be effective strategies to help commissioners balance verbal, written, and visual input, if overused, they can send the inadvertent message that the commissioner isn't "really" listening.

It is extremely important to keep your hands away from your mouth whenever you are speaking or listening. Roughly three-fourths of people who are covering their mouths when listening are hiding thin, compressed lips of disapproval. Concealing your lips while listening sends the signal that you don't like the person you are listening to, that you disagree with what is being said, or that you don't want to be involved in the discussion. These negative nonverbal signals are often accompanied by positive but insincere cues such as nodding one's head or smiling, but the rejection message always prevails. In fact, a savvy audience can often predict the planning

Sen. Carl Levin (D-Mich.), Sen. Mary Landrieu (D-La.), and Sen. Jack Reed (D-R.I.) display varying levels of skepticism about what they are hearing. Sen. Landrieu, who has her mouth almost completely covered, is the least receptive. This hearing focused on post-hurricane federal contracts.



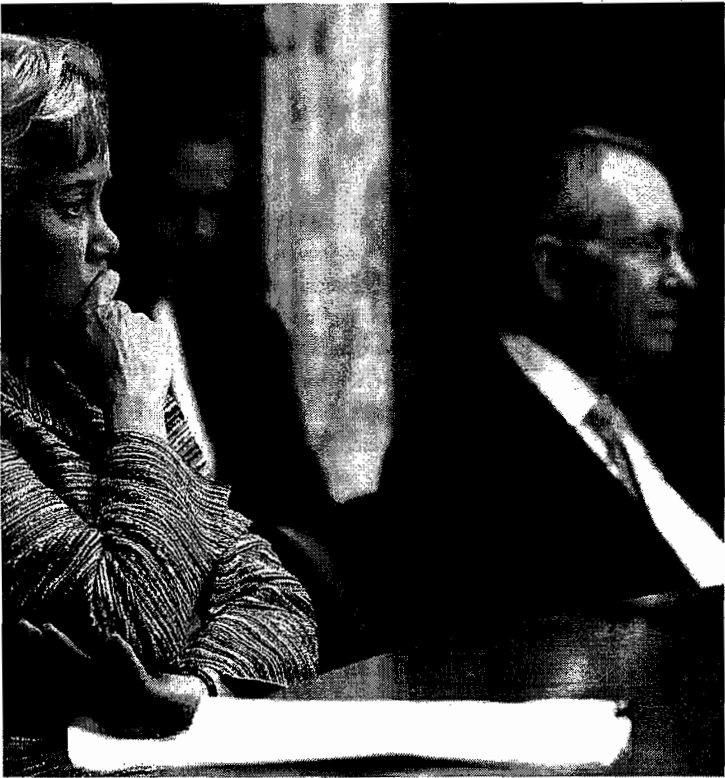
commission vote simply by watching what happens when various supporters and opponents are testifying. If a supporter stands up to speak at the microphone and the majority of commissioners slowly raise their hands to conceal thin, compressed lips of disapproval, then supporters know they aren't getting their message across. If too many audience members start covering their lips while you are speaking, then you know you aren't getting through and that you need to take another approach to communicate with the audience.

While keeping your hands away from your mouth is a must, it is perfect O.K. to touch other parts of your face while listening. Resting your chin on your hand while listening, touching your cheek with your finger or pencil, or adjusting your glasses all send the message that you are listening carefully to what is being said and working hard to understand its meaning.

Powerful Planning

Power is a real part of the world of planning and politics. Neighbors who feel pushed around feel resentful and angry, while commissioners who appear weak, ineffective, or lacking in confidence may be unable to achieve important civic goals.

Your perceived power has something to do with your title, your authority, and your expertise, but it has a lot to do with the nonverbal signals you send. One of the earliest ways power is demonstrated is through our handshake. Power is not demonstrated by the bone-crushing strength of your grip, but by the position of your hand in relationship to the other person. Offering your hand with your palm facing downward



Alex Wong/Corbis Images

signals your belief that the other person is "beneath" you or you wish to dominate the other person. When you offer your hand with your palm face down you're telling your counterpart, "I'm the top dog, get out of my way before I push you out of the way." Not surprisingly, men are more likely than women to offer their hands palm down, especially when shaking hands with a woman. Be careful that you don't automatically offer your hand downwards, which can send inadvertent signals of disrespect or condescension.

Shaking hands with your palm facing upwards shows a conciliatory attitude or suggests that you see yourself as weaker than your counterpart. When someone has forced you into a submissive, palm-up handshake, you cannot reestablish dominance simply by squeezing your hand in a vise-like grip; the only way to regain power is to use your other hand to touch the other person's arm while shaking hands. Shaking hands with your palm vertical to the floor sends a neutral message and is usually the most appropriate way to offer your hand. And an important tip for men: Shake hands with a woman exactly the same way you shake hands with a man. Merely clutching a woman's fingertips conveys one of the lowest messages of contempt.

Beyond the handshake, hands communicate power in several ways. Powerful people speak with their hands and point with their index fingers while speaking. Like Prince Charles, they clasp their hands behind their backs when standing or walking. On the other hand, people who engage in hand-washing

motions, clutch their fingers, rub the back of their necks, put their hands in their pocket, or touch their body or face are sending signals of nervousness or insecurity, so be aware of what you are doing with your hands to ensure you are sending appropriate signals of confidence and authority.

The person with the tallest shoulders at the table is usually perceived as being the most powerful. When it is important to establish your control in a professional situation, pick a tall chair, sit fully back in your seat, and keep your shoulders up and your head high. If you're trying to encourage cooperative negotiations or consensus among equals, then consider sitting in a less intimidating chair compared to your counterparts.

Powerful people occupy a lot of space. They spread their belongings across the table and even intrude into other people's personal space by touching the individuals or their belongings. Not surprisingly, men tend to touch women twice as often as women touch men.

No matter how much space you like to occupy, it is important to keep in mind that everyone has a sphere of private space around them into which intruders are not welcome. When you inadvertently invade someone's private bubble, that individual feels threatened. Parties engaged in friendly conversation usually stand between two and five feet from each other. Business discussions and professional presentations are usually carried out at a distance of up to 12 feet. Territorial dimensions, however, can vary considerably depending on the race, sex, or cultural background of the people involved. Asians, North Americans, and people of northern European descent, for instance, prefer more space between speakers than do most Latinos, African Americans, Arabs, or Jews. Men tend to define a territorial buffer that is larger than the personal space women reserve for themselves, and to feel threatened when their turf is invaded from the front. Women, on the other hand, dislike intrusions from the side and prefer to have strangers sit across from them at a table. So when you see someone moving closer or farther away from you, don't automatically adjust the distance to your own comfort level, but consider whether the individual has moved in order to minimize his or her own sense of discomfort.

Sending the Right Signals

While it is always important to pick one's words carefully in the high-profile world of planning, it is equally important to monitor and control one's nonverbal communication signals as well. By using nonverbal communication skills such as body placement, eye contact, and hand movements, planning commissioners can enhance their verbal statements, better communicate with the public, and help make the planning process more inclusive. □

Planning Commissioner Training

continued from page 3

¹ *National Advertising Co. v. City of Miami* ("National-Miami") 287 F. Supp. 2d 1349, 1356-57 (S.D. Fla. 2003), rev'd on other grounds, 402 F.3d 1329 (11th Cir. 2005), cert. Denied, 126 S.Ct. 1318 (2006).

² See Florida Legislature Office of Program Policy Analysis and Government Accountability, Special Review: "Property Appraisers Use Cost Approach to Value Billboards; Guidelines Need Updating," Report No. 02-69, at 4 (December 2002) (available at www.oppaga.state.fl.us).

³ There is also an important role for local government attorneys. Attorneys representing local governments are urged to immediately contact counsel that specialize in assisting local governments in successfully confronting these schemes. A number of missteps may occur at the early stages of litigation and can be avoided by consulting with experts at the earliest opportunity. This area of the law is far more complex than many practitioners appreciate. It is often instructive to discuss these suits with other communities that have been successful in defeating such schemes.

⁴ "Many courts, like this one, and many commentators, are concerned that local governments have been placed in a tenuous and near impossible position in drafting a constitutional or content-neutral sign ordinance." *Granite State Outdoor Adver., Inc. v. City of Clearwater, Fla.* ("Granite State"), 213 F.Supp.2d 1312, 1333 (M.D.Fla. 2002), aff'd in part and rev'd in part, 351 F.3d 1112 (11th Cir. 2003), cert. denied, 125 S.Ct. 48 (2004).

⁵ See *Don's Porta Signs, Inc. v. City of Clearwater* 829 F.2d 1031, 1052 (11th Cir. 1987), cert. denied 485 U.S. 981 (1988); *Granite State*, 213 F.Supp.2d 1312 at 1317. □

Books

The Planning Commissioner and the California Dream: Plan it Again, Sam

Marjorie W. Macris

Learn the reasons for planning; the legal bases for planning and for development controls; the specific roles of the planning commission; the politics of planning; and how planning commissioners can shape communities and protect environmental resources. Learn specific guidelines and tips on how to be an effective commissioner in the face of complex issues, special interests, committed advocates, and complicated planning and environmental laws.

www.solano.com

CD-ROM Training Products

Introduction to the Planning Commission (2006)

APA Education and the Lincoln Institute of Land Policy

This two-part training program prepares planning commissioners for their vital role in planning successful communities. Topics include planning principles, practice, and legal foundation; the powers and duties of the commission; ethics and meeting conduct; the comprehensive plan; special plans and policy integration; the development review process; zoning; plan implementation; subdivision regulation; citizen engagement; and resolving conflict in public meetings. The training includes audio recordings synchronized with PowerPoints and technical briefs on each topic.

www.PlanningBooks.com

Web Resources

Alaska Planning Commission Handbook

The handbook provides a thorough introduction for planning commissioners. It includes details on how the commission operates, a guide to decision making, a description of the comprehensive plan, and information on plan implementation. A glossary of terms helps orient new commissioners to the language of planning.

www.commerce.state.ak.us/dca/pub/Planning_Whole_Book.pdf

Lincoln Institute of Land Policy

Access online training courses on several topics, including Planning Fundamentals and Concepts in Land Use. Planning Fundamentals covers planning principles, master planning, demographics, land use, environmental planning, housing, open space planning, economic development, infrastructure, historic preservation, community vision, zoning, subdivision, growth management, and capital improvements. Concepts in Land Use covers the relationship between transportation and land use, the role of government in land use, the role of developers, the role of business, household location decisions, analytical tools, and land-use impacts of a transportation project.

www.lincolnst.edu

Planning Commissioner Training Resource Center

Find training available for appointed and elected officials across the country. Information includes the type of training program, titles of print publications, links to websites with further information, links to online training, and contact information. Training is available from American Planning Association chapters, extension services, universities, municipal leagues, and allied organizations. Find local training now.

www.planning.org/pctc

The Public Official's Guide to Affordable Housing

Online multimedia training is designed to train local public officials in the issues, programs, and opportunities available in the field of affordable housing. Discover creative and effective solutions. View six case studies of how municipalities are moving to solve a variety of problems related to affordable housing, such as land use, development pressures, mixed income and mixed use housing. Explore regional planning concerns and the need to involve local citizens in all phases of planning and development of affordable housing.

www.knowledgeteplex.org

New CD-ROM Training Packages

This series of training packages was created in partnership with the Lincoln Institute of Land Policy. They are designed for planning commissioners and officials.

Regulation of Nonconforming Uses

(75 minutes, 2006)

Edward Ziegler and Timothy Bates explain how nonconforming uses come into existence and how to eliminate or reduce them. Hear examples of protected nonconformities.

Meeting the Sign Regulation Challenge

Issues in Sign Regulation

(75 minutes, 2006)

Bring your knowledge up-to-date and examine the new legal challenges to sign regulation. Make your ordinances legally defensible.

Context-Sensitive Signs

(60 minutes, 2002)

Learn how to make signs an urban design asset and an economic development tool.

Eminent Domain: A New Era

In the Aftermath of *Kelo*

(75 minutes, 2006)

The *Kelo* decision upheld the right of local government to use eminent domain for economic development and redevelopment, yet it touched off a firestorm of reactions. Find out how eminent domain is being used and how governments are viewing this important tool.

Reflections on Eminent Domain

(75 minutes, 2006)

Hear about the *Kelo* eminent domain ruling and the public reaction. Planning directors share their experiences fighting overzealous new legislation and providing the public with informed case studies of beneficial development made possible through eminent domain.

Planning Commission Wadsworth, Ohio



Buck Adams

As a planning commissioner who represents the city of Wadsworth and as the director of the Emergency Management Agency, I have strong feelings about the challenges of building a safe community. Several years ago an ad hoc group formed to determine how to develop land that has special challenges while providing protection for current and future residents. The Medina County Commissioners formalized the group in 2004 and charged us with that task. Over the next 18 months we worked to accomplish these goals while making sure we did it in partnership with our development community.

We conducted a hazard analysis that concluded flooding is the primary hazard affecting the county. To overcome that risk, and to allow for safe development without "taking" land, a varied approach is required. We also recognized that the minimum standards established by the National Flood Insurance Program (NFIP) are not adequate and that additional regulations and planning approaches were needed.

We followed a multiphased approach to reduce potential flooding of development in the county. County commissioners provided grants to fund comprehensive community development plans and to write or update comprehensive plans. The plans must include public safety and hazard mitigation activities that encourage development that reduces or eliminates the repetitive cycle of damage and repair. We also developed local zoning to support the comprehensive plan and provided sample zoning text based upon community needs or requests to guide and direct vulnerable areas. The planning commission reviews and modifies subdivision regulations to ensure we are following APA's planning and design principles to build safer communities that meet local community needs.

The last major piece, which I am directly involved in, is the revision of the Medina County Flood Damage Reduction Regulations. We are raising freeboard flood protection elevation from one foot to two feet. We have identified "critical facilities" that require additional protection to the 500-year flood level and require two feet of freeboard. In addition, we restricted development in the 100-year floodplain for certain hazardous use groups.

We also required at least one roadway access point for developments within the floodplain to be above the base flood plain elevation. Finally, the regulations require compensatory storage when fill is used in the Special Flood Hazard Area so there is no net loss of natural floodplain storage; the compensatory storage must be on site or adjacent to the fill site. □

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Mass Transit and the Growth of Cities and Suburbs

The American suburb is often associated with the rise of the automobile. Yet it owes much of its existence to 19th century revolutions in mass transportation that allowed people to commute over long distances relatively quickly. In American cities in the 18th and early 19th centuries, residents lived close to their place of work. By 1870 cities began to change.



The advent of electricity sped the development and expansion of mass transit. By the early 1890s horse-drawn streetcars converted to electric systems in many cities. Elevated trains in New York and later in Chicago ran on electricity by the mid-1890s, and residential choice broadened further with the introduction of the New York subway in 1904. By World War I, mass transit systems had changed urban form in fundamental ways. As transit lines extended outward, new communities developed along them. Urban historian Sam Bass Warner, who studied Boston's suburbs, dubbed them "streetcar suburbs."



Photographs of Old America

Mass transit also expanded in urban areas as a result of industrial growth, serving workers who did not live adjacent to their jobs at the meatpacking plant or shipyard. In older cities, mass transit faced the challenge of developing new infrastructure in the midst of developed cities. Solutions were novel. Some lines ran down alleys, others were elevated overhead, still others were buried below ground as pictured here in the New York subway, and others staked a claim on existing streets, as pictured here in Minneapolis.

Contributors

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Sarah Lutz, APA's education associate, wrote the resource finder on page 10.

Debra Stein, author of several books on NIMBYism, is president of GCA Strategies, a San Francisco-based community relations firm specializing in controversial land-use projects (www.gcastrategies.com). She wrote the article on pages 6 to 10.

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Carolyn Torma, editor, is APA's director of education and author of the article on page 12.