

RESULTS OF HOMEWORK on QUESTION 3: HOW DO WE GET THERE FROM HERE?

Part 1: Sample Ideas

Note re Tally: Not all CWG members responded. Not all members responding answered all items. Some members responding voted twice on an issue — supporting part of it and opposing another part.

#	<i>Concept</i>	CWG Member Rating –	
	Rate each concept from 5 to 1...	5 – <i>strongly support</i> 4 -- <i>support somewhat</i> 3– <i>I am neutral</i> 2 – <i>oppose somewhat</i> 1 – <i>strongly oppose</i>	
1	Cap both the number and total square footage of BB faces allowed in the City somewhere below the current totals . Allow replacement of BB within the capped number/sq. footage, but move toward the cap through an exchange mechanism (such as mentioned in Item 2 or 3)	Rating:	# of votes:
		5:	6
		4:	0
		3:	1
		2:	6
		1:	1
	Additional comments: <ul style="list-style-type: none"> • Support, except no credit for BB in Residential Zones (3) • Support -The cap should be decreased in both square footage and number of signs. • Support- the cap should represent at least a 30% decrease over current square footage and comparable decrease in # of BBs • Support-the cap should be <u>significant</u> decrease in square footage and number of signs. • Could support concept of capping if going back to 2010 levels with a mutually agreed upon exchange mechanism. Inventory already reduced 26% from 2007. 		
2	Develop an exchange ratio whereby a new billboard could be <i>constructed</i> in a high priority zone for BB companies/advertisers <i>only in exchange for the removal of at least 2 billboards</i> in an area that is a high priority for elimination of billboards . (subject to other zoning criteria also being met, including a total cap on the number of BB; areas to be defined in code)	Rating:	# of votes:
		5:	2
		4:	2
		3:	4
		2:	2
		1:	4
	Additional comments: <ul style="list-style-type: none"> • We should not be paying CC to remove BB and put up new ones. They entered the settlement agreement because they want better market potential (signs in better places) in Tacoma and have less old dilapidated signs to take care of. We are not paying them to do this. • Oppose — unless high priority zones are defined by the CWG 		

	<p>rather than BB companies—if defined by the DCWG: rate a 4.</p> <ul style="list-style-type: none"> No pay for billboard relocation. This is moral hazard. “Erect an eyesore and then demand money to remove or correct the situation.” concept is acceptable, but exchange ratio is key 		
3	<p>Similar to #1 – a multi-factor exchange ratio -- where a new billboard can be constructed in an acceptable zone (subject to other zoning criteria being met) <i>in exchange for</i> removal of other billboards of <i>equivalent ‘point value’</i>. Proposed new billboards would be assigned a certain number of points based on their value to BB owners and the community (based on multiple factors: size, location, height, etc.); Billboards to be <i>removed</i> are similarly assigned a point value based on their size, location, height, etc.</p>	<p>Rating:</p> <p># of votes:</p>	
		5:	6
		4:	3
		3:	1
		2:	1
		1:	3
	<p>Additional comments:</p> <ul style="list-style-type: none"> Point value will be difficult to agree on The ratio should be developed by the Planning Commission and should be biased toward removing billboards. Should also consider high priority areas v. low priority and type of sign (wall signs are easier to install and manage so should take more points) Support—but no new BBs unless they are part of an exchange; ratio should be developed by Planning Commission, biased toward removal. Support but only if the points are administered fairly and cannot be manipulated by Clear Channel which I doubt is achievable. Strongly oppose: Administration is highly complex for both sides – City and billboard owners. Point values would need to be dynamic to address changes in the market. 		
4	<p>Impose higher annual license fees on billboards on billboard owners (such as CCO), per structure or face, in order to fund an account that could be used to offset a portion of the costs of billboard removal incurred by billboard owners (such as CCO) from designated areas.</p>	<p>Rating:</p> <p># of votes:</p>	
		5:	3
		4:	2
		3:	1
		2:	3
		1:	7
	<p>Additional comments:</p> <ul style="list-style-type: none"> If possible tax BBs as real property not personal property (the BBs are attached to the ground) We should not be charging billboard owners to just give the money back to them. Doesn’t make sense to charge BB companies just to give \$\$ back. (Voted 5 and 1): Strongly support much higher license fees; strongly oppose paying for removal. Again, this is moral 		

	<p>hazard.</p> <ul style="list-style-type: none"> • (Voted 5 and 1)—support higher license fees; don't support paying for removals. • Strongly oppose: the billboard company is funding its own financial remedy, PLUS funding the destruction of old billboards and construction of new billboards. 		
5	Same as #4 and also include landlords in the group that could receive money from the account – in exchange for an agreement to not <i>renew</i> a BB lease and to not allow BB on the property in future (\$ available only to landlords in areas where BB remain nonconforming after new code adopted).	Rating:	# of votes:
		5:	2
		4:	2
		3:	1
		2:	3
		1:	7
	<p>Additional comments:</p> <ul style="list-style-type: none"> • Landlords should not be allowed to renew nonconforming BBs. Reimburse only in early termination of lease if BB owner agrees to removal • We should not be charging billboard owners to just give them money back to them. But see option below which is this option but without the billboard owners. • (Voted 5 and 1) strongly support much higher license fees. Strongly oppose paying for removal. Again, this is moral hazard. • Landlords need not be paid to remove signs. • Strongly oppose: The billboard company is indirectly paying a landlord for not having billboards. It would constitute a “taking” since the government is funding the termination of CCO’s property rights. 		
6	Conditional Conforming Status: No newly conforming BB (under a new code) that has been nonconforming for at least 15 years can be considered conforming unless and until another nonconforming BB is removed.	Rating:	# of votes:
		5:	2
		4:	0
		3:	3
		2:	1
		1:	7
	<p>Additional comments:</p> <ul style="list-style-type: none"> • A new code will be hard to agree on. • Do not agree in setting conditions on newly confirming BBs. • Strongly support --But the removed BB should not count for any points or at least less points than billboards removed outright. • Support-this statement (as are most of these questions) is too vague. It depends entirely on the other restrictions and how easily they can be manipulated. • Don't support: no unlawful BB will become lawful. • Strongly oppose: too complex 		
7	Allow construction of a street kiosk in a “high pedestrian focus zone” (where BB are otherwise allowed) in exchange for removal of one or	Rating:	# of votes:
		5:	0

	more billboards in such zone.	4:	3
		3:	3
		2:	1
		1:	6
	<p>Additional comments:</p> <ul style="list-style-type: none"> • Street kiosks might clutter the streets • No—our sidewalks are not wide enough for street kiosks. • Didn't vote on this item—need more info but probably a 2. • No—these are really “in your face” for pedestrians • Absolutely not. Street kiosks are extremely harmful to quality of life. We are trying to reduce the overall sign pollution in Tacoma, not just move it around and make it worse. • Voted 3 for street kiosks, 1 for exchange concept. • Strongly oppose: If City is interested in downtown kiosks, it is best handled beyond this process through a market RFP. 		
8	Allow installation of wall billboards (that do not block windows or architectural features, no freestanding structure) in “high pedestrian focus zones” (where BB are otherwise allowed) in exchange for removal of one or more freestanding billboards in such zone.	Rating:	# of votes:
		5:	3
		4:	3
		3:	3
		2:	2
		1:	4
	<p>Additional comments:</p> <ul style="list-style-type: none"> • Wall BBs might be just as obtrusive. Architectural features are subjective. A wall can be considered an architectural feature. BBs in high pedestrian focus zones will take away from the pedestrian experience especially in the City's downtown/museum/UW districts. • But must be limited to less than 72 sq. ft. if in pedestrian area. Should also count for more points. • If wall billboards are limited to 300 sq. feet or less (72 sq. ft. in pedestrian areas), subject to dispersal & buffer requirements, and this is enforceable by City. • Absolutely not. Wall signs are extremely harmful to quality of life. We are trying to reduce the overall sign pollution in Tacoma not just move it around and make it worse. • Voted 4 for wall signs, 1 for exchange concept. • Strongly oppose: Wall signs being used as potential “receiving areas” is a possibility. However, tying a new sign to the teardown of an existing sign in the same zone is problematic. Also, this will have only a small impact considering the number of walls potentially suitable. Traditional billboards are preferred. 		

Part 2: Other Ideas/Input

Other proposals for...

Exchange Mechanisms:

- What about the inside of parking garages in exchange for billboards?
- Tax BBs as real property. Use funds for removal of BBs or buyout of leases.
- Factors for calculating points for donor billboards could be:
 1. Sign square footage
 2. location (degree of undesirability of zone)
 3. distance to residential use (specific use, not zone) as of a date certain
 4. distance to "special uses"
 5. is the billboard "up-lit" or "down-lit"
 6. distance to next nearest billboardFactors for calculating points for a receiving location could be:
 7. Sign square footage
 8. location (degree of desirability of zone)
 9. distance to residential use (specific use, not zone) as of a date certain
 10. distance to "special uses"
 11. more limited lighting yields more points
 12. distance to next nearest billboard
- Make it simple to understand. Ex: new billboard can be constructed in a high priority zone when a BB is removed from an area that is a high priority for elimination of BB. When an exchange takes place, the BB will be the same in size and height.
- I hope we hear the pros/cons of the sample ideas. We don't want to get too far down in one idea path and find that it has no merit or value to CCO or Scenic Tacoma. Great work outlining these ideas. Thank you Karen!
- I don't feel there is any responsibility for the City of Tacoma to provide "exchange" for removing Sign Pollution. The goal is to reduce and eventually eliminate Sign Pollution in Tacoma, not relocate it.
- **First**, All billboards should be deemed conforming based upon the billboard codes **at the time they were permitted**. This protects landlord / property owner rights.
Second, Poll neighborhood groups to determine which **specific billboards** they most want removed. These billboards would be identified, then rated for removal priority from #1 to #?, or rated in 3 or 4 groups from highest removal to lowest removal priority.
Third, Assign a removal value (points as proposed?) – highest to lowest – to the specified billboards.
Fourth, The **removal value** can be used by CCO (and others) to build new signs. The removal value would need to incentivize CCO in some manner, i.e. the build ratio is in their favor and/or allow them to select non-conforming signs to remain.

Fifth, Property owners are compensated for any remaining term of their lease according to a Present Value formula. Permit/structure owners (other than CCO) are compensated for the value of the permit, structure, and future earnings based upon industry standard valuation methods.

This exchange mechanism (or one similar) offers a billboard by billboard focus rather than a global code focus. The most troublesome billboards are removed and all parties involved are protected.

Bottom line, we need to give CCO strong incentives to remove specific boards and protect the rights of property owners – i.e. in most cases, City of Tacoma taxpayers

- My memo of 1/21/15 explains why I reject the concept of exchanging unlawful nuisance billboard for anything whatsoever. Our code should set forth where billboards are allowed and what restrictions apply to them. Noncomplying billboards simply must be removed. An “exchange” concept ensures CCO’s monopoly by excluding the entry of competing billboard companies who have no unlawful billboards to exchange.
- Highly trafficked areas are “most valuable” to Outdoor Companies. New locations in these zones should carry more value (points) than less travelled locations. New “digital” bulletins should be valued higher than a standard sized BB. 5 removals should equal 2 bulletins—in an approved areas.
- *Cap and Trade –*
 - *Cap the number and total square footage of billboard faces from the July 30, 2010, settlement date. (Since that time, CCO has already reduced the number of billboard faces by 22% or 26 % since 2007.)*
 - *Create a 1 to 1 square footage exchange resulting in fewer billboard structures, e.g., consolidating smaller signs into larger signs.*
 - *Remove billboards from high priority areas for elimination and construct new billboards in high priority zones for billboard owners (insuring there are new high priority areas in which to rebuild).*

Landlord rights (property owners leasing space to CCO or others to install a billboard on their property):

- I like the higher taxes idea
- After existing leases expire with options, property owners will not be allowed to renew any lease if they’re not conforming. BB owner will remove with no expense to the City.
- I feel strongly that the City shouldn’t interfere in the rights of property owners to engage in business activities that are allowed by code EXCEPT all billboard landlords must possess a current, valid business license with the City.

- Landlords' rights should be "grandfathered."
- In most cases, income is minimal and, in my opinion, the public good overrides landlord rights
- I don't feel there is any responsibility for the City of Tacoma to provide "exchange" for removing Sign Pollution. The goal is to reduce and eventually eliminate Sign Pollution in Tacoma, not relocate it.
As are as paying anyone to remove or relocate Sign Pollution? I believe this creates moral hazard, whereby people then erect public nuisances with the primary intent of charging someone else to remove it.
- Property owners are Tacoma residents, voters, and tax payers. In all cases they should be treated fairly and paid the market value for their leases, permits, structures, and future value of incomes in the cases when owned structures are removed.
- I am not aware of any relevant case holding that when a WA city exercise its police power to require the removal of an unlawful sign, the owner of the underlying property is entitled to compensation. Please read the Markham case and explain why Tacoma should not follow it.
- If the City has surplus land in approved areas, property owners of existing "tear downs could have the opportunity to purchase these locations to offset their losses – The City should give a "green light" status for permits and approvals and make this a priority, as well as sell the location at "fair market surplus" values.
- *CCO is bound by the terms and conditions as set forth in the legal contracts between landlord and tenant. Our intention is to honor the terms of those existing leases.*

Rights of BB owners (CCO, others) to existing structures that are/remain nonconforming under a proposed new code:

- No ideas
- All nonconforming BBs shall be removed after their leases (with options) expire with no compensation from the City. Buy out perpetual and leases that are longer than fifteen years by compensating both BB and property owners.
- We should treat all non-conforming uses in a consistent manner.
- See proposal below to not changes zones and buffering and make all billboards legally nonconforming If a proposed new code then CCO could have been fully aware of the law when they purchased the billboard, but they admitted they took Ackerly as a package deal.

We have had plenty of amortization in my opinion. But since we are trying to be compromising the point system that is biased toward removal still gives them opportunity to make money.

- Nonconforming BB regulations must be revised to make them realistic.
- The public good that comes from removing bulletin boards which detract from the built environment and clutter our neighborhoods and roadways outweigh BB owner rights
- I don't feel there is any responsibility for the City of Tacoma to provide "exchange" for removing Sign Pollution. The goal is to reduce and eventually eliminate Sign Pollution in Tacoma, not relocate it.
As are as paying anyone to remove or relocate Sign Pollution? I believe this creates moral hazard, whereby people then erect public nuisances with the primary intent of charging someone else to remove it.
- The fair beginning point for a new code should be that all existing boards are conforming based upon the code at the time they were permitted and built.
The idea of "Amortizing" real property over a period of time is unfair, a pathetically uncreative political dodge, and, frankly, insulting.
Then, the removal of boards becomes a partnership between all stakeholders without the rancor created by sign companies that built too many signs and city officials that consistently chose political and impossible legal solutions rather than creative solutions.
- The only basis for CCO to argue for compensation for the removal of this unlawful billboards is the language of the 2010 Settlement Agreement. If Tacoma has competent lawyers, they would argue that it was not validly adopted, a different exhibit was substituted after its adoption, the City Manager and City Attorney's extension of the option period was not authorized, it was illusory, and its "vested rights" provision was ultra vires, among other things. I urged City Attorney Pauli to withdraw it before CCO signed it but she would not.
- If the City has surplus land in approved areas, property owners of existing "tear downs" could have the opportunity to purchase these locations to offset their losses – The City should give a "green light" status for permits and approvals and make this a priority, as well as sell the location at "fair market surplus" values.
- *CCO's rights under a new code would be the same as they are today, i.e. we have vested rights in our existing structures (and permits) regardless of how those structures are classified in the future. These rights include, among others, the right to just compensation in the event the City requires removal or elimination of any of our structures or permits. These rights exist pursuant to agreement with the City and also under state and federal law.*

Other ideas on "how we get there from here":

- Combine Item 1 and 2 above and add the following:
 - All current billboards are grandfathered in as conforming.
 - Cap the number and total square footage of BB faces allowed in the City somewhere below the current levels. Allow replacement of BB within the capped number/sq. footage, but move towards the cap thru an exchange mechanism such as mentioned in #2 or #8—but not #3 (point system)
 - From the standstill agreement:
 - CCO relinquishes all 183 relocation permits.
 - CCO removes 31 specified BB faces (including structures). These removed billboards count towards any consolidation plan ultimately executed between the City and CCO to resolve the lawsuit. CCO performs repair on 18 specified BB.
 - Any new billboards built or relocated will need to meet the 1997 code (applies currently per the standstill agreement).
- Mobile billboards instead of static? More sign fippers? Feather flags?
- All BBs shall be removed by 2050.
- Modify the code to all existing billboards to be legally nonconforming and stop the lawsuit (do not change any zones). Impose a fee (\$5,000/face/year) on all existing billboards. Use the money from the fees to assist property owners with getting out of their leases.
- If both sides compromise we can achieve the desired results. Both sides must understand that they are not going to get everything that they want. If both sides are somewhat uncomfortable with the results, we accomplished our goal.
- Amortization—the 1968 WA state supreme court Markham decision allows the City to take action to enhance health, safety, or aesthetics without compensation: RCW 47.42.107 applies to BBs that are visible from state highways and requires just compensation when requiring removal of BBs- the City seems to be using this as a justification for avoiding the amortization option while (1) RCW 47.42.107 is likely unconstitutional and (2) applies to a limited number of BBs under discussion.
- There are several problems with the questions you are asking:
 - These questions are too vague, and too dependent on other as yet undecided restrictions.
 - Also they are the wrong questions. They focus on how we can move billboards from one location to another or exchange it for a different kind of billboard pollution such as a kiosk or wall.
 - Our goal is to reduce and eventually eliminate billboard pollution. You should be asking questions about how we are going to do that, not how we're going to move it around.
- Adopt more restrictive codes for FUTURE billboards.

As stated above, creatively work with all stakeholders until the most troublesome boards are removed in an equitable manner to all parties. Global code changes forcing CCO to take down too many signs will only result in more legal wrangling. Example: 300' buffers received 5/6 votes for streets like 6th Avenue. This removes virtually all billboards on business concentrated avenues and assures there will be no common sense solution. CCO's only recourse will be a lawsuit [Note: this input was not submitted by CCO]

- The City needs to be advised by competent counsel. In mid-w011, we were urging City officials to engage nationally-recognized sign-law lawyers Randal Morrison or Bill Binton, but they would not do so. See those experts bios for their upcoming 2/26/15 CLE at: <http://www.associationofconstructionanddevelopment.org/live-webinar/393980?tab=faculty>
- For the City to “bless” this proposal they need a “win” for the people of Tacoma – I believe a “relocation fee” of \$20,000 per new face should be charged as a “one-time” fee. This amount of money should be earmarked for “pothole” repairs only.

- *Some of the ideas in 1-8 have merit if the details on ratios and appropriate zoning criteria are reasonable.*

The idea here is to settle a long standing lawsuit that went too far in taking away basic property rights of Landlords and sign companies. Some of the suggestions are too complex or expensive for a billboard company to accept in lieu of either the courts deciding everyone's fate, or settling the case by monetary means.

If the CWG wants to have an effective recommendation, it must create an opportunity and incentivize the sign companies to have a reasonable financial outcome since all costs (teardowns and new construction) are borne entirely by the company.