



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 8, 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:

EXECUTIVE SUMMARY

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 largely remain unchanged. The amendments, as discussed in more detail below, will enhance public safety and create a more unified appearance 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, City staff completed an inventory and inspection in the spring of 2014 of all existing news racks in the City using new inventory and tracking software. Through this inspection, staff located and photographed 770 news racks. The inventory revealed that many news racks were in poor condition.

After the inspection and inventory, staff initiated a public outreach process with the news rack stakeholders, 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 newly proposed news rack nominal fee is intended to cover the cost necessary to process the registration paperwork and perform an annual inspection of the news racks. The annual fee will never exceed the actual cost to administer the News Rack Inspection Program and (at the request of the news rack owners) requires that the City notify registered news rack owners a minimum 60 days in advance of adoption by Council of any proposed Fee Resolution that would increase fees above the annual Consumer Price Index (CPI) percentage adjustment for Urban Consumer of the Los Angeles – Riverside – Orange County, CA.

The new field inventory software purchased by the City provides detailed information of each news rack's field condition 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 existing 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 Ordinance amending Chapter 5.66, of the Municipal Code.

ORDINANCE CHANGES

The proposed fundamental changes to the existing ordinance include:

- Annual registration that will ensure news racks meet the maintenance requirements that are identified and that they are repaired;
- Annual news rack fees to provide cost recovery of the permitting process and inspection;
- A method to determine how space in any newly installed City-owned news rack cabinet will be assigned, specifically in the Downtown corridor and lower State Street areas;

- More explicit aesthetic standards that will eventually lead to a more uniform appearance as existing news racks are cycled out due to maintenance or other issues (i.e., newly installed news racks will be painted Malaga green, as opposed to the existing ordinance provision that allows for brown 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 proposed 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 proposed 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, 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 proposed 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 of one million dollars on the insurance requirements.

On July 10, 2015, a draft containing the City Attorney’s revisions to the originally proposed ordinance was emailed to the news rack stakeholders. Staff returned to the Ordinance Committee on July 28, 2015, and advised the committee members of the changes that were made to the proposed ordinance in order to address the concerns expressed by the Independent and the News-Press at the June 30, 2015, 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.

On August 11, 2015, staff made a presentation to the City Council recommending approval of amending Municipal Code Chapter 5.66, as discussed above. During the meeting, at public comment, representatives of the Independent and the Trade Express stated their support for the proposed ordinance update. Prior to the August 11 meeting, representatives from the Independent and the News Press requested that a sentence be added to the proposed ordinance requiring the City to notify the news rack owners in advance of proposed fee increases above the annual CPI percentage adjustment. At that time, the proposed ordinance did not contain a provision for notifying news rack owners of fee increases above the annual CPI.

Council unanimously supported the proposed ordinance and continued this item to September 8, 2015, Consent Calendar so staff can work with the Attorney's Office to finalize the added sentence. Council also supported the recommendation to add a sentence that would require that the City notify owners at least 60 days in advance of any proposed Fee Resolution that would increase fees above the annual CPI percentage adjustment.

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 their news rack registration. Registered news racks owners are required to achieve compliance with the amended 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 by July 1, 2016, or soonest thereafter.

BUDGET/FINANCIAL INFORMATION:

Currently, no City funds are budgeted for news rack inspections and management. Staff has proposed new news rack fees to replace the prior fee structure. All existing news racks will have their registration fee waived. Further, the proposed fee pertaining to City-owned cabinets in the Downtown corridor will also cover the anticipated cost of maintaining the City 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.

Council Agenda Report

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

September 8, 2015

Page 5

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 cabinets, and an initial application fee of \$236 (which is waived for 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

- 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.)

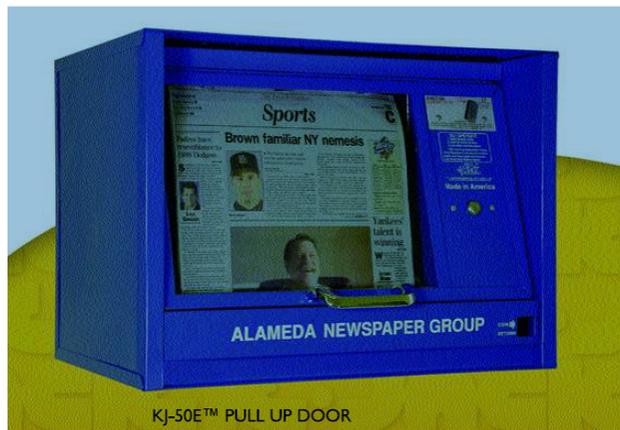
Actual time: 6:17 p.m. and again at 6:23 p.m.

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