

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

March 10, 2014

The Special Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 9:02 a.m. by Mayor Samuel R. Cooper on Monday, March 10, 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 Lorraine Zellers

Absent: Commissioner Mark Hunker

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

The purpose of this Special Meeting was to consider adoption of an ordinance to amend Chapter 224 of the City Code expanding and adding to the public areas within the City where smoking is prohibited to include the beach, Boardwalk, areas adjacent to the Boardwalk, the area of the Bandstand and additional park lands with the option of designating limited areas where smoking would be permitted on the beach.

Commissioner Mills gave his presentation. He reviewed the common threads in smoke free initiatives. The rationale for implementing smoke-free zones in certain areas of the City reduces litter from improperly discarded cigarettes, cigars, etc., reduces toxins that leach from the discarded cigarette butts, labor costs to pick up the improperly discarded cigarette butts. It is better for the environment, and there is less negative impact on health issues. Smoking of tobacco products is banned. Smoking will be allowed in certain areas. Education is the key to voluntary compliance and enforcement. Media releases and educational materials can be provided. Partnering will be done with realtors, Chamber of Commerce and Main Street. City personnel will be trained to know how to handle the situation with a person who is smoking or when someone approaches them about where to smoke. No evidence has been found that this initiative will hurt tourism. All of the smoking free initiative presentations and codes are currently on the City website under Ongoing Business. Since last meeting, Commissioner Mills met with City Manager Sharon Lynn, Beach Patrol Captain Kent Buckson, Sign Department Supervisor Mike Peterman, Public Works Director Mel Craig, Mayor Sam Cooper and representatives of businesses located in the Bandstand area to get input from them. The onus has been placed on the City Manager to locate the areas for designated smoking areas on the beach. There are certain conditions for the City Manager to follow in placing the designated areas. Items to be addressed this meeting are: 1. The number of designated smoking areas and the proximity to beach access ways. 2. Consider expansion of smoke-free areas at the Bandstand to include the entirety of the Bandstand median, streets, parking areas and sidewalks. 3. Costs to implement. 4. Concern about including language on every sign identifying a grant funding source. Currently smoking is prohibited in Grove Park, Cranberry Park, the park and tot lot on Stockley Street, tot lot on Lake Avenue at Lakeview Street, Central Park and Deer Park. Additional areas to be included in the smoke free initiative are: A) Grove Park including all of the area situated generally between Rehoboth Avenue, Columbia Avenue Grove Street and the Lewes-Rehoboth Canal excluding the parking lot. B) Lake Gerar including all of the public park lands surrounding the lake. C) Central Park situated generally between Columbia and Park Avenues and Third Street. D) The entirety of the park lands located in Country Club Estates along Stockley Street. E) Deer Park located at the intersection of Kent and Dover Streets. F) The entirety of the easternmost median island on Rehoboth Avenue inclusive of the Bandstand, sitting areas, restrooms, bus stop and associated areas. Alternative F) The entirety of the Bandstand plaza area, defined for purposes of this Chapter as that area that lies east of the line of pavement of Rehoboth Avenue at the western edge of the Bandstand median to include the sidewalks, whether of wood, concrete or pavers, the streets including parking spaces and any structures situated in this area and maintained by the City. Commissioner Mills had spoken with business owners in this vicinity, and approximately half were concerned with additional

littering of cigarette butts if this would become effective. G) The Boardwalk as defined in Chapter 98. H) For every street which has for its eastern termination the Boardwalk, that area that lies east of the easternmost line of pavement to include all sidewalks, whether of wood or concrete, and any structures situated in this area and maintained by the City. I) The Beach defined as the area of the City east of Ocean Drive, Surf Avenue and the Boardwalk extending 100 yards east of the high water line of the Atlantic Ocean, excluding the parking lot in the areas known as Deauville Beach; except smoking shall be permitted on the Beach in designated and marked locations as determined by the City Manager, subject to the following: 1. Each area where smoking is permitted shall be abutting and located on the east side of the easternmost dune fence or if there be no fence at the toe of the main dune. 2. Each area where smoking is permitted shall be in the shape of a half-circle having a twelve foot radius, the center of such half-circle being at a point in the above-referenced dune fence or toe of dune. 3. Each area where smoking is permitted shall be marked by appropriate signage and shall be provided with a cigarette/cigar butt disposal container. 4. No area where smoking is permitted shall be located any nearer than 40 feet from any entranceway or path to the beach or Atlantic Ocean. 5. From May 1 to September 30 of each year, there shall be no more than 20 areas where smoking is permitted. 6. From October 1 of each year to April 30 of the following year, there shall be no more than four areas where smoking is permitted. In Section 224-3, the current ordinance would be amended that no person shall be cited for violating this chapter unless signs, readily visible to the public are posted to indicate those areas where smoking is prohibited. With regard to enforcement, signage would need to be readily visible, there would be an ability to issue citations, there would be no heavy handedness, and voluntary compliance would be sought. If the ordinance is adopted, it would become effective on May 15, 2014. With a good education program and signage to make people aware of the program, 99.9% of the people will comply. For those who do not comply, there is an opportunity to issue civil citations. The onus is on the police department as the enforcers to approach someone who smokes and provide education on this program. At the last meeting, Mayor Cooper had expressed concern about including language on every sign identifying a grant funding source. Since then, it has been decided that language identifying a grant funding source would not be needed on every sign if (1) all press releases would include the information provided by the American Lung Association, (2) a webpage would be created on the City website explaining the smoke-free initiative and (3) one bigger sign would be created to explain the program and has the funding information on it. The estimated cost of \$31,000.00 cost to implement this program would include educational materials, signage and cigarette/cigar disposal urns. Funding resources would include: 1. \$12,000.00 in the 2014-15 City Budget. 2. Anticipated \$10,000.00 grant proceeds from Delaware Division of Public Health and managed by the American Lung Association. 3. Estimated \$9,000.00 of City funding would be required. The City has been pre-approved for up to \$15,000.00 funding from the Delaware Division of Public Health.

Ms. Debra Brown, President and CEO of American Lung Association of the Mid-Atlantic States, was in attendance at the meeting.

City Manager Sharon Lynn said with regard to implementation, she has had three discussions with the Public Works Director about costs associated with this program and how effectively the City employees could pick up the smoking receptacles when they need emptying. It is not known at this point whether the receptacles would need to be picked up on a weekly or a daily basis, depending on the type of receptacle. Those resources are on the beach emptying trash daily, and it would be part of their assigned duties to include emptying any receptacle on the Boardwalk or beach within the confines of a workday. It is likely that emptying the receptacles on a daily basis will not be necessary.

After a lengthy discussion, it was determined that Alternative F would define the Bandstand area for the smoke-free initiative program. The smoke-free initiative program would be reviewed comprehensively once the summer season has concluded. Included in this review would be the use of e-cigarettes.

Mr. Walter Brittingham, 123 Henlopen Avenue, did not think that signs should be posted everywhere and that there should be a methodology to posting signage.

City Solicitor Mandalas said that smoking in a non-smoking area would be characterized as a civil offense, and a citation could be issued whether or not there is signage. Mayor Cooper said that the civil penalties would be reserved for those people who would repeatedly violate it and refuse to comply.

Commissioner Mills has been working on a communications plan and designing educational material. Some of the language will stem from language that will be on the signage.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the ordinance as prepared by Commissioner Mills with two changes: 1. Accept Alternative F which extends smoking to the entire Bandstand area. 2. The maximum number of areas where smoking shall be permitted will be not more than 20.

Commissioner Sharp said that it is important to have a vigilant plan for implementation. The City Manager will be handling that and giving the Commissioners periodic updates. It is also important to revisit this matter on the agenda of the first Workshop Meeting after the season is over.

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

There being no further business, Mayor Cooper adjourned the meeting at 10:18 a.m.

Respectfully submitted,

(Lorraine Zellers, Secretary)