

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

March 20, 2010

The Special Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 9:05 a.m. by Mayor Samuel R. Cooper on Saturday, March 20, 2010 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

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
 Chairman Preston Littleton, Jr., Planning Commission
 Vice Chair David Mellen, Planning Commission
 Secretary Timothy Spies, Planning Commission

Absent: City Solicitor Glenn Mandalas

The purpose of this Special Workshop Meeting was to review and discuss the draft updated Comprehensive Development Plan (CDP) presented by the Planning Commission and the process for Commission approval of same.

Chairman Preston Littleton said that Mr. Patrick Gossett of the Planning Commission was also present, but not as an official representative. Chairman Littleton gave his presentation and noted that this process is about the Commissioners approving the Comprehensive Development Plan (CDP), and then forwarding it to the State for certification. The Planning Commission has been in the process of working on the CDP for the past two and a half years. Chairman Littleton has forwarded to the Commissioners in a transmittal letter, information about public input the Planning Commission has received. The Planning Commission contacted every organization to seek their input early in the process. Special day-long workshops were held that were based on particular topics and to seek input. The City website and the newspapers were utilized to solicit input of what was going on. Mailings were also done to everyone on the City's mailing list. In February 2009, the Planning Commission released the draft document to the public and on the City website. Executive summaries were widely distributed, and hard copies of the draft CDP were also available. Presentations were given to the various organizations, and two public information sessions were held to explain what the Plan is and to seek input. The Planning Commission held a formal Public Hearing on July 18, 2009 in the Rehoboth Beach Fire Station with an outside facilitator present. The record was left open until July 22, 2009 to receive written comments. After closing the Public Hearing, the Planning Commission revisited the draft based on everything it had learned since February 2009 to the close of the Public Hearing. In September 2009, the Planning Commission unanimously approved the draft CDP, but it was lacking the visuals. The entire package with the visuals was transmitted to the Commissioners in December 2009. The current draft is also available on the City website. Chairman Littleton noted that the responsibility the Commissioners have is to approve the document and forward it to the State for certification. The Planning Commission has been proactive regarding the State certification, and its consultant, Mr. Bruce Galloway who was working with the Planning Commission throughout the process, was in contact with Ms. Connie Holland and Mr. Bryan Hall of the Office of State Planning. Mr. Hall unofficially reviewed the draft CDP and identified one area which was deficient and urged that another area be strengthened. Chairman Littleton summarized what has substantively changed since the 2009 draft of the CDP was released. In Section 3.4, a description of the resources and activities in the City was inserted as a background clarification because it is a State requirement, and there is no recommendation to that. From the Public Hearing, meetings and discussions, there was a lot of confusion with how the term "green" was being used. The term "green" was dropped from references to landscaping, etc., and "green" technology was strengthened in regard to building and protections of resources. The Planning Commission received favorable information about the concept of cottage housing. In the final draft of the CDP, the entire section on cottage housing has been reduced from what was in the February 2009 edition. This section is laid out as a section that could be explored in some areas of the City or in surrounding areas outside of the City. The concept which was

the most contentious in the February 2009 draft was street closure, and it has been removed from the final draft because of the way it was poorly written and misunderstood. There is a real desire within Main Street and the Rehoboth Beach/Dewey Beach Chamber of Commerce to increase the economic viability of businesses, particularly on parts of Baltimore and Wilmington Avenues. Ideas were brought to the Planning Commission regarding festivals, activities, etc. with food and alcoholic beverages being brought out on the street on a limited activity basis. The way this concept was written came across as permanent closures to those streets, and this has been removed. What still remains in the draft is that there is a real desire and recommendation from the Planning Commission to increase the activities and the development of Baltimore and Wilmington Avenues. In regard to mixed-use zoning, the Plan provides for a broad description of how mixed-use zoning is used in other communities; and more specifically, the Plan says how to explore that process. From the business community and its representatives, there was a desire, some of it being economically driven, to see mixed-use zoning differently than currently allowed in the Zoning Code. The Planning Commission is not solving those things which could be done, but it is recommending that the right bodies be assembled to think those things through. The February 2009 draft had a large section on the importance of site plan review, and the Commissioners have adopted that review. The February 2009 draft and the Executive Summary talked about the creation of a new organization for the City, and it is modeled after the Greater Lewes Foundation. Non-elected officials would be brought in to take on responsibility for some activities within the City. This idea was removed from the Plan. The continued networking and involvement of community organizations still remains in the draft. Feedback provided by Mr. Hall regarded the strengthening of the section relative to the relationship of the City with the County and with other municipalities. This is a State priority. New to the Plan are the capital improvement budget discussion, reference to motor scooters, and the problem with cars being parked across sidewalks and enforcement. The Planning Commission is pleased and comfortable with handing the Commissioners the draft plan. It is a solid plan, and the feedback received from Mr. Hall is this Plan meets the State requirements. Relative to the CDP, the Planning Commission's charge comes from the State. The Board of Commissioners is now charged with approving the Plan, forwarding it to the State for certification, and implementing the Plan afterwards. Chairman Littleton cautioned that the Commissioners should not start implementation discussions until the Plan has received State certification. There are things in the Plan which the Planning Commission did not take to Public Hearing in July 2009. The Commissioners may want to think about whether or not it would be wise to conduct its own Public Hearing prior to approving the Plan. To its very best ability, the Planning Commission has handed the Commissioners what it has heard, interpreted and thought through many hours with many people involved, a Plan that is an evolution of the 2004 CDP which meets all the requirements of the State. The Commissioners have been proactive in passing a zoning map and the wastewater alternative. In that sense, the Plan needs to be corrected and brought up to date. The Planning Commission has finished its work on this Plan.

Mr. Dave Mellen commented that there are some things which are impacted by City finances, but there are many things in the Plan that can be done with little or no cost; and after approval, there are things in the Plan to move forward on immediately.

Mayor Cooper would like to have a discussion among the Commissioners and the Planning Commission about what the effect is of the Plan. He agreed with the principles, but there are a number of specific recommendations that he does not agree with. Commissioner Kathy McGuinness said that the Commissioners can massage the Plan, have the Public Hearing and approve it. It was her understanding that issues could be addressed without actually doing things.

Commissioner Bill Sargent would like to accept the Plan as the Planning Commission has done it, then find a mechanism where the Commissioners can go through and prioritize; and put those priorities in a form for the State. He asked to distribute a list of actions to the Commissioners to develop a sense of priorities. Commissioner Sargent extracted the Planning Commission's 25 priority actions. Two actions have been accomplished: 1. Zoning Map. 2. Wastewater alternative. The CDP is tremendous supporting material. He did not believe when the Plan is transmitted to the State, that the Commissioners want to bind themselves to everything in the Plan.

Commissioner Stan Mills wanted to continue with the philosophy of the CDP. The CDP emphasizes that it is a 20-year vision. He was looking for a five-year action plan with some kind of systematic implementation for the Commissioners to look forward. The action plan needs to consider the financial component that it can be done in the five-year plan, consider a timeline, and consider broad concepts rather than specificity in some things. Commissioner Mills thought that perhaps the Executive Summary could become the five-year action plan. The Plan notes City policies which may give the public the idea that these policies are adopted and either codified or to be codified. City actions intimate that they have to be done and codified. He did not think that this is the intention of the Plan. Commissioner Sargent was going to pick the 23 non-accomplished priority

actions and look at which ones would be priorities. That would give the Commissioners a good view of what they would be considering in the next five years.

Commissioner Pat Coluzzi said that the Plan is good, and a vision for 20 years is also good. The Commissioners need to decide on the five-year action items in moving forward to the next plan. There are some things which the Commissioners may not want to include in the action part of the Plan, but could be included in a vision for the future. She is willing to look at that. Commissioner Lorraine Zellers agreed. The Plan is a vision for the future, and the Commissioners need to prioritize what is important. Commissioner Coluzzi said that the CDP has the force of law. The Commissioners do not have to adopt the Plan as it stands. There might be things that the Commissioners may not want in the Plan. This discussion would take place before the adoption of the Plan.

Mayor Cooper said that the Plan recommends some specific things that he is not sure are either consistent or inconsistent with a vision, but calls for action.

Chairman Littleton said that there are a number of things in the 2004 CDP which the Commissioners have not addressed. The only thing that has a force of law in the Plan is on the zoning issue or annexation. Before the 2004 CDP was approved, the Commissioners debated among themselves and removed the parking garage recommendation from the draft. After approval, the Plan was forwarded to the State. The State noted the issue of the rezoning of the school property. The Plan was amended by wordsmithing in regard to the school property, and was certified. The Commissioners chose to do what Commissioner Sargent is suggesting, to pull off some things as priority items. There is nothing in the current Plan that carries the force of law other than a rezoning or annexation, but they will not be able to be carried out if they are not addressed in the Plan. Chairman Littleton cautioned the Commissioners to not confuse implementation vs. getting the Plan approved.

Mayor Cooper did not endorse the specific recommendation to give the Planning Commission more authority to pass on partitionings based on more subjective criteria than objective criteria. If there are lots that were originally plotted and they are the same size as most of the lots on the street, then the owner has the right to go back to the originally plotted lots. The City should not assume overall responsibility for lake management. Commissioner Zellers agreed. The City should work in partnership with the State in regard to Silver Lake. Mayor Cooper thought that in regard to historic preservation, if the Plan said the City in going forward will look for ways to incentivize the preservation of historic properties, he would be for it but not the idea of regulation. Commissioner Mills noted other examples. He did not believe it to be true that the entire CDP has the force of law. The Plan is intended to address issues. Mayor Cooper did not agree that the elimination of parking on the west side of First Street should be in the CDP.

Commissioner Coluzzi thought that if the public has been involved in this process and has seen everything in the CDP; and they are in support of things that the Commissioners do not ever intend to do, there is a real disconnect. Commissioner Zellers agreed. It will be the perception of the people, if adopted, that this is what the Commissioners are going to do.

Commissioner Barbour said that the Commissioners need to look at this from two perspectives: 1. Legal matter. 2. Policy matter. By adopting certain things in the CDP, the Commissioners are adopting policy; and some of those things which people are not going to like to do, will need to be removed. As a legal matter, the Commissioners do not have to worry about being bound with anything but annexation or zoning.

Commissioner Sargent suggested that in five years from now, that the CDP should be the Planning Commission's recommendation document. The Commissioners need to find the mechanism to take to the State where they are not committed to every recommendation in the CDP.

Commissioner Barbour agreed with Commissioner Sargent's approach. If the Commissioners can extract out of the document what the general policy positions are, then the recommendations that the Planning Commission has made, can be used as examples as to the ways in which they can be accomplished. Commissioner Coluzzi agreed.

Chairman Littleton said the Plan is the assumption that a vision will be accomplished. The ability to accomplish that is something else.

Commissioner McGuiness asked if the Commissioners are tasked with wordsmithing or if a blanket page and policy can be inserted in the front of the Plan. The Commissioners need to figure out how to move forward. Commissioner Barbour agreed.

Commissioner Zellers suggested that a preamble should be used in saying that the Plan is a vision and is

not something which means everything will be done within a certain timeframe.

Commissioner Mills said that the Office of State Planning produces a municipal development strategy checklist, and it indicates State requirements under Title 22 and strongly suggested items. It does not give recommendations to how the checklist is formatted. He would be more comfortable changing the wording to "The Plan concepts are". The Commissioners could come up with their own action plan. The Plan needs to be in there as part of the appendix at least, if it is not the five-year action plan. The State is looking for that narrative. The Plan is the 20-year vision and the foundation for the five-year action plan. Chairman Littleton said that page 2 of the document is for the preamble. Chairman Littleton said that a preamble to the CDP will solve two things: 1. Keeps trust with the citizens. 2. Literally gives the protection that the Commissioners are not committed to or feel bound to by every word within it.

Commissioner Sargent distributed the 25 priority actions to the Commissioners.

Commissioner Barbour liked the idea of putting whatever concerns the Commissioners have in the preamble, leaving the CDP as it is, and then spending their time after that discussing things they think are priority items.

Commissioner Mills said that a five-year action plan should be included as part of the preamble with items the Commissioners anticipate looking at that are based on the foundation presented in the 20-year vision by the Planning Commission. It should be done as a package.

Commissioner Coluzzi said that she would accept the entire Plan with the preamble, but she had a problem with the idea of overall responsibility for lake management on page 10 of the Plan. Commissioner Zellers said that the Commissioners as a body cannot do that because it does not have the resources nor the authority over the rest of Silver lake. The Commissioners can work with other communities. Mr. Mellen read 5.31.a on page 42. This point, extracted to page 10, says "to develop and implement with Dewey Beach, the County, the State and other appropriate jurisdictions". Chairman Littleton said that what is on page 10 can be substituted with 5.31.a.

Commissioner Zellers said that with the preamble she could be comfortable with the Plan, and eliminating some things that are obviously not what can be done or wanted to do; but leaving the Plan the same if this is a vision statement for what the Commissioners would like to see and fix what is really a problem.

Mayor Cooper said that there are a lot of areas he would not have written this way, but he has accepted the Plan as the Planning Commission's work, and it is a vision for the City. In regard to page 45, "all trees growing within Rehoboth be they on private or public property are part of the urban forest", a term that includes all the trees, woodlands, wooden shrubs, ground vegetation, and associated green space with an urban area" is in cross purposes to the City's tree ordinance which talks about urban forest. Commissioner Barbour said that "urban forest" is broader than the tree ordinance. Mayor Cooper said that the tree ordinance refers to "urban forest".

Commissioner Coluzzi said that the Plan should talk about areas of interest not currently in the draft, such as certain zoning, annexation and wellhead protection. Street closure is not a zoning issue, and there are plans which have been approved to do something regarding temporary street closings for activities.

Mayor Cooper had concern with the vision for redevelopment of commercial areas. Mr. Mellen said that during the early discussions with the business community, a property and business owner presented ideas on how to develop his property downtown for mixed-use housing. In regard to the current Code, he would not be able to do it economically. There were also general discussions of how to develop the downtown area. The Planning Commission said that rather than letting something happen haphazardly by individual property owners and developers, the best thing the City might do is to have a developing concept of what the downtown area of the City could be, not what it should be. The feeling was that if an overall concept is exposed to business and property owners, then they could develop within that scheme. Chairman Littleton said that with the concept of mixed-use, the basic zoning stays the same. If there is a concept of how things could be done, an overlay for mixed-use zoning can be done. Incentives can be done to help or encourage some of the things to happen. The Plan says to lay out a process where there is a body of people thinking through the process. The goal is to increase the viability of the two parallel commercial streets, Wilmington and Baltimore Avenues.

Commissioner Barbour said the assumption that a street is closed down and people will not come to it, is exactly wrong. People will be attracted to a street because it is a pedestrian street. Chairman Littleton said that the Plan was perceived as calling for a permanent closure of some streets to make them pedestrian streets. The Commissioners should be talking about the idea of street closures for events or activities and what is allowed

within those events and activities. The Planning Commission was not recommending permanent closure of streets. Commissioner Barbour asked if the Planning Commission had discussion about the issue of sidewalk cafés. Chairman Littleton said that this issue was brought to the Planning Commission. There is a brief reference in the Plan to food services outside. The idea of sidewalk cafés is something the Commissioners collectively should be looking at. There are some restrictions to these events that are counter-productive to viability.

Mr. Bruce Galloway will draft the preamble and forward it to the Commissioners for the Workshop Meeting on April 9, 2010 at 9:00 a.m. The Public Hearing date will be determined at the Workshop Meeting.

There being no further business, Mayor Cooper declared the meeting adjourned at 11:05 a.m.

Respectfully submitted,

(Kathy McGuinness, Secretary)