

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

December 16, 2011

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, December 16, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

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

ROLL CALL

Present: Commissioner Bill Sargent
 Commissioner Pat Coluzzi
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Lorraine Zellers
 Commissioner Mark Hunker

Absent: Commissioner Kathy McGuiness

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

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Bill Sargent, to approve the Agenda as presented. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the November 18, 2011 Regular Meeting, December 5, 2011 Special Meeting and December 5, 2011 Workshop Meeting were distributed prior to the meeting.

Commissioner Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the November 18, 2011 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the December 5, 2011 Mayor and Commissioners Special Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the December 5, 2011 Mayor and Commissioners Workshop 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 November 2011. There were 23 criminal, 190 traffic and two civil charges made during the month. Six traffic crashes were investigated. The Dispatch Center handled 187 police incidents, 138 ambulance incidents, 34 fire incidents, 249 traffic stops, assisted other agencies 10 times during the month, and 9-1-1 calls totaling 379 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

November 2011. During the month, 61 permits were issued for a value of work totaling \$1,185,633.67. Fees collected totaled \$22,858.77 for the month. Seventy-four permit processing fees were received in the amount of \$1,480.00. No restaurant applications were received in November. Three stop work orders were issued for contractors working without licenses. Three stop work orders were issued for contractors working without permits. Two notices of violation were issued for signs on City property. Two notices of violation were issued for dumpsters without barriers. One notice of violation was issued for an obstruction on a sidewalk. One notice of violation was issued for a temporary banner. One notice of violation was issued for a blinking sign. Two notices of violation were issued for putting trash out too early. Two notices of violation were issued for freestanding signs. One notice of violation was issued for a flag too low over a sidewalk. One notice of violation was issued for construction material on a protected tree. The Board of Adjustment heard two cases in November.

REPORT OF THE PLANNING COMMISSION

Mr. Patrick Gossett presented the report of the Planning Commission. The Regular Meeting was held on December 9, 2011. The majority of the meeting was devoted to discussing Commission administrative and planning matters. The vote was unanimous for the election of officers with Dr. Preston Littleton as Chairman, Mr. David Mellen as Vice Chair and Mr. Francis Markert as Secretary. Two letters were received from citizens seeking the Planning Commission's assistance with regard to stormwater flooding in front of 216, 218 and 220 Laurel Street and concerns with both commercial and recreational vehicles on residential streets. In both cases, the resolution of the cited issues was not within the Planning Commission's authority, and the respective complaints have been forwarded to the City Manager for action. The next scheduled Planning Commission meeting is January 13, 2012.

PUBLIC HEARING and consideration of a proposed ordinance that would amend the City Code by adding a new Section 270-46.2 to the Zoning Code, which section would permit the replacement of non-conforming retaining walls under certain circumstances.

City Solicitor Mandalas noted that the ordinance has been properly advertised in the newspapers, and notice has been posted in City Hall. This is an ordinance to amend Chapter 270 by adding a new Section 270-46.2 – Replacement of Non-conforming Retaining Walls relating to non-conforming retaining walls. City Solicitor Mandalas read the proposed ordinance. A definition of retaining wall would be added to Section 270-4. A retaining wall is a structure designed and constructed to resist the lateral pressure of soil when there is a desired change in ground elevation that exceeds the angle of repose of the soil. Section 270-46.2 would read as follows:

Notwithstanding anything contained in this chapter to the contrary, a retaining wall existing on [date of adoption of this ordinance] which is constructed in a required yard area may be replaced provided:

- A. The replacement retaining wall will be no higher and will not deviate from the location of the retaining wall it is replacing.
- B. An existing retaining wall that spans a property line may only be replaced with the consent of all the owners of property on which the existing retaining wall is constructed.
- C. No building permit shall be issued until a property survey showing the height and location of the existing retaining wall and drawings detailing the new retaining wall, all prepared by an appropriate professional, are submitted and approved by the Building Inspector.

There was no public comment.

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

Commissioner Mills made a motion, seconded by Commissioner Sargent, to adopt the ordinance amending the Zoning Code by adding new Section 270-46.2 relating to non-conforming retaining walls. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

OLD BUSINESS

Mayor Cooper called to consider a proposed ordinance to amend the City Code changing dates and/or times of day certain provisions are enforced as follows.

Commissioner Mills read the proposed changes:

1. Section 1-11. Define Daybreak as thirty minutes prior to sunrise.
2. Section 92-18(C). Replace current Section 92-18(C) with “[N]o person shall ride or operate any bicycle on the main Boardwalk between the hours of 10:00 a.m. prevailing time and Daybreak

- on the following day from May 15 to September 15, both dates inclusive, of any year.
3. Section 92-143(B). Lengthen the season when left turns are prohibited at six specified intersections from May 1, inclusive, to September 30.
 4. Section 95-6(A). Change the time period that sleeping is prohibited from the beach to between 1:00 a.m. to daybreak.
 5. Section 95-6(B). Change the time period that persons are prohibited from the beach to between 1:00 a.m. to daybreak.
 6. Section 198-37. Change the time period that persons are prohibited from the pavilions at the Boardwalk to between 1:00 a.m. to daybreak.

Police Chief Banks noted that from a safety standpoint, these proposed changes would help the police with enforcement.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the ordinance amending the City Code as was entered into the record. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

NEW BUSINESS

Mayor Cooper called to consider adoption of a proposed resolution setting tree canopy goals.

Commissioner Mills read a portion of the proposed resolution. In accordance with Title 3, Chapter `10, Subchapter III of the Delaware Code and the Charter of the City of Rehoboth Beach, the Commissioners do hereby recognize the City's existing forest canopy density of 32.75% and commit to developing and implementing a plan in cooperation with citizens with the intention to grow the resource to 40% or greater over the next 10 years as part of the City's continued commitment to preserving and enhancing its natural resources.

Commissioner Sargent said that in addition to the grant for the planting of trees, this resolution will be important for the future with clearing out Central Park and extending the inventory throughout the City, etc.

Commissioner Pat Coluzzi made a motion, seconded by Commissioner Zellers, to adopt the resolution related to the forest canopy density goal. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of a Resolution setting a Public Hearing on a proposed Ordinance that would amend the City Code by deleting Section 270-19(A)(1)(f) which section limits the hours a restaurant patio may be used.

Commissioner Mills recused himself from this topic and discussion.

Commissioner Coluzzi noted that there had only been five noise complaints during July and August 2011. The hours that people can be on patios have not caused any problems or noise issues.

City Solicitor Mandalas read the proposed ordinance. Section 270-19 of the Municipal Code as amended be and the same is hereby further amended by deleting Subsection 270-19(A)(1)(f) relating to the hours of food and alcohol service and consumption on restaurant patios in its entirety. If ordinance is adopted, the patios would be in operation the same hours as the restaurant itself is in operation.

Commissioner Coluzzi made a motion, seconded by Commissioner Zellers, to adopt the Resolution setting the Public Hearing for January 20, 2012 for amendment to the Zoning Code relating to the hours of food and alcohol service and consumption on restaurant patios. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – recused, Zellers – aye, Hunker – aye.) Motion carried.

Mayor Cooper called to accept the recommendation of the Audit Committee approving the audit as prepared by the auditing firm Barbacane, Thornton & Co. for the City's fiscal year ended March 31, 2011.

City Manager Gregory Ferrese noted that on November 21, 2011, the Audit Committee met with the City's auditors, Barbacane, Thornton & Co. to review the audit ending March 31, 2011. The Committee has recommended that the Board of Commissioners adopt the audit.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to accept the recommendation of the Audit Committee approving the audit for the fiscal year ended March 31, 2011. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

(See attached report.)

Mr. Ferrese reported that the City signed the Grant Agreement with State Parks and Recreation Department in regard to the grant award of \$80,000.00 which will be used towards upgrading the Delaware Avenue restrooms. The City is advertising this project, and a pre-bid meeting is scheduled on January 4, 2012 at 10:00 a.m. Sealed bids will be opened on January 12, 2012 at 1:30 p.m. A meeting was held today with Guardian in regard to the ADA Ramping Project. That project will begin on January 9, 2012. Mr. Ferrese was notified by State Department of Transportation that it will approve the Alan Kercher agreement in January 2012. The State authorized grant funding in the amount of \$70,000.00 now and an additional \$105,000.00 after July 1, 2012. The City's share is 20%. This project is to upgrade Lake Avenue from Third Street to Rehoboth Avenue. The City received a grant amendment to its Competitive Energy Grant to complete the roof project on the Municipal Building Complex which includes the Convention Center. The energy efficient windows have been installed along with the lighting.

Commissioner Zellers noted that the lights have been installed on Scarborough Avenue.

Mr. Ferrese recommended the approval of the Street Aid expenditures:

12/14/11	509	Delmarva Power	\$ 7,927.52 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the Street Aid expenditures as presented. Motion carried unanimously.

Mr. Ferrese will provide an update on the beach replenishment project as soon as one is available from Mr. Tony Pratt. It is not known if a pipe is planned to be placed at the end of Rehoboth Avenue. Mr. Ferrese, Mayor Cooper and Commissioner Mills have asked to be included in all discussions with the Army Corps of Engineers regarding this project. Mr. Ferrese noted that the contractors should park in the spaces where the businesses are closed. He will work with Ms. Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce in this regard.

COMMITTEE REPORT

Mayor Cooper, City Hall Complex Master Plan Task Force, reported that the Task Force is asking for the Commissioners to consider a recommendation from it to approve a contract with EDiS Company to perform, in working with the Task Force, a feasibility assessment of the City Hall Complex. Three meetings have been held with EDiS Company with the last meeting being held on December 8, 2011. Representatives from EDiS Company and Davis, Bowen & Friedel (DB&F) were present. The proposal was forwarded to the Commissioners approximately one week ago. The proposal is to have EDiS Company who would be using DB&F do a feasibility assessment of the City's needs with City Hall. The work would be broken into three phases: 1. Information gathering which would take approximately six to seven weeks and would cost \$21,534.00. 2. Conceptual planning which would take approximately six weeks and would cost \$24,818.00. 3. Final feasibility assessment which would take approximately 11 to 12 weeks and would cost \$27,218.00. Discussion occurred among the Task Force members that Phase 3 may not need to be done. It is assumed at this point that Phase 3 will be done. DB&F will develop a questionnaire and meet with the department heads who are involved in this project to see what their current and future needs are. An evaluation of City Hall would be done as to its practicality of revamping/remodeling it etc. The end result would be a layout for a building location with blocks for the various departments. The next step would be to take the conceptual plan and layout the rooms and do the outside architecture. It is Mayor Cooper's expectation that the Task Force will be meeting with EDiS Company and DB&F at frequent milestones.

Commissioner Hunker made a motion, seconded by Commissioner Mills, to approve the contract with EDiS Company for the City Hall Master Plan in process. (Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried unanimously.

Commissioner Coluzzi, Streets & Transportation Committee, reported that the Committee recently held a meeting. Three specific items were covered: 1. Commissioner Zellers had given a presentation regarding beautification of the City and was modeled on Lewes in Bloom. There is interest, certainly within the Committee to move forward with a pilot project.

Commissioner Zellers noted that a sub-group had been formed, and she has been reaching out to various people in the community to see if there is interest among the particular groups in the City such as the Chamber, VIA, etc. and to see if there would be volunteers to move forward.

Commissioner Coluzzi said that the sub-group has been talking with members of Parks & Shade Tree Commission to work together with it to make a determination of whether a group is feasible as a separate entity apart from City government. 2. The Committee continues to be concerned about speeding on Rehoboth Avenue. Commissioner Sargent, a member of the Committee, has been talking about placing the Street People in the middle of the roadway between the two lanes. The Committee has suggested a pilot program for Rehoboth Avenue before the circle. Commissioner Coluzzi understood that permission would be needed from the State since Rehoboth Avenue is a State road. From a safety standpoint, the Committee would like to move forward with the pilot project.

Commissioner Sargent suggested that the Street People could also be placed on Rehoboth Avenue at First and Second Streets in between the two lanes of traffic. Some of the members of the Committee feel that it would be worthwhile to address this.

Mayor Cooper was willing to try a limited number of the Street People.

Mr. Ferrese suggested meeting with a representative from the State to discuss this matter.

Commissioner Coluzzi said that the recommendation of the Committee was a pilot project for Rehoboth Avenue at the circle. 3. A public meeting was held in regard to the bicycle/pedestrian master plan. Delaware Greenways is currently working on Technical Memo No. 2.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that an appeal has been filed from the Planning Commission's denial of the partitioning application for 2 St. Lawrence Street. Under the Code, an appeal hearing is to be conducted by the Board of Commissioners within 60 days or as soon thereafter as practical. It is City Solicitor Mandalas' understanding that probably within the next week he will be receiving a proposal as to a potential settlement of this matter.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Hunker distributed the "grid" with instructions to be filled out by the Commissioners with regard to the Comprehensive Development Plan (CDP) and will also email it to each Commissioner. He would like for a progress report to be made periodically regarding the status of the items.

Mayor Cooper announced that in regard to the Emergency Operations Plan (EOP), there is a potential candidate who would be great to work with the City, but he would want to get started after the first of the new year. No official commitment has been made to date.

Discuss items to include on future agendas.

An item to be included on the January Workshop Meeting agenda would be a status report on the parking meters.

CITIZEN COMMENT

There were no citizen comments.

The Workshop Meeting will be held on January 9, 2012 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 8:09 p.m.

Respectfully submitted,

(Patricia Coluzzi, Secretary)