

6. Email received September 19, 2014 from Sonie & Hoyte Decker, 214 Laurel Street.
7. Email received September 19, 2014 from Donna White, 333 Hickman Street.
8. Letter received September 19, 2014 from Arvil Adams, 207 Hickman Street.
9. Letter received September 19, 2014 from Renee Shettle, 12 Oak Avenue.
10. Letter received September 19, 2014 from Richard & JoAnn Maslana, 1000 King Charles Avenue.
11. Email received September 19, 2014 from Kathryn Lingo Northacker & Harry Nothacker, 219 Hickman Street

APPROVAL OF MINUTES

Minutes of the July 18, 2014 Regular Meeting and the July 30, 2014 Special Meeting were distributed prior to the meeting. Minutes of the May 5, 2014 Workshop Meeting, June 9, 2014 Special Meeting, August 4, 2014 Workshop Meeting and August 15, 2014 Regular Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Toni Sharp, to approve the July 18, 2014 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sharp, to approve the July 30, 2014 Mayor and Commissioners Special Meeting minutes as written. Motion carried unanimously.

REPORT OF THE POLICE DEPARTMENT

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of August 2014. There were 99 criminal, 318 traffic and 103 civil charges made during the month. Twenty-nine traffic crashes were investigated. National Drug Take Back will be held on September 27, 2014 from 10:00 a.m. to 2:00 p.m. at the Police Department lobby. Unused and expired medications can be turned in for safe disposal. These types of medications can also be disposed of year-round at the Police Department lobby. The Dispatch Center handled 503 police incidents, 324 ambulance incidents, 76 fire incidents, 517 traffic stops, assisted other agencies seven times during the month and 9-1-1 calls totaling 748 were received.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

There was nothing to report.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for August 2014. During the month, 72 permits were issued for a value of work totaling \$474,109.43. Fees collected totaled \$15,792.53 for the month. Sixty-four permit processing fees were received in the amount of \$1,280.00. The Board of Adjustment heard one case in August. No restaurant applications were received in August. One notice of violation was issued for a freestanding sign. One notice of violation was issued for a blinking sign. Five notices of violation were issued for exceeding maximum noise levels. Three notices of violation were issued for obstruction on sidewalks. One notice of violation was issued for placement of containers. One notice of violation was issued for 25% window coverings. There were 54 building inspections, nine plumbing inspections, no rental inspections, four meetings regarding trees, 34 meetings regarding new projects and nine meetings regarding City business.

REPORT OF PLANNING COMMISSION

(See attached report.)

Planning Commission Secretary Francis Markert presented the report of the Planning Commission. The Joint Meeting of the Planning Commission with the Board of Commissioners was held on September 12, 2014. The purpose of this meeting was to discuss issues surrounding the installation of swimming pools and more broadly the impact of recent development and usage occurring the City's residential neighborhoods. The Regular Meeting was also held on September 12, 2014. The Planning commission conducted the Preliminary Review of a Partitioning Application for a property located at 104 Rodney Street. The Planning Commission voted to move the application to Public Hearing on October 31, 2014. The Planning Commission conducted the Preliminary Review of the Site Plan Application for a property located at 110 Rehoboth Avenue. The applicants presented a "stripped down" version of the proposed project that removed the architectural/design enhancements which had been included in their August concept review presentation to the Commission. With these features removed, the Building Inspector reported that the project now met the current zoning requirements. The Commission proposed and the applicant

agreed that it would be helpful to have a more thorough discussion of the project at this Preliminary Meeting. The project's architect was in attendance and was able to discuss the project in detail. He explained that none of the design elements which had been removed involved any usage but rather were aesthetic features intended to enhance the streetscape. While the Commission indicated that it was hopeful that the applicant would be able to work with the City and/or Board of Adjustment to allow these aesthetic features to be reincorporated, the Commission found that the application, as presented, was able to proceed to Public Hearing on October 31, 2014. The Planning Commission unanimously voted to approve the finalization of a conditionally approved partitioning for a property located at 807 King Charles Avenue. The Planning Commission unanimously voted to approve the finalization of a conditionally approved partitioning for a property located at 49 Park Avenue.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called to consider adoption of a resolution setting a public hearing on a proposed ordinance that would establish a moratorium on the permitting and construction of swimming pools in the residentially zoned areas of the City.

City Solicitor Mandalas read the resolution. Tonight's vote is only to set the public hearing. It is not a vote to impose the moratorium. However, there is a feature of the resolution and the proposed ordinance which clarifies that the ordinance is subject to the pending ordinance doctrine. This means that now since the ordinance has been read and introduced, Building & Licensing cannot accept any additional applications for swimming pools, and it can reject those applications that are not fully complete. A list of applications that have been submitted was provided by the Building Official to the Board of Commissioners. Twelve applications have been submitted this week plus there are four previously pending. If the applications are not fully complete, there is direction under the ordinance to reject them.

Ms. Sullivan stated that each one of the applicants was met with in regard to the swimming pool applications. If there was something missing on the application, they were turned away at that point. Most of the applicants came back with the documentation that was required. Ms. Sullivan could not answer whether the applications were complete because a full plan review was not done at that point. All of the documentation is required with these applications. She noted the requirements for submitting an application. At the time the application is submitted, the applicant is required to have a survey, site plan showing the location of the pool and lot coverage, contract with the contractor who will be doing the work so the cost proposal is signed by both applicant and contractor and a pool design. The survey shows what is currently existing on the property, and the site plan shows the proposed structures. A fence would also have to be included as well as a cost proposal for the fence.

Commissioner Mills noted that at the last meeting, some of the problems and concerns were categorized with the swimming pools issue which includes jacuzzis, hot tubs and water features. The proposed ordinance is only applicable to unenclosed swimming pools. The intent is that if the swimming pool is enclosed by a building or structure, it would not fall under this purview.

City Solicitor Mandalas said that the term "unenclosed" is intended to mean indoors.

Commissioner Mills noted that as part of the moratorium, it should include residential use in commercial zones. He thought that the projected date of April 17, 2015 is too far in advance. The Commissioners should not wait to the public hearing to start addressing some of these issues. They need to start immediately.

Commissioner Gossett thought that April 17, 2015 should not be looked at as a final date or completion date. The Commissioners have the option of lifting the moratorium sooner.

Mayor Cooper said that given the nature of the complexity of the issues before the Commissioners, he did not think that it would be a long timeframe.

Commissioner Sargent made a motion, seconded by Commissioner Sharp, to adopt the Resolution read by the City Solicitor to set the Public Hearing for October 17, 2014 at 7:00 p.m. on the subject of imposing a moratorium on permits or other approvals for the construction of unenclosed swimming pools within the residentially zoned districts of the City.

Mayor Cooper noted that the Commissioners have received a lot of correspondence on this subject prior to the meeting on September 12, 2014. The correspondence is continuing to come in, and the

Commissioners have a copy of all the correspondence. He received a letter dated September 19, 2014 from Ms. Ruth Briggs King, Secretary to the Board of Directors of Sussex County Association of Realtors prior to entering this meeting.

Commissioner Mills thought that this is not the time to give rationale for supporting or not supporting the moratorium itself. He would like to hear from the public. It is reasonable, prudent and responsible to go to public hearing because this issue is not just only about noise. The pool issue is noise from people and pool motors, lighting, stormwater runoff and water runoff when people discharge their pools.

Public Comment:

1. Mable Granke, 1013 Scarborough Avenue Extended, said that this issue needs to be addressed, and she hoped that the Planning Commission will get help in terms of professional and non-professional help. Any working group needs to look at the purpose clause of the Zoning Code. It is specific about safety and health. When talking about people's property rights, it is a two-sided coin. When someone crosses the line of their property and infringes on someone else, then they have hurt that person's property rights. She hoped that the cumulative impact would also be considered with regard to what it means to the neighbors, neighborhood and the City.
2. Meg Shivone, 113 Norfolk Street, suggested that the meeting should be held in a larger venue.

(Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness – aye.) Motion carried unanimously.

Mayor Cooper called to discuss and possibly approve a working group and plan to address issues discussed at a September 12, 2014 Joint Meeting of the Commissioners and the Planning Commission concerning swimming pools and the impact of recent development and usage occurring in the City's residential neighborhoods.

Mayor Cooper had suggested at the September 12, 2014 meeting that the Commissioners take this up themselves. He would like to extend an invitation of the Planning Commission to have two people to provide input and take it to the Planning Commission. Mayor Cooper has met with Mr. Kyle Gulbranson of URS Corporation to begin to work with City staff, City Manager and Building Official to put together statistical types of information from City records which he feels will be helpful for the Commissioners in looking at these issues. Mr. Gulbranson will need to be in attendance at every Board of Commissioners meetings. Mayor Cooper suggested that this subject be placed on the Workshop agenda to set the first meeting date of the workgroup.

Commissioner Mills noted that a few people had mentioned the trash issue. He and Commissioner McGuinness will work on that and target the November Workshop Meeting or sooner to bring this issue forward. Commissioner Mills would also like to look at the issued of discharge water from pools.

Commissioner Gossett proposed a change in the approach. He suggested that the workgroup should consist of Mr. Gulbranson, the City Manager and Building Inspector to come up with information for the Commissioners can work from and provide a schedule to the Commissioners by the next Workshop Meeting. It would include a report on research of the current City codes and the way they are enforced, research of ordinances and enforcement procedures in other municipalities and outreach to residents, builders, developers, rental agents and their clients, other interested parties and professional resources such as National Association of Realtors, National Spa and Pool Institute, etc. The working group should come back to the Commissioners in 10 days to outline the issues and approaches. A timeline should be set for the Commissioners of how to put this together. The Commissioners need to concentrate on the codes and the impact that those will have as opposed to the administration or management of the process.

Commissioner Mills has been focusing on the noise issue. The City Manager, Police Chief and Building Inspector could see if the Code is sufficient to be able to control noise, and then report to the Commissioners for the October Workshop Meeting or provide a timeframe.

Commissioner Kathy McGuinness has reached out to rental agencies, builders and developers as well as other municipalities to gather information. She will email her notes to Mr. Gulbranson and City Manager Sharon Lynn.

Commissioner Sargent said that the Commissioners need to focus on what the possible solutions are, whether it involves setbacks, protection of trees, nature of swimming pools as structures and whether they should be included in the floor area ratio (FAR).

Commissioner Gossett said that the guidelines or the initial options are what was presented in the

powerpoint presentation by the Planning Commission to the Board of Commissioners at the September 12, 2014 meeting. A list should be compiled by the workgroup to be presented to the Commissioners.

Commissioner Sharp thought that there should be a structured, methodical way to go about to have the best outcome.

The consensus of the Commissioners was that this will be an agenda item for the next Workshop Meeting on October 6, 2014.

Commissioners Mills said that discussion is needed to pinpoint what the problems are. He suggested that workgroup should come back to the Commissioners at the next Workshop Meeting with a plan and general timeline on how to approach these issues. Discussion ensued.

Ms. Pat Coluzzi, 41 Sussex Street, noted that the noise has been the driving factor with regard to swimming pools and the impact of recent development. She asked if the public would be invited to participate with regard to the workgroup meetings. There are surrounding municipalities that have ordinances in place which could be of use to the Commissioners. Commissioner Mills said that everything would be done concurrently. Mayor Cooper thought that the public would not be invited to participate. Public input would be at the Commissioner level. He encouraged people to forward information to the Commissioners. Commissioner Gossett said that the prime starting list will be what has been presented by the Planning Commission at the September 12, 2014 meeting. It is a comprehensive which includes noise, lot coverage, stormwater management issues, FAR, determining structure, defining a bedroom, etc.

Ms. Linda Kauffman, 206 Laurel Street, said that as a resident she is looking for some direction. She would be disappointed if at the meetings some ideas are not being addressed. A list should be created of everything that everyone has suggested. A working group is important, but people from the public should be added to the group. She asked if other items will follow the same six month track and be completed about the same timeline. Mayor Cooper noted if the public would become involved with the meetings, agendas and minutes would need to be published. Commissioner Gossett said that it would be his intention to approach the other items in same manner to follow the six month track. Mayor Cooper and Commissioners Sharp and McGuinness agreed.

Mr. Gulbranson suggested that for the Workshop Meeting in October, a statistical report should be brought forward to the Commissioners of the issues, complaints, number of building permits, number of structures, how large the structures area, etc. so they have factual information before them. A plan for a timetable for addressing these issues and a list of possible avenues and framework should be brought forward. The pool issue is a symptom of greater problems. There are zoning and rental issues which will need to be addressed. Commissioner Sargent suggested that there should be a list of all the possible solutions brought forward by people.

Mr. Donald Myers, 43 Oak Avenue, thought that the moratorium should be longer such as nine months. Mayor Cooper said that the six months will probably be used for the moratorium. If the Commissioners are making progress, it can be extended by a certain time period.

Mr. Michael Dinard, address unknown, noted that outreach is important.

Mr. Hayden Morris, 216 Laurel Street, thought that the present Code which said that a six bedroom house is rated as a hotel would be a good starting point. Mayor Cooper noted that the Code does not say that. Commissioner Gossett read the definition of hotel from the Code. A rental property in the residential area is defined as a commercial operation.

Mayor Cooper noted that at the next Workshop Meeting, Mr. Gulbranson will have compiled what he perceives as the problems from the letters and discussion at the September 12, 2014 meeting, hard data and maybe some ways to move forward. That will be where the Commissioners will start discussions as to how they will want to approach the list that Mr. Gulbranson brings forward. The Commissioners will have to validate the list and possibly add to it or remove some things.

Mayor Cooper called to consider authorizing the execution of a revised license agreement with Katherine T. Cole for a structure that encroaches on City land located at 39 Olive Avenue and which will permit enlargement of a porch at the second floor level, extending a roof over this porch and reconstructing an outside stairway and landing, the original license agreement dated October 21, 1981.

Mayor Cooper noted that the existing license agreement permitted a 12 foot encroachment at the rear of Mrs. Cole's property into Cranberry Park. She would like to extend the little porch on the second floor out to

the corner of the building, redirect the stairway and cover the area by extending the existing roof line. The proposed license agreement will carry with the property.

City Solicitor Mandalas said that the agreement was revised to include a requirement for a liability insurance policy.

Commissioner Mills said that there is a time deadline of 18 months for making the improvements. Any new structural improvements will stay within the 12 feet of the agreement.

Commissioner Sargent made a motion, seconded by Commissioner Mills to authorize the Mayor to execute the license agreement between the City and K.T. Cole Beach House LLC. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness - aye.) Motion carried unanimously.

Mayor Cooper called to consider authorizing the execution of a proposal from EDiS Company to provide design development level architectural, engineering and estimating services for the proposed City Hall Complex.

Mayor Cooper said that this would be the third phase of work on this project. EDiS Company has performed the first two phases in conjunction with DB&F. This monies for this item have been allocated in the budget.

Commissioner Gossett made a motion, seconded by Commissioner Sargent, to authorize execution of the design development proposal with EDiS Company. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness - aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of an ordinance that would repeal Chapter 152, titled “Fire Prevention” of the City Code.

Mayor Cooper said that City has not been using the Fire Prevention Code. The City relies on the Fire Marshal’s office to enforce the codes. The Fire Prevention Code is grossly outdated. He and Building Inspector Terri Sullivan decided that getting rid of this Code would be more appropriate because the Fire Marshal’s office is very diligent about these things. Mayor Cooper tried to reserve the title so that in the future if there would be a fire prevention matter, it could be inserted in this Chapter. Mayor Cooper and Ms. Sullivan met with the State Fire Marshal’s office to review this matter. The City has a Memorandum of Understanding from the State Fire Marshal’s office that the City is not to issue any building permits that it would not have an interest in until the City has a sign off from that office.

Commissioner Gossett made a motion, seconded by Commissioner Mills, to adopt the ordinance repealing Chapter 152 of the Code. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of a resolution that would give guidance to the Building Department and allow replacement HVAC equipment to continue an encroachment into side and rear yards required by the Zoning Code.

Mayor Cooper said that this was a direct outgrowth of the Commissioners sitting as the Board of Appeals for the tax assessment appeals. A gentleman appeared before the Board and made the argument that he had an air conditioner that was in a side yard setback because of changes in the Code. He needed to replace the air conditioning unit because of mold issues. The gentlemen ultimately was able to get a variance to put it back where it was. Mayor Cooper was sympathetic that if the air conditioner was existing, there is not a huge issue to replace it. The Building Inspector and City Solicitor have felt that this is not an interpretation of the Code, but direction from the Commissioners. Seven variances were granted in the last few years for this type of thing.

Commissioner Gossett made a motion, seconded by Commissioner Sargent, to adopt the resolution relating to replacement of HVAC equipment. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of an ordinance amending Chapter 159, titled “Flood Damage Reduction”, of the City Code which changes would bring this chapter into agreement with FEMA’s current requirements for the National Flood Insurance Program.

Mayor Cooper said that FEMA has made changes to its wording of the requirements. There are approximately 200 properties in the City that fall in a flood plain so this does not affect everyone in the City. This change does not make any material change.

City Solicitor Mandalas noted that the Building Inspector had received from FEMA that the FIRM will

become effective as of March 16, 2015. He proposed that Section 11 be stricken and leave it as it currently is. Strike section 11 and leave it as it currently is because the new date will be picked up when it becomes effective.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the ordinance amending Chapter 159 with the changes to Section 11 as were outlined. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness – aye.) Motion carried unanimously.

CITY MANAGER REPORT

City Manager Lynn reported that the fire hydrants and isolation valve inspections that were started in Spring 2014 have continued through Summer 2014. The final invoice from WACHS has been received, and payment has been made in the amount of \$10,740.00. The City's engineer will receive the final GIS data, and this information will reside on the GIS database which is continuing to be developed. The pre-bid meeting is scheduled for September 23, 2014 for fire hydrant painting, and bid opening is scheduled for October 1, 2014. Parking revenue will exceed the budgeted amount of \$2,855,000.00 by approximately \$14,000.00. Parkmobile transaction increased \$43,561.00 or 26%. There will be an electronic recycling and shredding event on September 27, 2014 from 8:00 a.m. to 2:00 p.m. The City is partnering with Delaware Solid Waste Authority (DSWA) to host this event. Ms. Lynn recently attended the ICMA Conference that was held in Charlotte, NC. ICMA provides over 9,000 cities and towns throughout the world with support and education through publications, peer and results oriented assistance. It is an invaluable networking opportunity for training and professional development. Over 3,500 professional managers attended this year's conference. Ms. Lynn actively participated in workshops referencing strategic measurement of employee performance, ethics and leadership, efficient service delivery and a host of individual meetings. Ms. Lynn thought that the best the workgroup regarding swimming pools can off for the Workshop Meeting is to come back to the Commissioners with a guideline of what was suggested and go from there. Then the Commissioners can provide further direction to the workgroup as to what they need.

City Manager Lynn recommended the approval of the Street Aid expenditures:

09/10/2014	552	Delmarva Power	\$8,602.53 (Street Lights)
------------	-----	----------------	----------------------------

Commissioner Sargent made a motion, seconded by Commissioner Mills, to approve the Street Aid expenditures as presented. Motion carried unanimously.

COMMITTEE REPORT

Commissioner Mills, Chair of Communications Committee had distributed guidelines and recommendations for implementing the Support Document Program to the Commissioners prior to the meeting. The Support Document Program was designed to make support documents for the Commissioners' meetings accessible to the public online. This is a voluntary program. The documents are submitted in .pdf format to the City Secretary seven to eight days prior to the meeting so a support document packet can be created. This is a Board of Commissioners program. The City Secretary participates in this program. She received the documents from the agenda sponsor, compiles the documents into the packet, distributes to the Commissioners and puts the packet online. A review was conducted of this program. There is minimal extra time that goes into creating these documents. The Committee believes there could be better promotion of the use of the packets. When the new website rolls out, the Committee would like to promote this program to the public. The Committee made four recommendations with regard to this program: 1. Expand the support document program to other commissions, boards and committees. 2. Expand the web page Ongoing Business of the Commissioners to include reports to the Commissioners from other commissions, committee and boards. 3. Facilitate the inclusion of Ongoing Business links for individual committees. 4. Expand the content of the Commissioners' support packet as is feasible. The Committee also made recommendations to optimize communication with members of the public at meetings: 1. Utilize a bulletin board. 2. Promote the use more handouts 3. Promote the use of Ongoing Business. 4. Have laptop onsite with a remote. 5. Have a better quality projector which has already been implemented. 6. Have better audio quality. 7. Use of a smart board or Wi-fi for the audience.

CITY SOLICITOR REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills had hoped that a press release would be put out to solicit committee members.

Commissioner Mills commented that September 20, 2014 is Annual Coastal Cleanup Day in Delaware. The

Rehoboth Beach Homeowners' Association is captaining the cleanup in Rehoboth Beach from 9:00 a.m. to 12:00 p.m.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

There were none.

CITIZEN COMMENT

There was none.

The next Workshop Meeting will be held on October 6, 2014 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:11 p.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)