

**MAYOR AND COMMISSIONERS MEETING
CITY OF REHOBOTH BEACH**

November 21, 2014

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 7:03 p.m. by Mayor Samuel R. Cooper on Friday, November 21, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

City Solicitor Glenn Mandalas gave the invocation followed by the Pledge of Allegiance.

ROLL CALL

Present: Commissioner Toni Sharp
 Commissioner Patrick Gossett
 Commissioner Bill Sargent
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Kathy McGuiness

Absent: Commissioner Lorraine Zellers

Also in attendance: City Manager Sharon Lynn
 City Solicitor Glenn Mandalas

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Kathy McGuiness, to approve the Agenda with the deletion of the August 4, 2014 Workshop Meeting, August 15, 2014 Regular Meeting, September 8, 2014 Workshop Meeting and October 6, 2014 Workshop Meeting Minutes. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the May 5, 2014 Workshop Meeting, June 9, 2014 Special Meeting, September 12, 2014 Joint Meeting with Planning Commission, September 19, 2014 Regular Meeting, October 17, 2014 Regular Meeting and October 31, 2014 Special Meeting were distributed prior to the meeting. Minutes of the August 4, 2014 Workshop Meeting, August 15, 2014 Regular Meeting, September 8, 2014 Workshop Meeting and October 6, 2014 Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Patrick Gossett, to approve the May 5, 2014 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Toni Sharp, to approve the June 9, 2014 Mayor and Commissioners Special Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sharp, to approve the September 12, 2014 Mayor and Commissioners Joint Meeting with Planning Commission minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Kathy McGuiness, to approve September 19, 2014 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the October 17, 2014 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the October 31, 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 October 2014. There

were 173 criminal, 150 traffic and three civil charges made during the month. Ten traffic crashes were investigated. The Dispatch Center handled 210 police incidents, 210 ambulance incidents, 43 fire incidents, 156 traffic stops, assisted other agencies 13 times during the month and 9-1-1 calls totaling 389 were received.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Mr. Walter Brittingham of Rehoboth Beach Volunteer Fire Company reported that Certificate of Occupancy for the new building along Highway 1 has been completed. The Christmas Parade will be held on December 2, 2014.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for October 2014. During the month, 84 permits were issued for a value of work totaling \$1,918,893.39. Fees collected totaled \$54,696.92 for the month. One hundred three permit processing fees were received in the amount of \$2,060.00. The Board of Adjustment heard two cases in October. One restaurant application was received in October. Three notices of violation were issued for contractors working without a building permit. One notice of violation was issued for live entertainment on a patio. One notice of violation was issued for a freestanding sign. One notice of violation was issued for a contractor working without a license. There were 66 building inspections, 14 plumbing inspections, two rental inspections, no meetings regarding trees, 40 meetings regarding new projects and 13 meetings regarding City business. Ms. Sullivan participated in the International Green Code Development Hearings in Fort Lauderdale, FL in October 2014.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Leonardo Cabrera of Modern Mixture LLC, to modify the floor plan of an existing restaurant known as "Modern Mixture" pursuant to the City of Rehoboth Beach Municipal Code, Section 215-11 – Modifications of Floor Plan. The restaurant is located at 62A Rehoboth Avenue. Mayor Cooper noted the Public Hearing procedures for this hearing.

City Solicitor Mandalas noted the purpose for the hearing, and he read from Section 215-5 of the Code that in reaching their decision, the Commissioners shall consider the following factors including but not limited to:

1. Whether the Applicant has demonstrated that the establishment's primary purpose will be that of a restaurant or dinner theater as defined in this chapter.
2. Whether the establishment meets all the City's applicable zoning and licensing provisions.
3. Whether the establishment would be a detriment to the peace, order and quiet of the neighborhood and the City.
4. Whether the establishment will have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact on traffic, parking and noise.
5. Whether the Applicant has made any false representation or statements to the City's employees or the Commissioners in order to induce or prevent action by the City, not only in regard to the pertinent pending Application under the statute, but also with regard to the issuance of a building permit or business license for the subject establishment.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on October 29, 2014. Notice of today's Public Hearing was published in the Cape Gazette on November 4, 2014, Coast Press on November 5, 2014 and Delaware State News on November 6, 2014. 2. Building Inspector's Report dated October 30, 2014. 3. Application for a Restaurant Permit of Compliance notarized on October 17, 2014 and received on October 17, 2014. 4. Menu. 5. Existing Floor Plan A1.1, dated March 12, 2013. 6. Renovation Plan dated September 16, 2014 and revised October 16, 2014. 7. Property record. 8. Illustration of the properties within 200 feet that were notified for this hearing.

Building Inspector Sullivan presented a complete report, and her findings were based on the application and her knowledge of the Code. (See attached report.) The Applicant has stated that the approximate percentage of revenue between the sale of alcohol and food is 30% alcohol and 70% food. The Application is for a 1,874 square foot restaurant and 117.5 square foot patio. The proposed bar area will be 76.5 square feet with a proposed ratio of bar permanent seated dining of 15%. In summary, this was an Application for an existing restaurant at 62A Rehoboth Avenue to add a bar to the existing restaurant where there is currently a liquor license. An office was not included in the square footage previously because it was the property owner's space. In addition, the applicant would like to add a 117.5 square foot patio with eight seats at the existing

entrance.

Mr. Leonardo Cabrera noted that having the patio will be vital to him staying in business. He acknowledged that a railing or entryway to segregate the seating from the public space would be done.

There was no correspondence.

Public Comment:

1. Christine Hastings of Jolly Trolley – in support of.

Mayor Cooper closed the public portion of the hearing and called for discussion among the Commissioners.

Commissioner Mills found the following to be true:

1. The proper Application and supporting documents have been filed.
2. The proper fee has been paid.
3. The proper notifications have been made.
4. All parties wishing to be heard have been heard.
5. The primary purpose is that of a restaurant.
6. The Application meets the City's applicable zoning and licensing provisions.
7. The restaurant would not be a detriment to the peace, order and quiet of the neighborhood and the City.
8. The restaurant will not have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact of traffic, parking and noise.
9. The Applicant has made no false statements to the City employees or Commissioners.

Commissioner Mills made a motion, seconded by Commissioner McGuiness to issue the Certificate of Compliance to Modern Mixture LLC for the modification of the restaurant subject to the condition that a railing be situated at the property boundary at least half the width of the opening and abutting the dining tables and seats for the purpose of containing and segregating the dining tables and seats from the public space.

Mayor Cooper hoped that there would be flexibility as to what constitutes a railing.

Commissioner Mills suggested that there should be a policy, resolution or part of the Code requiring the barrier and its space to be drawn on the plans.

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

REPORT OF PLANNING COMMISSION

Planning Commission Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on October 31, 2014. The Planning Commission conducted a public hearing for the property located at 104 Rodney Street. The Planning Commission voted to conditionally approve the partitioning application. The Planning Commission conducted a public hearing of site plan application for a property located at 110 Rehoboth Avenue. The applicants had been granted variances by the Board of Adjustment that allowed them to maintain the architectural/design enhancements as they had proposed and which were consistent with the enhanced version of their plans discussed at the preliminary review. Paving of the driveway and additional screening of the ground level parking lot had been added to the plans. Deleted from the plans were proposed treed bump-outs into the street. The Planning Commission voted to conditionally approve site plan application. During the discussion with the Avenue Inn applicants, the applicants informed the Planning Commission that they were exploring with Delmarva Power the possibility of removing the power poles on Wilmington Avenue in front of their current and planned expansion of the hotel and undergrounding the utilities there. The Planning Commission urges the City to not only assist in any way possible the Avenue Inn's effort to have the power poles/lines removed in front of its property but also to explore all options that would result in the undergrounding of lines for the entire block.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called for the confirmation of appointments to the Planning Commission, Parks & Shade Tree Commission and Board of Adjustment.

Mayor Cooper read the list of appointments for three year terms.

Planning Commission: Lynn Wilson, Harvey Shulman, Joyce Lussier.
Parks & Shade Tree Commission: Marcia Maldeis, Ned Kesmodel.
Board of Adjustment: Clifton Hilderley, Myrna Kelley, Charles Donohoe.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to approve the appointments of Lynn Wilson, Harvey Shulman and Joyce Lussier to the Planning Commission. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, McGuinness – aye.) Motion carried unanimously.

Commissioner Gossett made a motion, seconded by Commissioner Gossett, to approve the appointments of Marcia Maldeis and Ned Kesmodel to the Parks & Shade Tree Commission. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – recused, McGuinness – aye.) Motion carried.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to approve the reappointments of Clifton Hilderley and Myrna Kelley and the appointment of Charles Donohoe to the Board of Adjustment to fill the unexpired term of Robert Wilson. Motion carried unanimously.

Mayor Cooper called to consider appointments to Board of Elections and other City committees, commissions and boards.

Mayor Cooper noted that at some point the Commissioners need to evaluate whether there is a need for all of the standing committees. He suggested that the Commissioners confer with and get input from the City Manager regarding the committees and meetings.

Mayor read the slate and recommended the following appointments:

Audit Committee – Donald Derrickson, Chairperson; Jay Lagree; Jim Harty.
Election Board – Al Morris, Chairperson (2); Jennifer Duncan (1); Lee Ardis (3).
Election Officials – Wayne Steele, Inspector; Steve Elkins, Judge; Nancy Meadows, Judge; Donna Moore (ex officio member).
Animal Issues Committee – Lorraine Zellers, Chairperson; Richard Byrne; Bob Harrison; Marcia Maldeis; Jan O'Donnell; Libby Stiff.
Bandstand/Convention Hall/Special Events Committee – Patrick Gossett, Chairperson; Carol Everhart; Dennis Santangini; Spencer Derrickson; Krys Johnson; Donna White; Kathy McGuinness; Steven Curson; Chuck Snyder (ex officio member); Corey Groll (ex officio member).
Budget and Finance Committee – Board of Commissioners.
City Hall Complex Master Plan Task Force – Sam Cooper, Chairperson; Commissioners; Jim Ellison; Jim Harty; Wayne Neale; Ken Simpler; City Manager; Chief of Police.
Communications Committee – Stan Mills, Chairperson; Janet Anderson; Jim Harty III; Toni Sharp; Lorraine Zellers.
Personnel Committee – Patrick Gossett, Chairperson; Toni Sharp; Lorraine Zellers.
Streets & Transportation Committee – Bill Sargent, Chairperson; Dennis Diehl; Jim Ellison; John Gauger; Cindy Lovett; Kathy Osterholm; Toni Sharp; Lorraine Zellers; June Embert (ex officio member); Mike Peterman (ex officio member).
Commission Liaison to Chamber of Commerce – Sam Cooper.
Rehoboth Beach Historical Society Board – Patrick Gossett.
Commission Liaison to Main Street – Toni Sharp.
Cape Henlopen Senior Center Board – Sam Cooper.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the list as presented.

Commissioner McGuinness was disappointed with not being named a chair to a committee, but was happy to be named as a member to the Bandstand Committee. She suggested that the reevaluation of the committees should be placed on the agenda for the December 8, 2014 Workshop Meeting.

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

CITY MANAGER'S REPORT

City Manager Sharon Lynn reported that she had received notification from Senator Lopez's office regarding approval from DelDOT for two speed signs on Hickman Street. Today, Ms. Lynn had attended a pre-construction meeting for the fire hydrant painting project, phase 1. Work will begin on December 22, 2014 for this project and is anticipated to be completed within 90 days. The Wilmington and Baltimore Avenues restrooms will be closed for the off-season on December 1, 2014. On December 1, 2014, the fiscal year 2015/16 budget reviews and projections

will be held with Department Heads and will continue throughout the month. It is anticipated that the first budget meeting with the Commissioners will be held in January 2015. The lighting of the Christmas tree will be held on November 28, 2014 at 6:30 p.m.

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

11/13/2014	555	Delmarva Power	\$9,002.63 (Street Lights)
------------	-----	----------------	----------------------------

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

COMMITTEE REPORTS

There were no reports.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills commented that some of the CDP has the force of law and some is concepts for consideration. With regard to the Avenue Inn project, the architect and attorney had noted they were presenting a design to comply with the CDP and later said that they are required to comply with the CDP. This would be a design to reflect the CDP and wishes for Wilmington Avenue. Sometimes misinformation needs to be clarified when it comes up and go back read the authority of the CDP.

DISCUSS ITEMS TO BE INCLUDED ON FUTURE AGENDAS.

Items to be included on a future agenda are: 1. Re-evaluation of the committees. 2. Electric vehicle. 3. Anti-smoking initiative. 4. Merger. 5. Re-zoning of a property on the corner of Philadelphia Street and Bayard Avenue.

CITIZEN COMMENT

Mr. Walter Brittingham, 123 Henlopen Avenue, asked how much the traffic control devices will cost for Hickman Street. He did not believe that this issue has come back before the Board for an approval. Three of the Commissioners on the Streets & Transportation Committee have known that the Chief of Police has said there is no justification for the devices.

City Manager Lynn noted that the devices cost \$9,500.00 for both.

Mr. Frank Cooper, 96 East Lake Drive, thought that the utilities should be put underground on Wilmington Avenue.

The next Workshop Meeting will be held on December 8, 2014 at 9:00 a.m.

There being no further business, Mayor Cooper adjourned the meeting at 8:05 p.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)