

Leaning on the cow¹

The Story of Saint Paul's Struggle to Preserve its Scenic Character and Beauty from the Blight of Billboards

Excerpted from an essay by Brian Bates

Introduction

In June of 1995, Jeanne Weigum and Brian Bates began discussing an effort to restrict the use of billboards in Saint Paul. Jeanne had materials from Scenic America and had discussed the problem with State Senator John Marty. Jeanne and Brian developed a loose plan to approach community groups in Saint Paul with an eye toward enacting legislation through the Saint Paul City Council.

They then approached others who had taken an interest in the billboard issue. State Rep. Michael Paymar had attempted billboard restrictions when he was on the Duluth City Council and had recently moved to Saint Paul and had been elected to the State House. Ruby Hunt had been on the Saint Paul City Council and she also had attempted billboard restrictions with some small success. John Mannillo was a developer and at that time president of a community council and interested in the issue.

Enthusiastically, and somewhat naively, they wrote up a standard resolution calling for a ban on the construction of billboards in Saint Paul and the elimination of the existing billboards through amortization. Amortization was available under state law at that time and was a municipal tool for removing nonconforming structures over time at no cost to the city. It was important to the group to avoid the charge that the suggested legislation would require taxpayers' money. Their hope was to amass community support and to eventually convert that support into political influence at City Hall.

A History of Saint Paul's Billboard Struggle

Newspaper archives reveal a long history of conflicts over billboards in Saint Paul. A review of the struggles between city officials, neighborhood preservationists, and billboard forces over

¹ Phrase borrowed from Bill Johnson of the Scenic America board. It is said to be difficult to lead or force a cow in any one direction. However, if you just lean on the cow, eventually it will end up going in the direction you want.

the past century helps put Saint Paul's most recent beautification campaign in context and may offer some insight.

In a July 30, 1907 editorial in the Saint Paul Dispatch, it was pointed out that the height limit for billboards was 12 feet and asked why the commissioner of public works did not enforce that limit against double-decker billboards at least twice as high. An ordinance was passed limiting the height of billboards, "board fences - for that is practically what the unbroken series of display boards is becoming," and providing a 150 foot setback from parks or parkways.

In 1908, Governor John A. Johnson (the first Minnesota-born governor), impressed by Washington D.C. vistas, declared war on billboards around the Capitol. If the billboards were not removed he threatened to send out the "janitorial force of the state house and demolish the offenders in the name of the state."

The next year, Assemblyman Herbert Keller proposed an amendment requiring the consent of contiguous property owners and the majority of all property owners on the block before a billboard could be erected. "I am getting complaints every day about these billboards. [A homeowner] has a right to be protected from these unsightly billboards appearing right at his elbow and damaging his property." When the billboard ordinance came before the Saint Paul Assembly two years later, this provision had been eliminated.

In 1929, a bill was introduced in the State Senate to remove all billboards within 1/4 mile of the Capitol building. The billboard forces agreed to 1/8 mile. The bill was amended to 1/8th mile and passed.

In 1953, the City Council acted to block the construction of a billboard opposite the Saint Paul Public Library on the south side of Kellogg Boulevard. Mr. Clifford Janes, Friends of the Public Library, and Mrs. B.H. Ridder, Saint Paul Woman's Institute, led the opposition. Saint Paul City Planning Director, C. David Loeks, submitted a long report of proposed billboard regulations to the City Council.

In 1967, Mayor Thomas Byrne requested the study of a more comprehensive billboard ordinance. The next year, Mayor Byrne, in a reelection campaign, proposed excluding billboards from "residential and scenic areas" and a setback of 330 feet from freeways. Mayor Byrne proposes a 660 foot setback, or two blocks, from either side of Warner and Shepard Roads, Interstates 94 and 35E, Highways 61 and 280 and the Lafayette Freeway. The provision was later eliminated. The City Council enacted a weakened ordinance that protected approximately half of the City's expressways, limited the size to 750 square feet, the height to 50 feet and

requires a 660 feet interval between boards.

Also in 1968, the Minnesota Supreme Court ruled the Village of Minnetonka's ordinance removing billboards through amortization over three years constitutional. The court stated, "the pleasant appearance of a district or community has a direct and beneficial effect on property values and on the well-being of its residents."

In 1972, Mayor-elect Lawrence Cohen promised to continue the struggle over billboards. "I'm going to come down hard on billboards," Cohen promised: "I'll sponsor one of the most rugged, anti-billboard laws possible." (Saint Paul Dispatch, April 26, 1972). The next year, Mayor Cohen and Councilman Roedler asked billboard companies to voluntarily reduce their use of lighting.

In 1974, a billboard ordinance, prompted mostly by the planning staff, was proposed to strengthen the 1968 City ordinance. All billboards along Saint Paul freeways and high-speed routes would be removed through amortization over three years. Mayor Cohen exclaimed, "some areas of the city have really been desecrated by signs." After complaints by businessmen, the proposal was dropped.

In 1980, the Saint Paul Planning Commission proposed a strong billboard ordinance and included a provision to remove billboards in downtown, the river corridor and historic areas through a five-year amortization. A City Council committee removed the amortization provision and loosened restrictions on billboard size and distance from houses, parks and public buildings.

You know the democratic process has been at work when an effort to tighten up certain restrictions ends up with a general loosening up instead. That, Councilwoman Ruby Hunt tells us, is exactly what is happening with a Planning Commission sign ordinance proposal.

-- Editorial, Saint Paul Pioneer Press, December 11, 1980 --

In 1987, after two years of work, the City Council adopted a new billboard ordinance. The ordinance contained size, height, and distance restrictions; a prohibition against rooftop billboards; and, protection for historic districts. Existing billboards were grandfathered in.

In 1999, at the urging of the billboard industry, the State Legislature took from all Minnesota municipalities the ability to amortize any land use, including billboards. Municipalities were left with the legal tools of nuisance and eminent domain to adjust land uses.

After a century of struggle, Saint Paul still had more billboards than any city in Minnesota.

Had any of the above efforts to control billboards resulted in the common sense approach of banning new construction of billboards, no doubt, Saint Paul would have many fewer billboards than it does today.

Neighborhoods, Politics, and Legislation

Saint Paul's neighborhoods are home to 17 community councils. The community councils are quasi-governmental, non-profit organizations, funded in part by the City. The community councils advise the city council and are the first stop for residents to air grievances. The existence of these community councils make Saint Paul an ideal place to raise an issue of neighborhood concern which might be more difficult to raise when directly approaching the City Council.

In 1996, armed with the 15-minute "Signs, Signs" video supplied by Scenic America, the group began approaching the community councils. Eventually, eleven community councils passed resolutions to not only ban the construction of billboards but to remove existing billboards. Two other community councils voted to ban the construction of new billboards and two considered, but failed to pass, a resolution to restrict billboards. Several other influential business and community organizations also passed resolution to ban billboards and remove existing billboards.

Mid - Late 1997 - The First Ordinances

With the support of the community councils and other neighborhood organizations, the group looked for a councilmember to author an ordinance to reduce the number of billboards. In December 1997, Councilmember Bobbi Megard introduced an ordinance that would place a moratorium on the construction of billboards and would order the Planning Commission to study the matter. The ordinance passed unanimously (7-0). However, later that month Mayor Norm Coleman vetoed the ordinance saying the measure was anti-business and an overreaction.

A new City Council was seated in January 1998 with four of seven new faces. An override of the Mayor's veto was not attempted. Mayor Coleman had gone off to office lobbying against a veto override. Instead of the veto override attempt, which lacked sufficient support, newly elected councilmember Jay Benanav devised another approach: a citizen committee would be empanelled to study the issue and make recommendations and community councils could take action to enact moratoria in their districts. This approach was a combination of an unwise industry staple of "study, study, study" and a wise deference to the community councils where neighborhood opposition to billboards could be maximized and the influence of billboard

lobbyists could be minimized. Slowly, over time, community council after community council took the simple steps to enact a moratorium in neighborhood after neighborhood.

The citizens committee was, by design, a disaster that consumed a great deal of time and accomplished little. The participants were chosen such that labor and industry were aligned evenly against neighborhood representatives. Even requests for staff to develop information, such as a list of suburbs that banned billboards, had to be made by motion and were often defeated.

After more than a year, the results of the committee's work were presented to the Planning Commission, which said they would study the matter themselves. But the moratoria enacted by the community councils did provide some real deterrent to continued billboard construction.

The Initiative - March through November 1999

Understanding that the City Council did not have the required interest to enact serious billboard controls, activists turned to the initiative process.² Saint Paul's charter allows citizens to initiate an ordinance, however the process is daunting. It is believed that there never was a successful initiative in the City's history before November 2, 1999. The process required the collection of the signatures of Saint Paul registered voters equal in number to 8 percent of those who voted in the previous Mayoral election. 5,600 verified signatures were required by the County Clerk 120 days in advance of the November 1999 election.

A group of about eight or ten core scenic activists devised a plan to draw up a petition that would have the effect of banning construction of billboards and removing all neighborhood billboards.³ They identified as many friends, family and other supporters as they could who would help by collecting petition signatures. Starting around March 1999 with political caucuses, they distributed those petitions and kept track of who received them. Over the next four months they stood where the public gathered and asked for petition signatures. They kept track of collective numbers at weekly meetings and they projected those numbers toward the deadline.

The petitions were submitted to Ramsey County for tallying. A significant number of signatures were lost, around 30 percent, when Ramsey County staff compared the names on the petitions with voter registrations. There was concern that if they failed to collect enough valid signatures it would seem the issue did not have broad enough public support. But the scenic

² The initiative process is sometimes confused with referendum. The former is a ballot measure that initiates an ordinance and the latter a ballot measure to repeal an existing ordinance.

³ It should be noted that throughout this effort Scenic Saint Paul had the pro bono legal services of two attorneys.

activists prevailed with days to spare. Despite their efforts to organize and organize early, the core group collected the bulk of the signatures in the month before the deadline.

The petition created an ordinance that would prohibit new billboard construction and eliminate neighborhood billboards through nuisance.⁴ They defined neighborhood billboards as all billboards not adjacent to state or federal highways. In that way they avoided any conflict between any local ordinance resulting from their petition and state and federal laws that protected billboards adjacent to state and federal highways. They estimated that half of the City's billboards were neighborhood billboards. They estimated the City had 625 total sign faces.

After collecting the required number of signatures, the initiative process required the City Council to enact the ordinance as stated in the petition or put the measure on the next ballot.

The Council did not enact the ordinance so then the group geared up for a four-month ballot campaign. They registered a campaign organization: Scenic Saint Paul Campaign. The billboard industry registered their opposition organization: Stop the Ban. Scenic Saint Paul raised almost \$20,000. The billboard industry spent somewhere around \$500,000. Scenic Saint Paul hired a politically astute organizer to keep them on task and received a great deal of free publicity from television and print news media. They created some publicity by holding press conferences. They held fundraisers. The industry wrote seemingly unlimited checks, and then it sued.

The billboard industry asked that the court restrain the City of Saint Paul from including the measure on the ballot. The industry argued the mere ballot measure would cause the industry: 1) a loss of First Amendment freedoms, 2) a chilling effect on the plaintiff's constitutional rights, and 3) the need to spend hundreds of thousands of dollars to "educate" the voting public.

⁴ The original petition used amortization to rid Saint Paul's neighborhoods of billboards. Shortly after Scenic Saint Paul began collecting signatures, the billboard industry lobbied the State Legislature to remove amortization as a tool of municipal land use control. The resulting statute read: "Subd. 1c. Amortization prohibited. Except as otherwise provided in this subdivision, a municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception. This subdivision does not apply to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance. Subd. 1d. Nuisance. Subdivision 1c does not prohibit a municipality from enforcing an ordinance providing for the prevention or abatement of nuisances, as defined in section 561.01, or eliminating a use determined to be a public nuisance, as defined in section 617.81, subdivision 2, paragraph (a), clauses (1) to (9), without payment of compensation." This was a serious setback. Scenic Saint Paul rewrote the petition declaring neighborhood billboards to be nuisances as defined in state statute and began collecting signatures again using nuisance instead of amortization as the municipal tool to remove billboards.

Scenic Saint Paul sought intervention and submitted a memorandum in opposition to the industry's arguments. They argued the matter was not ripe because the ballot measure had not passed and the industry lacked standing because its injuries were either insufficient to support standing or self-inflicted. The court ruled with Scenic Saint Paul.

During the campaign the billboard initiative gained a great deal of press. However, the billboard initiative was one of two initiatives that year. Mayor Norm Coleman wanted a new ballpark and was asking the public to pay for a large piece of it. At least one press account referred to the billboard initiative as the "other initiative" on the ballot.

The industry spent its money on lawyers and a public relations firm. It bought full-page color ads in the Saint Paul Pioneer Press, sent several pieces of direct mail to all Saint Paul households and used radio, television and billboards to get their message out. Eller Media, the company that owned most of the boards at the time, brought in the Bloomington-based public relations firm of Himle-Horner. They commissioned a poll, according to firm CEO John Himle, showing that they were a bit behind in the horse race, but indicated a number of areas that offered possibilities.

The poll revealed, for one thing, that most people didn't think a billboard presence in their neighborhood was that big a deal. The poll also showed the public responded well to the idea that billboards were an affordable advertising medium for small businesses and to the practice in the industry of donating unused billboards to non-profit organizations.

Finally, people worried that the whole issue might get tied up in a lawsuit if the ballot measure actually passed. The media strategy didn't really roll out until after a judicial ruling in early October permitted the ballot challenge to continue. But from then on, the public's attitude toward the issue seemed to change. After the election Scenic Saint Paul, and a lot of other people, were surprised when Saint Paulites voted 53% to 47% not to remove half the billboards in town.⁵

⁵ After successfully collecting a sufficient number of names on the petition, the City attorney's office and anti-billboard activists engaged in a debate over how the initiative should be worded on the ballot. Several drafts ensued with little respect paid to the activists' position. It was believed that the industry, through the Mayor's office (to which the city attorney's office reported), played a role in the final wording. Also, it was heard from many people after the fact that they thought they were voting against billboards when they voted "no"; they voted "no" to oppose the ballpark and they voted "no" to oppose the billboards. So the ballpark ballot measure, which lost badly, may have had an effect on the billboard ballot measure and the wording may have had an effect – it's impossible to know.

The industry's use of campaign materials reflected the strategy developed from the Himle-Horner polls. The text of one full-page newspaper ad read:

Billboards can save you money. (Picture of a billboard advertising a special deal on yogurt at a store) Billboards can save you time. (Picture of a billboard to a local takeout restaurant) Billboards can even save your life. (Picture of a billboard with a public service announcement about depression) For nearly 100 years, billboards have done many good things in St. Paul from helping people save money to helping save lives. Despite this, there is an initiative on the November 2nd ballot that would ban billboard from St. Paul. St. Paul is an inclusive city that has room for points of view and scenic views. Lets help keep it that way!
Vote NO on the Billboard Ban.

Unbelievably, one industry campaign message plastered on billboards was: "Billboards have feelings too." The industry's use of direct mail, radio, and television spots all echoed the message devised by Himle-Horner and had had their intended effect.

The Millennium: 2000 to the Present

Today, Saint Paul still has 561 billboards. Since 2000, over 50 billboards have been removed (and yet still some have been built even with the moratorium). Many more billboards could be removed if the political will to improve our scenic quality in Saint Paul were strong enough. And if the rights of our citizens, who are forced to be a "captive audience" whether they wish to be or not, were respected, and in fact elevated above that of the billboard industry.

For over 100 years, while other cities have learned from our mistakes, and have ordinances that ban billboards or strongly control them, we continue to struggle with eliminating and reducing billboards in Saint Paul. No doubt the struggle will continue.

We've leaned on the cow, but it has moved very slowly. The citizens of Saint Paul deserve better. The citizens of Minnesota deserve a more beautiful Capitol City. The billboard industry has already made its money back many times over. It's past time for that cow to leave our field of dreams. Did someone say something about hamburgers?