

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

February 19, 2010

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 7:02 p.m. by Mayor Samuel R. Cooper on Friday, February 19, 2010 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Mayor Cooper requested a moment of silence for the passing of two people who had done a lot for the City: Mr. Jack Hyde, a former Commissioner and former Planning Commission member; and Ms. Nancy Martin who had spent the last years of her life heavily involved in the City's affairs and was the community organizer *par excellence*.

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

ROLL CALL

Present:	Commissioner	Bill Sargent
	Commissioner	Pat Coluzzi
	Commissioner	Kathy McGuiness
	Mayor	Samuel R. Cooper
	Commissioner	Dennis Barbour
	Commissioner	Stan Mills
	Commissioner	Lorraine Zellers

Also in attendance were: City Manager Gregory Ferrese
City Solicitor Glenn Mandalas

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the Agenda with the change in sequence for the report of the Rehoboth Beach Volunteer Fire Company when the representatives are available. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the January 15, 2010 Regular Meeting, February 5, 2010 Special Meeting and February 5, 2010 Workshop Meeting were distributed prior to the meeting.

Commissioner Mills made a motion, seconded by Commissioner Pat Coluzzi, to approve the January 15, 2010 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to approve the February 5, 2010 Mayor and Commissioners Special Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to approve the February 5, 2010 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for January 2010. During the month, 52 building permits were issued for a value of work totaling \$1,318,067.93. Fees collected totaled \$33,691.42 for the month. Sixty-two permit processing fees were received in the amount of \$1,240.00. One restaurant application was received in January. One stop work order was issued for no permit being posted. Three signs were removed from City property. One notice of violation was issued for no tree protection. One notice of violation was issued for a dumpster without barriers. Two notices of violation were issued for realtors without licenses. The Board of Adjustment heard no cases in January.

REPORT OF THE POLICE DEPARTMENT

(See attached report.)

Police Chief Keith Banks arrived at the meeting at 7:09 p.m.

Police Chief Banks presented the report of the Police Department for the month of January 2010. There were 14 criminal and 162 traffic charges made during the month. Four traffic crashes were investigated. The Dispatch Center handled 158 police incidents, 147 ambulance incidents, 48 fire incidents, 160 traffic stops, assisted other agencies 11 times during the month, and 9-1-1 calls totaling 273 were received. There were 27 police alarm incidents. Police officers conducted 991 commercial and 517 residential door checks.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Hugh Fuller and Troy Roberts of Austin Group Inc., owners of "Purple Parrot Grill" to expand the business by renovating the existing location, substantially modifying the floor plan and expanding into an adjacent property and onto a patio located at 41 Wilmington Avenue to serve alcohol pursuant to the City of Rehoboth Beach Municipal Code, Sections 215-11 – Modification of Floor Plan and 270-19 – Use Restrictions, Patios. The restaurant is located at 134 Rehoboth Avenue. Mayor Cooper noted the Permit of Compliance hearing procedures.

Building Inspector Sullivan presented a complete report of her findings based on the application and her knowledge of the Code. (See attached report.) The Applicants have stated that the approximate percentage of revenue between the sale of alcohol and food is 25% alcohol and 75% food. The Application is for a 4,762.75 square foot restaurant with a total of 736 square feet for the two patios. In summary, this is an Application from the owner of an existing restaurant to expand the existing restaurant into the building behind it. As long as the trees are planted as shown on the plan, the Building & Licensing office agrees that the patios are below the 750 square foot maximum allowed. The Building & Licensing office finds this Application to be in compliance with Sections 215-1 through 215-15 of the Municipal Code.

Ms. Jane Patchell, Esq. of Tunnell & Raysor, P.A., represented the owners of the restaurant. In addition to the restaurant being in compliance with Sections 215-1 through 215-15, the patios will be in compliance with Section 270-19(A)(1)(a) since they will be below the 750 square foot maximum allowed. The Applicants are willing to abide by all the use restrictions in Section 270-19, including that food and beverages will only be served to seated patrons; no live entertainment will be on the patios; no external speakers or amplifiers will be on the patios; no internal speakers from the premises will be directed towards the patios; no bar will be on the patios; food services will only be served from 7:00 a.m. to 10:00 p.m.; alcoholic liquor service shall only be allowed from 11:00 a.m. to 10:00 p.m.; and the patrons must leave the patios by 11:00 p.m. This particular establishment has been in business for quite some time. Purple Parrot has had no incidents of any disruptions to the City, and it has demonstrated that its primary purpose is that of a restaurant. The restaurant meets and has always met all Building & Licensing requirements, and it is not a detriment to the peace, order or quiet of the neighborhood or of the City. The restaurant will not have an adverse affect on neighboring properties as evidenced by the fact that it exists and has had no adverse affect on neighboring properties. As noted in a letter dated September 12, 2003, the building on Wilmington Avenue has not been modified and the alcohol bar area is under 25%. The floor plan submitted was approved by the City Manager on September 12, 2003. Nothing has changed in regard to the Wilmington Avenue building.

Ms. Susan Frederick of George Miles & Buhr noted that the original restaurant will remain the same. Should the Wilmington Avenue portion of the restaurant separate from the Rehoboth Avenue restaurant, then the Wilmington Avenue side will have to come back before the Mayor and Commissioners if it is to be run separately or if it becomes some other business.

Mr. Hugh Fuller said that the lease of the Wilmington Avenue property is a five-year lease with the potential for an extension. The purpose of leasing the property is to see whether or not this is a feasible plan; and the goal is to actually purchase the property if it ever becomes available to do so. The front of the building is pre-existing and falls below the guidelines that the City has set forth. The floor plan for the Rehoboth Avenue side of the restaurant is not changing. An outside walkway will connect the two buildings.

Ms. Frederick described the layout for the two areas. The new portion of the restaurant can be accessed through an enclosed porch area from the Rehoboth Avenue side. Access for the Wilmington Avenue side will be available through the enclosed front porch area. The premise for the outside patio is for seating inside of a lush garden.

City Solicitor Mandalas asked if the walkways will be licensed for ABCC purposes so an alcoholic drink can be carried from the front of the restaurant to the back. Ms. Frederick said that there will not be any serving people standing on the patio so patrons cannot walk around with alcoholic drinks.

Mr. Fuller will be providing handicapped accessibility on the walkways. Garbage goes out between 5:00 a.m. to 7:00 a.m. every day, and a dumpster is located in an alleyway.

Commissioner Mills reviewed that exhibits: 1. Notice of Public Hearing. 2. Application. 3. Building Inspector's Report with different calculations that what are shown on the plans. 4. Menu. 5. Drawings – A-1.1 (full and ledger sizes), A-1.2 (full size) and A-1.3 (full and ledger sizes). Ms. Ann Womack, City Secretary, confirmed that the property owners within 200 feet had been notified.

Mr. Fuller noted that the dry goods are located on shelves. Fresh produce, meat and seafood are brought in daily. The Rehoboth Avenue building does not have a full basement. The third floor is attic space where the HVAC is located. The second floor has an office for the restaurant located on one side. A hot water heater and soda system is located in the rear half along with a liquor room for use by the restaurant.

Ms. Sullivan had not figured the square footage of the second floor in her calculations.

Mr. Fuller said that there are two floors in the Wilmington Avenue building, and it is intended to remove a portion of the second story floor to create a larger space. If this is not possible, the HVAC would be located on both sides. The space could not be used for storage. The stairway will be blocked off where an air vent will be located for the use of the HVAC.

Commissioner Mills commented that the waiting area outside the Wilmington Avenue building is an area where no drinks will be allowed. He was concerned with the possibility of crowds spilling over into the areas located near the dense areas of the outside gardens. Mr. Fuller agreed to erecting a fence to keep patrons out of those areas. Commissioner Barbour disagreed with erecting a fence, and he questioned whether having the fence would be as nice as having an open green area.

Ms. Sullivan said that a handicapped accessible restroom is required and could be located where the proposed restroom will be located.

City Solicitor Mandalas had no legal concerns with the two properties from the City's perspective.

Police Chief Banks confirmed that there have been a few minor complaints, but the management has been proactive in regard to contacting the police if there had been issues or concerns.

Mr. Fuller said that there will not be live music or a DJ inside or outside at the Wilmington Avenue building. Karaoke is provided in the Rehoboth Avenue building. There is no dance floor. The Wilmington Avenue building will be a mirror image of the building on Rehoboth Avenue.

Correspondence:

1. Faxed letter received February 19, 2010 from E. Stuart and Bonnie L. Gray, 18 Stafford Road, Rehoboth Beach – in support of.

Public Comment:

1. Ms. Linda Rais, 50 Wilmington Avenue, – in opposition because of the noise and smoking outside.
2. Mr. John Wallace, Milford DE, works for Sysco who delivers to Purple Parrot – in support of.
3. Mr. Myer J. Perso, 19856 Church Street – in support of.
4. Mr. Peter Carsner, Rehoboth Beach Yacht & Country Club – in support of.
5. Ms. Bitsy Cochran, 27 Baltimore Avenue – not in opposition or support of. Outside noise is hard to contain and enforce. She implored that the Commissioners take this issue seriously because if the business is sold in the future, the ramifications will go on.

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

Commissioner Mills said that, in the Code, there is a 5,000 square foot limitation for restaurants serving alcohol. He thought that second floor issue with the office and storage should be resolved before moving forward. A Special Meeting could be scheduled in two weeks.

Commissioner Barbour found the following to be true.

1. The proper Application has 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, concerning the impact of traffic, parking and noise.
9. The Applicant has made no false statements to the City employees or Commissioners.

Commissioner Barbour made a motion, seconded by Commissioner McGuinness, to grant the Permit of Compliance in accordance with the plans submitted, to Austin Group Inc. for the Purple Parrot Grill.

Commissioner Bill Sargent asked if there is a self-correcting mechanism for the Building Inspector to enforce the laws. He also asked if the Building Inspector, when issuing the permit, reviews the drawings for inaccuracies, calls it to the attention of the architect or owner and makes certain they are in compliance with the 5,000 square foot requirement. Ms. Sullivan said her decision was based on the drawings submitted by the architect. When the plans were submitted, she calculated the square footage. If anything was found to be different, meetings were scheduled to discuss the issues in which Ms. Sullivan had shown things differently than what they had. The second floor was not a part of the discussions. Construction will take place soon, so this issue will be enforceable.

Mr. Fuller acknowledged that he can operate in the 238 square feet on the second floor, or he can decrease the amount of space which is proposed for the side on the rear building.

Commissioner Coluzzi said space over 5,000 square feet can be eliminated. She would like to see the Application approved tonight and have Ms. Sullivan look at this issue and determine if the square footage is over 5,000 and some of the space used for storage of liquor needs to be eliminated on the second floor.

Ms. Sullivan said that the drawing of the second floor area could be submitted, and the City Manager can sign off on the difference as long as it is under the 5,000 square feet.

Mayor Cooper asked if Commissioners Barbour and McGuinness would accept an amendment that there will be no more than 5,000 square feet including the usable space on the second floor used by the restaurant. Commissioners Barbour and McGuinness accepted the amendment.

Commissioner Mills reiterated his concern for patrons going into the two garden areas because other restaurants have done the same thing. He would like the City Manager and Building Official to weigh in on enforcement of this issue. The Permit of Compliance should be conditioned upon a railing or barrier that will keep patrons out of those areas. Mayor Cooper said that if those areas begin to be gathering areas, he would hope that the City Manager and Building Official would deal with it.

Commissioner Sargent clarified that this is zoned in an area where restaurants can go in. There is no reason for the Commissioners to not approve this Application because of the "possibility" of violating the noise ordinance. If there is noise, the Police officers can enforce the ordinance.

Commissioner Barbour made a motion, seconded by Commissioner McGuinness, to grant the Permit of Compliance in accordance with the plans submitted, to Austin Group Inc. for the Purple Parrot Grill, and that there will be no more than 5,000 square feet including the usable space on the second floor used by the restaurant. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – no, Zellers – aye.) Motion carried unanimously.

REPORT OF THE PLANNING COMMISSION

There was nothing to report.

OLD BUSINESS

Mayor Cooper called to consider a proposed Ordinance amending Section 236-23(C) of the City Code which would reduce, under certain circumstances, the requirement that each lot created in a major subdivision must front on a public street at least 50 feet in width.

City Solicitor Mandalas read the Ordinance. This Ordinance will only amend the major subdivision

portion of the Subdivision Code and will only address existing streets.

Commissioner Barbour made a motion, seconded by Commissioner Sargent, to adopt the Ordinance amending Section 236-23(C) relating to major subdivisions.

Commissioner Mills said that Section 236-21 specifies the minimum rights-of-way, and in this case it is 50 feet. If there is less than 50 feet, the remedy is incorporated into Section 236-21(F). He did not believe the Code is ambiguous, and the City Solicitor mentioned at the last meeting that it is not ambiguous, although the provision could be clearer. The intent of the Code is to bring non-conformities into conformity. During the subdivision process, there has been mention of the developer trying to maximize lots and of continual threats of condominiums vs. single-family homes. He will not succumb to threats and cater to the developer. Commissioner Mills was comfortable with voting no. Commissioner Barbour was not aware of any discussion, in the record, about condominiums, etc. on the part of this body.

Commissioner McGuinness noted that this Ordinance is for the entire City, not for anyone specifically.

(Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – no, Zellers - aye.)
Motion carried.

Mayor Cooper called to consider a proposed Ordinance amending Chapter 232 of the City Code which would require the construction of missing or discontinuous sidewalks upon the occurrence of certain events.

City Solicitor Mandalas read the Ordinance. This Ordinance will accomplish some of the triggering events, primarily at the issuance of a building permit.

Commissioner Mills made a motion, seconded by Commissioner Lorraine Zellers, to adopt the Ordinance amending Chapter 232 of the City Code.

Commissioner Mills said that the City has been investing a lot in ADA compliance and pedestrian mobility. He has recognized the mobility needs of the disabled, especially since attending the last ADA Workshop. This Ordinance only applies to those sections where 50% or more of the areas have sidewalks, and it only adds costs at specified thresholds when work is being done.

Commissioner Sargent said where there is a clear hazard there is no question of putting in a sidewalk. He is sympathetic to the ADA requirements, and he is glad that in downtown, the corners are being fixed; but he is uncomfortable in enforcing this ordinance for other streets in the City.

Commissioner Zellers was in favor of this Ordinance because the discontinuous sidewalks need to be filled in, especially in the well-travelled areas. Commissioner Zellers had attended the ADA Workshop, and she noted that the ADA guidelines will become more comprehensive. Commissioner Coluzzi agreed.

Mayor Cooper said that there is no reason to have discontinuous sidewalks.

(Sargent – no, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.)
Motion carried.

This Ordinance will affect new applications as of February 22, 2010.

Mayor Cooper called to discuss a proposed revision to the City tree ordinance, Chapter 253 of the City Code.

Commissioner Sargent suggested that this matter is a Workshop item, but necessarily for all the Commissioners. All the comments should be discussed by a committee, and then the final product should be brought back to the Commissioners. He would like to see the revision drafted to a point where it can be given to City Solicitor Mandalas and do the final housekeeping.

Commissioner McGuinness thought that as the comments are gathered, a red-line could be provided to the Commissioners; and the time to work on the proposed revision could be limited.

Mayor Cooper voiced concern that when the Commissioners are finished with the proposed revision and have come to an agreement on what the tree ordinance is supposed to do, there will still be organizational problems with it.

Commissioner Barbour said that the Commissioners have made the proposed revision more coherent in terms of changing the blending of the public and private spaces.

After discussion, the consensus of the Commissioners was to move forward with the review of the

proposed revision.

The suggested revisions are as follows:

1. Line 344. a) Tree removal permit fee. Ms. Sullivan will provide a fee schedule to the Commissioners.
2. Line 357. 3. Delete "...or waived..." Change "...declared an emergency by the City Manager..." to read "...declared an emergency by the Mayor..."
3. Line 372. a) Delete "Review of such survey/protection/planting plan or survey/protection plan, and any approval thereof, will proceed in the same manner by the same City officials and/or entity responsible for reviewing and approving the application for building permit, tree removal permit, subdivision approval or demolition permit."
4. Line 378. b) Tree survey/protection/planting plans shall include the following information for a lot:
(2) "Location, type and size of all existing tree or tree stands, and a notation of whether each such tree or tree stand is to be preserved or removed" should be replaced with "Location, species and size of all existing trees including native trees, and a notation of whether each such tree is to be preserved or removed."
5. Line 388. (5) Delete "[L]ocation and description of existing native tree communities to be preserved and remain undisturbed."
6. Line 390. (6) Change "...type..." to "...species..."
7. "Species" needs to be put back in the Definitions.
8. Line 394. c) Delete "...the limited purpose of..."
9. Line 395. c) Change "...or trees during or after construction..." to read "...or trees during construction..."
10. Line 398. c) Delete "...to offset the cost of reviewing each plan required by this subsection..."
11. Line 402. 2. Tree survey inspection. Delete "...a land clearing permit..."
12. Where "tree stand" and "land clearing permit" appear in the remaining portion of the proposed revision which has not been reviewed, those will be edited from the revision.
13. Line 404. 2. Tree survey inspection. Delete "...proposed development..."
14. Line 407. 2. Tree survey inspection. Change "[F]ollowing inspection, the City Arborist, consistent with the purpose of this article, shall advise the applicant in writing of any recommended changes in the applicant's proposed tree removal, protection or replanting plan" to read "[F]ollowing inspection, the City Manager or his designee shall not issue any permit unless the application is in conformance with this Code." Commissioner Barbour and Ms. Sullivan will discuss the possibility of removing the tree protection inspection.
15. Line 411. 3. Tree protection during construction. Delete "...in special circumstances..." and "...on the site..." Commissioner Barbour and Ms. Sullivan will discuss the issue of trees hanging over onto a property of a neighbor.
16. Line 422. b) Delete "[A]uthorization to remove the protective devices shall be by the City Arborist or by the issuance of a final certificate of occupancy."
17. Line 423. b) Change "...disturbance or development" to read "...disturbance or development with approval to proceed by the City Arborist."
18. Line 426. c) Change "...orange laminated plastic, wooden post and rail fencing or other equivalent..." to read "...orange construction fencing or equivalent restraining material..."
19. Lines 430 & 431. Delete.
20. Line 433. e) Change "...until it passes final inspection" to read "...until authorized for removal."

Review of the proposed revision to the Ordinance was stopped at Line 438.

This item will be placed on the agenda for the March 5, 2010 Workshop Meeting.

NEW BUSINESS

Mayor Cooper called to discuss the draft Comprehensive Development Plan presented by the Planning Commission and the process for Commissioner approval of same.

Mayor Cooper noted that the Commissioners will need to leaf through the Plan, section by section; and he suggested that a special meeting should be set aside to review it. A letter should be sent to the Planning Commission asking for a representative to be present to answer questions and present its rationale. It would be up to the Planning Commission to decide who the representative would be.

The consensus of the Commissioners was to hold the special meeting on March 20, 2010 at 9:00 a.m. in the

Commissioners Room.

Mayor Cooper called to consider appointments to City committees, commissions and boards.

Mayor Cooper read the list.

Assessment Board: Roger Pool, Linda Kauffman, (vacant).
Audit Committee: Donald Derrickson (Chairperson), Jay Lagree, Jim Harty.
Board of Adjustment: Tom Evans, Clif Hilderley, Myrna Kelley, Paul Flexer, Doug Popham.
Mayor Cooper noted that the members of the Board of Adjustment were appointed at a previous meeting.
Election Board: Al Morris (Chairperson), Ned Kesmodel, Lee Ardis
Election Officials: Wayne Steele (Inspector), Steve Elkins (Judge), Nancy Meadows (Judge), Donna Moore (ex officio member)
Parks and Shade Tree Commission: Mayor Cooper recommended holding off on any appointments until the revision to the tree ordinance has been completed.
Planning Commission: Jan Konesey, Tim Spies, Brian Patterson, Preston Littleton, Harvey Shulman, Patrick Gossett, David Mellen, John Gauger, Francis Markert, Jr. Mayor Cooper noted that the members of the Planning Commission were appointed at a previous meeting.
Animal Issues Committee: Lorraine Zellers (Chairperson), Bob Harrison, Marcia Maldeis, Jan O'Donnell.
Bandstand, Convention Hall, Special Events Committee: Kathy McGuinness (Chairperson), Pat Coluzzi, Carol Everhart, Dennis Santangini, Spencer Derrickson, Jenny Barger, Donna White Chuck Snyder (ex officio member), Corey Groll (ex officio member).
Boardwalk Committee: Stan Mills (Chairperson), Kathy McGuinness, Sam Cooper, Bill Bahan, Mark Henschke, Mauria Stein.
Budget and Finance Committee: Board of Commissioners.
City Hall Complex Master Plan Task Force: Sam Cooper (Chairperson), Pat Coluzzi, Stan Mills, Jim Ellison, Jim Harty, Ken Simpler, Greg Ferrese, Keith Banks, Dawn Lynch.
Communications Committee: Pat Coluzzi (Chairperson), Stan Mills, Dorothy Cirelli, Hoyte Decker.
Personnel Committee: Kathy McGuinness (Chairperson), Dennis Barbour, Lorraine Zellers.
Streets and Transportation Committee (formerly Parking Advisory Committee and Streets and Light Committee): Pat Coluzzi (Co-Chairperson), Dennis Barbour (Co-Chairperson), Additional members to be determined, June Embert (ex officio member), Mel Craig (ex officio member).
Commission Liaison to Chamber of Commerce: Sam Cooper.
Rehoboth Beach Historical Society Board: Kathy McGuinness.
Commission Liaison to Main Street: Kathy McGuinness.
Cape Henlopen Senior Center Board: Sam Cooper.

Commissioner Barbour made a motion, seconded by Commissioner Coluzzi, to approve the list as submitted. Motion carried unanimously.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese recommended the approval of the Street Aid expenditures:

01/27/10	670	Daft McCune Walker, Inc.	\$ 384.44 (Handicap Ramps)
02/10/10	671	Delmarva Power	\$ 6,521.15 (Street Lights)
02/17/10	672	Delmarva Power	\$ 963.51 (Street Lights)

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to approve the Street Aid expenditures as presented. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – absent, Mills – aye, Zellers – aye.) Motion carried.

(See attached report.)

Mr. Ferrese reported that there is a terrible erosion problem on East Lake Drive. Mayor Cooper, Mr. Ferrese and Commissioner McGuinness have looked at the problem. The City has allocated \$10,000.00 in the Budget to be implemented on April 1, 2010. A grant can be submitted to the State for \$5,000.00. The total project would be in the amount of \$25,000.00. State Representative Pete Schwartzkopf will allocate \$10,000.00 towards the stabilization of the East Lake Drive project. In the upcoming Budget, \$70,000.00 has been allocated towards the stormsceptor in Country Club Estates to collect all of the debris before it goes into Silver Lake. The total project is in the amount of \$150,000.00. State Representative Pete Schwartzkopf will allocate \$50,000.00 towards this

project. A commitment was received from Senator Bunting for \$15,000.00. Twenty-first Century funding was received last year in the amount of \$22,000.00 which will be applied towards that project. Mr. Ferrese, Police Chief Banks and the City's labor attorney had the first Police negotiation session on January 26, 2010. The second negotiation session may be held on March 15 or March 22, 2010. On February 3, 2010, the City hosted an ADA Workshop from 8:00 a.m. to 12:00 p.m. The Audit Committee held a meeting on February 9, 2010 with the City's auditors. The Committee accepted the audit ending March 31, 2009. An Agenda item for the March 2010 meeting is to be noted whereby the Mayor and Commissioners will accept the recommendation from the Audit Committee. Sealed bids will be opened on February 25, 2010 for the Museum, and sealed bids will be opened on March 9, 2010 for the new air conditioning unit in the Convention Center. Commissioner McGuinness and Mr. Ferrese held a very good Employee Committee meeting on February 17, 2010. Mr. Ferrese thanked all the employees who doing an excellent with removing snow last week.

COMMITTEE REPORTS

Commissioner Mills, Boardwalk Committee, gave an update of Phase 2 of the Boardwalk Reconstruction Project to the Commissioners. There has been no Committee activity. Snow has delayed the opening of the south end of the Boardwalk, and it is expected that this section will be walkable in March 2010. The north section is proceeding on schedule, and it is anticipated that the north section will be walkable by Memorial Day 2010.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas provided an update on the ER Zoning District. A revised version of the Ordinance was transmitted to the Cape Henlopen School District. City Solicitor Mandalas spoke with the School Board's counsel today. Mr. Tim Willard, Esq. and City Solicitor Mandalas will be meeting to discuss the intent of the proposed Ordinance. This item will be placed on the next School Board's agenda.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Mayor Cooper announced that Mr. George Wright of the Delaware League of Local Governments has asked him to be one of three or four people representing the League which will be meeting the State representatives who are putting together a State mandatory recycling bill.

Commissioners Mills and Sargent, Mayor Cooper, Mr. Ferrese and Mr. Rip Copithorn of Stearns & Wheler met with the Joint Permit Process Committee within DNREC, a representative of EPA and the Army Corps of Engineers to try to narrow down what the process is for the outfall. Mayor Cooper is expecting that Mr. Copithorn is putting together a list of tasks, and affirmation is needed from the Commissioners to perform those tasks. Putting together the Environmental Impact Statement is a big part of the process that should answer all the questions which the permitting people would have. This process will take many months. Mr. Copithorn has been in contact with the University of Delaware who is interested in helping to pull together information. Commissioner Mills thought it would be beneficial for the public, to place a status report on the agenda. Mayor Cooper said that the Notice of Intent for the Clean Water Advisory Council (CWAC) was submitted ahead of time. Mr. Deputy has said that the City will rate very high. A meeting will be held on March 10, 2010, and the CWAC will accept the rankings (priority) list. The Director of Water Resources has scheduled a meeting on March 23, 2010 with all the departments within DNREC and the City so that everyone is working cooperatively. A representative of the Army Corps of Engineers said that it will not have a public hearing. The IP7 permit needs to be submitted to the Army Corps of Engineers. DNREC will be hold a public hearing at a future date.

Discuss items to include on future agendas.

Topics to be included on future agendas: The revision to the tree ordinance and an emergency operations plan.

CITIZEN COMMENTS

There were none.

There was no report from the Rehoboth Beach Volunteer Fire Company.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:34 p.m.

Respectfully submitted,

(Kathy McGuinness, Secretary)