



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 11, 2015

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Introduction Of Ordinance To Amend Municipal Code Chapter 5.66, News Racks

RECOMMENDATION:

That Council introduce and subsequently, adopt by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 5.66 of the Santa Barbara Municipal Code to Establish News Rack Regulations.

DISCUSSION:

The News Rack Ordinance is being amended to respond to public complaints about the condition of some of the news racks in the City, to fund inspections and compliance, and to simplify the permit submittal requirements for news rack owners. The long standing news rack maintenance requirements of the original ordinance remain, for the most part, unchanged. The amendments, as discussed in more detail below, will enhance public safety and create a more unified appearance of the news racks through an annual inspection and registration program.

BACKGROUND

For many years, City staff has received complaints about the condition of the news racks in the City. In past years, Staff responded to the complaints on a case-by-case basis with some success. More recently, however, the number of complaints has increased. In response to the rise in complaints, in the spring of 2014, using new inventory and tracking software, City Staff did an inventory and inspection of all news racks existing in the City. Through this inspection, staff located and photographed 770 news racks. The inventory revealed that many news racks were in poor condition, and in some cases may have posed a potential danger to the public.

After the inspection and inventory, Staff initiated a public outreach process with the news rack owners and the publishers who fill them in an effort to gain voluntary compliance with the maintenance standards set forth in the existing ordinance. Some of the news racks were never claimed and the City was forced to remove them at the City's own cost. Based

on the increase in complaints, and the condition of the news racks discovered during the initial inventory and inspection, it has become clear that an annual inspection and registration program is necessary to ensure compliance with the City's maintenance requirements.

The existing ordinance does not presently provide for annual registration and inspection of the news racks, or account for the costs associated with implementing an inspection program. The proposed ordinance amendment will require that news rack owners register their racks annually and take a more proactive approach in maintaining the racks. The proposed nominal registration fee is intended to cover the cost necessary to process the registration paper work and perform an annual inspection of the news racks. The annual registration fee will never exceed the actual cost to administer the news rack inspection program and (at the request of the news rack owners) limits any annual fee increase to the CPI adjustment for that year.

The new field inventory software purchased by the City provides detailed information of each news rack's field conditions and allows the City to quickly identify each corresponding owner, resulting in effective and efficient management of the proposed news rack inspection program.

PUBLIC MEETINGS

Since June 2014 Staff has been meeting with publishers, news rack owners, and other interested parties to discuss proposed amendments to the current news rack ordinance. There have been eight working meetings and six public (noticed) meetings.

On April 27, 2015 Staff met with the Architectural Board of Review (ABR), and on May 6, 2015, staff met with the Historic Landmarks Commission (HLC) regarding the maintenance standards of citywide news racks (see Attachment 1). At both meetings, the ABR and HLC approved the proposed news rack styles and colors (Attachment 2). These approvals were incorporated into the maintenance requirements of the proposed draft Ordinance amending Chapter 5.66, of the Municipal Code.

ORDINANCE CHANGES

The proposed fundamental changes to the Ordinance include:

- Annual registration that will ensure that those news racks meeting the maintenance requirements are identified and repaired;
- Annual registration fees to provide cost recovery of an initial permitting process and an annual inspection;
- A method to determine how space in any newly installed City owned news rack cabinets will be assigned, specifically in the Downtown corridor and La Entrada areas;
- More explicit aesthetic standards that will eventually lead to a more uniform appearance of the rack as existing news racks are cycled out due to maintenance

or other purposes (i.e. newly installed news racks will be painted Malaga green, as opposed to the existing ordinance provision that allows for brown or green news racks, and all future news racks that are installed will be the same general model); and

- Reorganization of the ordinance to make it easier to understand by the public and news rack owners.

On June 30, 2015, staff made a presentation to the Ordinance Committee recommending approval of amending Municipal Code Chapter 5.66, relating to the permitting and maintenance of news racks existing on public property within the City. During the meeting at public comment, representatives of the Santa Barbara News-Press (News-Press) and Santa Barbara Independent (Independent) expressed concern over the proposed ordinance language specifically with respect to permitting fees; the lack of clarity as to whether or not the prohibition against advertising on news racks included advertising to promote the publications contained within the news rack; the impact to existing news racks affixed to shared pedestals that may be removed during the initial permitting implementation period; the lack of a person other than the Public Works Director to hear appeals regarding the removal of a news rack; and the possible lack of consistency within the Ordinance with regard to the definition of “obscene” material. The Ordinance Committee recommended that staff, in conjunction with the City Attorney, meet with stakeholders from the News-Press and the Independent to discuss possible revisions to the Ordinance to address the concerns articulated at the meeting. The Ordinance Committee directed staff to put the matter back on the agenda within two weeks, or as soon as possible, for subsequent discussion and further review.

On July 6, 2015, City Staff, with the City Attorney, met with the stakeholders from the News-Press and the Independent. The parties discussed all of the concerns raised at the June 30, 2015, Committee meeting, including the scope of the language requiring news rack owners to maintain insurance and naming the City as additional insured during the term of the permit. The City Attorney agreed to make certain revisions to the existing Ordinance language to address their concerns. Specifically, in part, the City Attorney revised the language in the ordinance to provide for greater clarification with respect to registration fees, the definition of “obscenity”, and the application of the new maintenance standards to existing news racks. The City Attorney further revised the language to provide for a person other than the Public Works Director to hear appeals pertaining to the removal of news racks and set a limit on the insurance requirements at one million dollars.

On July 10, 2015, a draft containing the City Attorney’s revisions to the originally proposed Ordinance, was emailed to the news rack stakeholders. City Staff returned to the Ordinance Committee on July 28, 2015. Staff advised the committee members of the changes that were made to the ordinance in order to address the concerns expressed by the Independent and the News-Press at the June 30th Ordinance Committee meeting. After hearing the presentation by staff, the Ordinance Committee moved 2/1 to bring the proposed amended ordinance to the City Council for approval.

ADOPTION AND IMPLEMENTATION OF THE AMENDED ORDINANCE

Once the amended ordinance is adopted by City Council and becomes effective, news rack owners will have 30 days to submit for their news rack registration. Registered news racks owners are to achieve compliance with the ordinance conditions and maintenance standards (except for existing news racks, which will not have to meet the color and model specifications until the existing rack is past its useful life and requires replacement), pay an annual fee, and obtain a permit within 90 days of registration. News rack owners with more than 30 news racks may request approval from the City for an implementation plan that may take longer than 90 days, however, compliance of all news racks is anticipated before July 1, 2016.

BUDGET/FINANCIAL INFORMATION:

Currently, no City funds are budgeted for news rack inspection and management. Staff has proposed new news rack fees to replace the current fee structure. The current fees are for a one time application and then subsequent annual registration renewal. All existing news racks will have their application fee waived. Further, the proposed fee pertaining to City-owned cabinets in the Downtown corridor will also cover the anticipated cost of maintaining the cabinets.

The proposed fees in the amended ordinance would be limited to cost recovery of staff time to process permit applications and manage, annually inspect, and enforce the proposed news rack maintenance requirements. Any future fee increase would also be limited to the increase in the CPI adjustment for the current year, which could potentially restrict Council in the future from increasing fees to a rate that would actually cover staff's costs for managing and inspecting the news racks.

The current news rack fees were presented to the Finance Committee on May 5, 2015, for their review and comments. The Finance Committee agreed with the fees. In summary, the annual registration fees are \$13 for privately owned news racks, \$18 for news racks in City owned cabinets, and an initial application fee of \$236 (which is waived for currently existing news racks.) The current fees, which were approved by Council by Resolution 15-053 on June 24, 2015, are shown on Attachment 3.

ATTACHMENTS:

1. Excerpts from ABR and HLC Meeting Minutes
2. ABR/HLC Approved News Rack Styles
3. News Rack Fees

PREPARED BY: John Ewasiuk, Principal Civil Engineer/TS/sk

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office

**ARCHITECTURAL BOARD OF REVIEW
MINUTES**

Monday, April 27, 2015 **David Gebhard Public Meeting Room: 630 Garden Street** **3:00 P.M.**

BOARD MEMBERS: KIRK GRADIN – CHAIR (Consent Agenda Representative)
 SCOTT HOPKINS – VICE-CHAIR
 THIEP CUNG
 COURTNEY JANE MILLER (Consent Agenda Landscape Representative)
 STEPHANIE POOLE (Consent Agenda Representative)
 AMY FITZGERALD TRIPP
 WM. HOWARD WITTAUSCH

CITY COUNCIL LIAISON: DALE FRANCISCO
PLANNING COMMISSION LIAISON: JOHN CAMPANELLA
PLANNING COMMISSION LIAISON (Alternate): SHEILA LODGE

STAFF: JAIME LIMÓN, Design Review Supervisor
 SUSAN GANTZ, Planning Technician
 KATHLEEN GOO, Commission Secretary

Website: www.SantaBarbaraCA.gov

An archived video copy of this regular meeting of the Architectural Board of Review is viewable on computers with high speed internet access on the City website at www.SantaBarbaraCA.gov/ABRVideos.

CALL TO ORDER:

The Full Board meeting was called to order at 3:00 p.m. by Chair Gradin.

ATTENDANCE:

Members present: Gradin, Cung (until 7:16 p.m.), Hopkins, Miller, Poole (until 5:45 p.m.), Tripp and Wittausch.
Members absent: None.
Staff present: Gantz and Goo.

GENERAL BUSINESS:

A. Public Comment:

No public comment.

B. Approval of Minutes:

Motion: Approval of the minutes of the Architectural Board of Review meeting of **April 13, 2015**, as amended.

Action: Wittausch/Miller, 5/0/2. Motion carried. (Gradin/Cung abstained, and Miller abstained from Item 1).

C. Consent Calendars:

Motion: Ratify the Consent Calendar of **April 20, 2015**. The Consent Calendar was reviewed by **Amy Fitzgerald Tripp**.

Action: Hopkins/Tripp, 6/0/1. Motion carried. (Gradin abstained).

Motion: Ratify the Consent Calendar of **April 27, 2015**. The Consent Calendar was reviewed by **Kirk Gradin** and **Courtney Jane Miller**.

Action: Hopkins/Miller, 7/0/0. Motion carried.

- D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.
- 1) Ms. Gantz made the following announcements:
 - a) Board Member Tripp will be stepping down on Items 6 and 7 at 401 E. Haley Street and 412 E. Haley Street, respectively;
 - b) Board Member Miller will be stepping down on Item 2 at 110 S. Hope Avenue; and
 - c) Board Member Poole will attend the meeting from 3:00 p.m. – 5:45 p.m.
- E. Subcommittee Reports.
- No reports were made.

CONCEPT REVIEW - CONTINUED ITEM

1. CITYWIDE NEWS RACKS ROW Zone

(3:15) Assessor’s Parcel Number: 000-000-0RW
 Application Number: MST2014-00599
 Owner: City of Santa Barbara

(Proposal to update the City's News Rack Ordinance in order to provide more effective news rack management and maintenance.)

(Second Concept Review. Action may be taken if sufficient information is provided. Project was last reviewed on February 2, 2015.)

Actual time: 3:09 p.m.

Present: John Ewasiuk, Principal Civil Engineer.

Public comment opened at 3:27 p.m.

- 1) Elizabeth Wright, expressed support with submitted personal suggestions as a self-appointed “community liaison”.
- 2) Joe Cole, Agent for the SB Independent, expressed support as an independent distributor representative.

Public comment closed at 3:30 p.m.

Board comments:

- 1) No advertizing would be allowed on the new rack boxes or pedestals.
- 2) A majority of the Board is in support of clean, simple, and uniform smaller size new racks with a minimalistic design (#KJ-50E).
- 3) If multiple rack boxes are used, a majority of the Board was in favor of smaller size boxes on a common rack, and positioned as close together as possible.
- 4) Standardize and minimize the size of the newspaper and magazine logos and contact information as much as possible, to be placed only on the front centered bottom portion of the boxes so as not to be seen from the street.
- 5) A majority of the Board found supportable an overall Malaga green color, including support post.



City of Santa Barbara Planning Division

HISTORIC LANDMARKS COMMISSION MINUTES

Wednesday, May 6, 2015

David Gebhard Public Meeting Room: 630 Garden Street

1:30 P.M.

COMMISSION MEMBERS:

- PHILIP SUDING, *Chair*
- BARRY WINICK, *Vice-Chair*
- MICHAEL DRURY
- WILLIAM LA VOIE
- BILL MAHAN
- FERMINA MURRAY
- JUDY ORÍAS
- CRAIG SHALLANBERGER
- JULIO JUAN VEYNA

ADVISORY MEMBER:

DR. MICHAEL GLASSOW

CITY COUNCIL LIAISON:

DALE FRANCISCO

PLANNING COMMISSION LIAISON:

SHEILA LODGE

STAFF:

- JAIME LIMÓN, Design Review Supervisor / Historic Preservation Supervisor
- NICOLE HERNÁNDEZ, Urban Historian
- JOANNA KAUFMAN, Planning Technician
- GABRIELA FELICIANO, Commission Secretary

Website: www.SantaBarbaraCA.gov

An archived video copy of this regular meeting of the Historic Landmarks Commission is viewable on computers with high speed internet access on the City website at www.santabarbaraca.gov/hlc and then clicking on the Videos under Explore.

CALL TO ORDER.

The Full Commission meeting was called to order at 1:30 p.m. by Chair Suding.

ATTENDANCE:

Members present: Drury, La Voie, Mahan, Orías, Shallanberger, Suding, and Winick.

Members absent: Murray and Veyna.

Staff present: Limón (until 2:25p.m. and again at 3:08 p.m. until 3:25 p.m.), Hernández (until 6:25 p.m.), Kaufman, and Feliciano.

GENERAL BUSINESS:

A. Public Comment:

No public comment.

Motion: Continued to the Planning Commission with comments:

Proposal:

1. The project as proposed is not acceptable.
2. The thoroughness of the AUD and solar presentation is appreciated.

Setbacks:

3. The proposed setbacks from the street are appropriate and extremely important, but they are too narrow.
4. The side and rear setbacks from the historic resource are not appropriate for this site.

Size, bulk and scale:

5. The size, bulk and scale are not appropriate for this site.
6. The proposed height is not compatible with the surrounding neighborhood with its one and two story buildings. The Commission finds the fourth story is unsupportable.
7. The massing needs to be reduced.
8. The density of the proposed number of units should be appropriate to the site, neighborhood, and adjacent historic resources not withstanding what the AUD would allow. The AUD should be appropriately applied to this site and the neighborhood.

Architecture/Design:

9. The design is too contemporary and should be restudied.
10. The architecture should be compatible with the historic context. The project should respect the adjacent historic resources and should be compatible with the neighborhood.
11. Restudy the courtyard concept. Look to the historic El Paseo’s courtyard for inspiration.
12. The north elevation should be treated as a primary elevation and not as a back-of-house. It is viewed from a significant historic resource and is adjacent to Anacapa School which is diminutive in scale.

Landscaping:

13. The loss of landscaping is of concern. Significant trees on the site should be retained. Landscaping should be used to tie the project into the neighborhood.

Mixed-Use:

14. The multi-use aspect, especially the commercial component, should take into consideration the amenities of the neighborhood and the project, and the needs of future residents.

Action: Winick/Drury, 7/0/0. (Murray/Veyna absent.) Motion carried.

**** THE COMMISSION RECESSED FROM 5:40 PM TO 5:47 PM ****

CONCEPT REVIEW - CONTINUED

7. **CITYWIDE NEWS RACKS** ROW Zone
 (5:00) Assessor’s Parcel Number: 000-000-0RW
 Application Number: MST2014-00599
 Owner: City of Santa Barbara
 (Proposal to update the city's news rack ordinance in order to provide more effective news rack management and maintenance.)

(Second Concept Review; action can be taken if sufficient information is provided. Project last reviewed on February 11, 2015.)

Actual time: 5:47 p.m.

Present: John Ewasiuk, Principal Engineer

Public comment opened at 5:57 p.m.

Elizabeth Wright, local community liaison, spoke in support of the project and requested consistency. She also asked that there be less news racks in front of the main post office downtown. She urged the public to report graffiti on news racks to the graffiti hotline.

Mike Park, Santa Barbara News-Press representative, spoke in support of the project and expressed appreciation for the collaboration between staff and news rack owners.

Scott Kaufman, Santa Barbara Independent representative, spoke in support of the project and expressed appreciation for staff's efforts to offer newspapers in an attractive way.

Public comment closed at 6:01 p.m.

Motion: Project Design Approval with recommendations to the Ordinance Committee in the process of updating the city's news rack ordinance:

1. Malaga green shall be used for the news rack boxes and pedestals in El Pueblo Viejo Landmark District.
2. Double periodical racks shall be consolidated as well as the single racks.
3. New installations shall be placed inside the sidewalk and/or near a wall rather than on the curb.
4. The smaller bases shall be less obtrusive.

Action: Mahan/Drury, 7/0/0. (Murray/Veyna absent.) Motion carried.

CONCEPT REVIEW – CONTINUED / HISTORIC STRUCTURES REPORT

8. **713 SANTA BARBARA ST** C-2 Zone

(5:20) Assessor's Parcel Number: 031-081-007
 Application Number: MST2014-00390
 Owner: Santa Barbara Historical Society
 Architect: Richard Redmond

(This is a revised project description. Proposal to install a new air-conditioning compressor unit on a concrete base adjacent to the northeastern corner of the Historic Adobe at the Santa Barbara Historical Museum. No changes are proposed to the existing Covarrubias Adobe or the Santa Barbara Historical Museum buildings. Both the Historic Adobe (1825) and the Covarrubias Adobe (1830) are City and State Designated Historic Landmarks. The Santa Barbara Historical Museum is on the City's List of Potential Historic Resources.)

a) (Historic Structures/Sites Report prepared by Alex Cole. Report concludes the project would have a less than significant impact on the significant historic resource.)

Actual time: 6:17 p.m. and again at 6:23 p.m.

Present: Alex Cole, Historical Consultant
 Richard Redmond, Architect
 Warren Miller, Santa Barbara Historical Society

ABR/HLC Approved News Rack Styles



K-JACK Model KJ-125T



INSERTED INTO CITY NEWS RACK CABINETS & ON PEDESTALS

E. News Racks (SBMC 5.66)

Registration (1 to 10 racks)	\$18.54/box
Registration (over 10 racks)	\$8.76/box
Annual fee	\$13/box
Annual fee for news racks in City cabinets (in addition to the annual fee)	\$18/box
Application fee for a new news rack	\$236



NEWS RACK ORDINANCE UPDATE

August 11, 2015



A collage of three images: a boat, a woman at a desk, and a construction site.

CITY NEWS RACKS

Proposed News Rack Ordinance to Amend
Chapter 5.66, of the Municipal Code

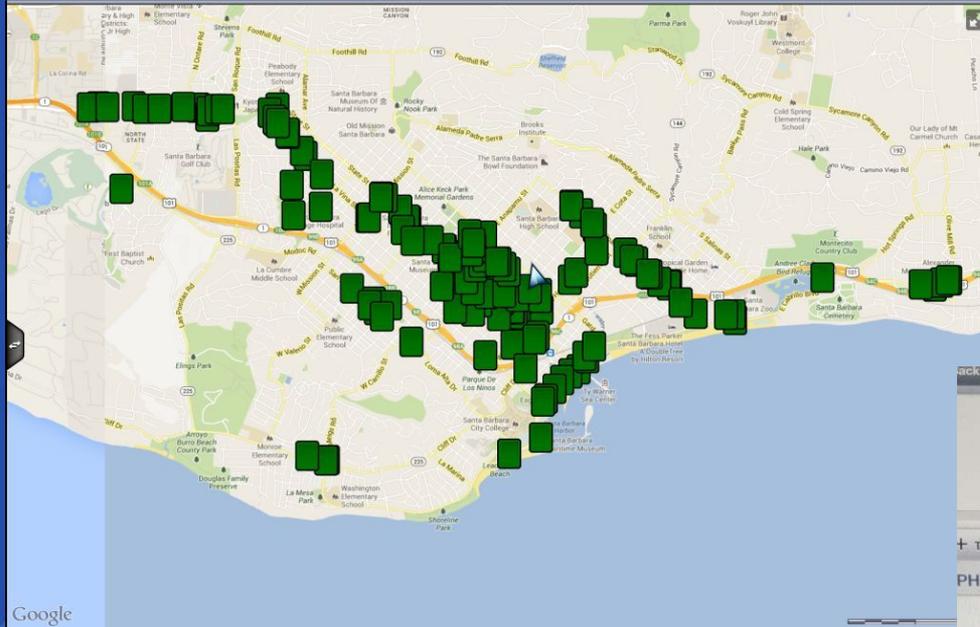


CITY NEWS RACKS

Background

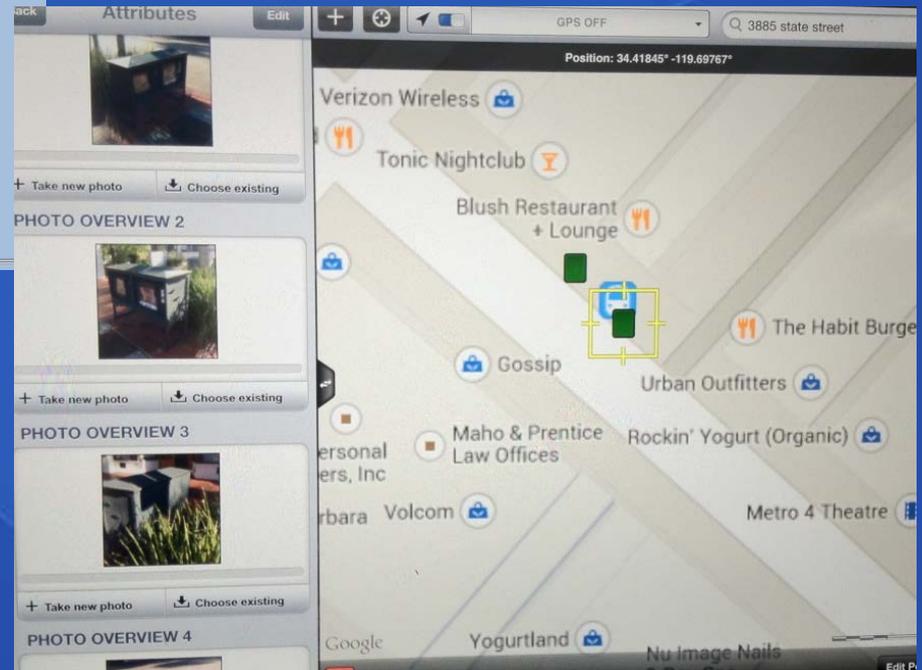
- ◆ Aging news racks
- ◆ Safety concerns
- ◆ Ordinance update
- ◆ Improved news rack inspection
- ◆ Stakeholder coordination
- ◆ New fees proposed

NEWS RACK INVENTORY

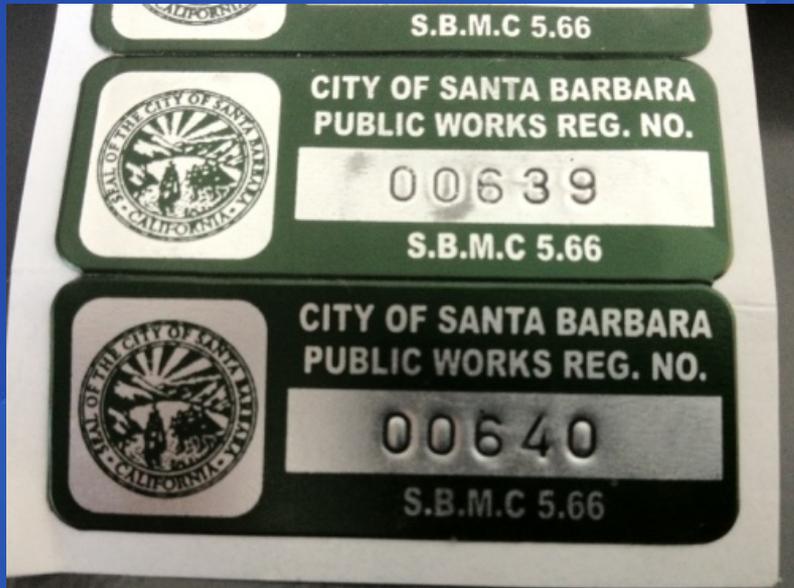


← NEWS RACK LOCATIONS

PICTURE INVENTORY SHOWING LOCATION AND CONDITION →

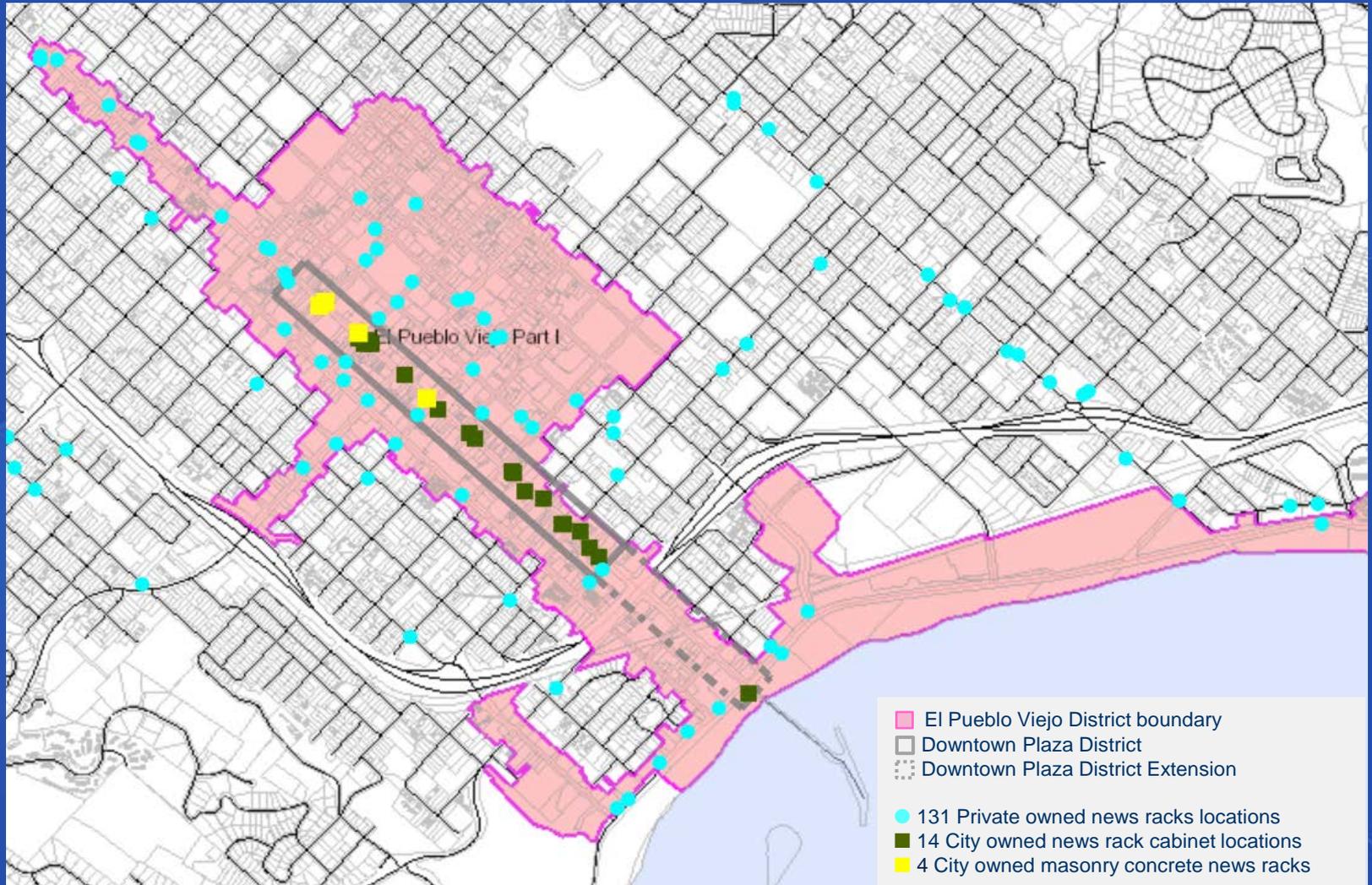


NEWS RACK INVENTORY



- Field inventory allows news racks to be quickly registered and permitted
- Allows City to have records of news rack conditions and maintenance completion
- \$236 application fee does not apply to existing news racks

News racks location in HLC locations



NEWS RACK TYPES

City owned news rack cabinets





CITY NEWS RACKS

Proposed Ordinance Update Outcomes

- ◆ Regular inspection and monitoring
- ◆ New news rack registration and permitting
- ◆ Insurance provided by news rack owners
- ◆ Fees established (cost recovery)
- ◆ Establish the maintenance of pedestals
- ◆ Existing news racks painted/maintained



NEWS RACK FEES

News Racks (SBMC 5.66)

- ◆ ~~Registration (1 to 10 racks) \$18.54/box~~
- ◆ ~~Registration (over 10 racks) \$8.76/box~~
- ◆ Annual fee \$13/box
- ◆ Annual fee for news racks in City cabinets (in addition to the annual fee) \$18/box
- ◆ Application fee for a new news rack \$236
- ◆ Fees will not exceed City costs and are limited to annual CPI adjustments



NEWS RACK FEES

Program Revenue Estimates

- ◆ Est. 700 news racks x \$13/new rack = \$9,100
- ◆ 58 news racks in City cabinets x \$18 each = \$1,044

NEWS RACK UNIFORMITY AND COLOR



PROPOSED NEWS RACKS



PROPOSED NEWS RACKS



PROPOSED NEWS RACKS



NEWS RACKS ON PEDESTALS





CITY NEWS RACKS

Ordinance Committee Meetings

- ◆ At the June 30 meeting stakeholder concerns included
 - cost protection
 - news rack advertizing
 - shared pedestals
 - appeal process
 - ordinance wording clarification



CITY NEWS RACKS

- ◆ On July 6, 2015, staff met with the Santa Barbara Independent and Santa Barbara News Press
- ◆ The group generally agreed on the proposed revision issues
- ◆ Staff updated the proposed ordinance
- ◆ On July 10, 2015, ordinance update distributed to all stakeholders
- ◆ Comments were received from the publishers on the new updated proposed ordinance



CITY NEWS RACKS

- ◆ On July 28, 2015, staff returned to the Ordinance Committee with an update reflecting the generally agreed on the proposed revision issues
- ◆ The Ordinance Committee voted 2/1 to bring the proposed ordinance amendment to the City Council for consideration for approval

NEWS RACK ORDINANCE UPDATE

Next Steps

- ◆ Adoption of ordinance at Council on September 8, 2015
- ◆ Registration of news racks
- ◆ Compliance within 90 days after registration (for less than 30 news racks)
- ◆ City to approve implementation plan (for greater than 30 news racks)
- ◆ Compliance anticipated by July 1, 2016, or soonest thereafter

NEWS RACK ORDINANCE UPDATE



QUESTIONS?