

Members of the Sanibel City Council;

These comments are submitted in behalf of Committee of the Islands (COTI), which from time to time supports or opposes candidates for office or ballot issues. COTI has an interest in the right of candidates and citizens to engage in political advertising like the effective placement of yard signs — a right that is currently overly restricted on Sanibel and would remain so under the proposed revisions to the City's signage regulations.

#### Disparate treatment of political signs

Signs that identify businesses on Sanibel are lawfully double sided and placed perpendicular to the roads they abut. During the height of the pandemic last winter the City authorized the use of additional, temporary business signs, also double sided, placed perpendicular to the road. Even "special event" or "one time" signs like "open house" or "sidewalk sale" may be double sided and placed perpendicular to the road.

While businesses were struggling to remain open the pandemic also disrupted traditional candidate sponsored events like "meet and greets" during last winter's city council election campaigns. Since political signs — unlike business signs — must by law be placed parallel to the road, I requested that the then city manager waive that requirement to allow for the effective use of double sided signs by campaigners — the same accommodation that had been made for businesses. Doing so would also have enhanced safety by making it unnecessary for drivers to turn their heads to read roadside signs. Nevertheless, there was no waiver and the City reaffirmed that all political signs must be placed parallel to the roads they abut.

#### City staff and Planning Commission position

Several months later, when the Planning Commission was considering amendments to the City's signage regulations to make them "content neutral" as required by the Supreme Court's decision in Reed v Town of Gilbert, I proposed — without success — that the rules be changed to permit perpendicular placement of political signs. The minutes for that October 26, 2021 meeting state in relevant part on page 6: "As referenced in Mr Schopp's email, regarding signs being placed parallel or perpendicular to road. All signs are to be parallel to the road for *aesthetics* as well as *safety* .... The Commission concurred that all temporary signs should remain parallel to the road." (Italics supplied for emphasis)

#### Action requested

The City's application of aesthetic and safety standards for signs, while a permissible exercise of its police powers, should be the same regardless of what type of sign is displayed. If it is acceptable for special event or business signs — permanent and temporary — to be placed perpendicular to the road for aesthetic and safety reasons why are those same standards not acceptable for political signs? The disparity suggests the use of value judgments favoring one form of advertising over another.

To be clear, I'm not suggesting that equal treatment for political signs is required by the concept of content neutrality — though that case could be made. I understand some might say permanent signs are different from temporary signs or that emergency authorized signs are different from non-emergency authorized signs or that business signs are different from residential signs. I see distinctions but no real differences particularly insofar as safety and aesthetic standards are concerned. But that discussion aside, whether or not content neutrality technically requires it, citizens should have as much right to the effective use of signs to promote their candidacies or candidates as business owners or event sponsors have to advertise their establishments or events. That's why the requirement of parallel placement should

be dropped.

Whether or not one believes a “house for sale” sign has the same societal or First Amendment importance as one that announces support for a candidate or ballot issue, content neutrality may require that they be treated in the same way. For that reason the option of perpendicular placement should be extended to temporary signs generally — something that could be accomplished easily enough by deleting proposed Section 106 - 134(5)(c), the section that would require “parallel placement” of yard signs. To make it clear that double sided signs are not “duplicate copy” or “sequential copy” signs prohibited under Section 106 -133(2) and (3) the following sentence should be added: “Section 106 -133(5) - A double sided sign shall not be considered duplicate copy or sequential copy under this section.”

Respectfully submitted,  
Committee of the Islands  
Larry Schopp  
President