

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

June 13, 2014

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 6:31 p.m. by Chairman Preston Littleton on Friday, June 13, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Mr. Francis Markert called the roll:

Present: Mr. Brian Patterson (arrived at 6:36 p.m.)
Mr. Harvey Shulman
Mr. Paull Hubbard
Mr. David Mellen
Chairman Preston Littleton
Mr. Francis Markert, Jr.
Ms. Lynn Wilson
Mr. Michael Strange

Absent: Mrs. Jan Konesey

Also Present: Ms. Terri Sullivan, Chief Building Inspector

Also Absent: Mr. Glenn Mandalas, City Solicitor

A quorum was present.

VERIFICATION OF MEETING NOTICE

Ms. Ann Womack, City Secretary, verified that the Agenda was posted at City Hall, Building and Licensing Department and the City website on June 6, 2014. The Agenda was sent to Cape Gazette, Coast Press and Delaware State News on June 6, 2014. An E-News blast was also sent out on June 6, 2014.

APPROVAL OF MINUTES

No minutes were available for approval.

CORRESPONDENCE

Correspondence received will be read into the record when the Other Business portion of the meeting is held.

OLD BUSINESS

There was none.

NEW BUSINESS

Building Inspector Terri Sullivan received a request for a 60 day extension with regard to the conditionally approved partitioning for 49 Park Avenue.

Chairman Littleton noted that Delmarva Power has not connected electricity to the house. This violates the ability to declare the house a living unit. The deadline for the approval of the partitioning is July 10, 2014. The next meeting of the Planning Commission is July 11, 2014. Notification came in less time to be able to post it on this Agenda. This matter will be placed on the Agenda for the July 11, 2014 Planning Commission Meeting.

OTHER BUSINESS

Chairman Littleton called for continued discussion of the impact on adjacent neighbors of swimming pools being constructed within residentially zoned areas and possible recommendations.

Correspondence:

1. Letter received June 14, 2014 from John and Leah Rogers, 45 Oak Avenue, that due to noise with swimming pools, they are requesting that swimming pools should not be allowed to be constructed with the two houses being built on the properties which abut their property, and a second issue is with

- lessening the noise from existing pools on rental properties in residential areas.
2. Email received June 13, 2014 from City Solicitor Glenn Mandalas regarding noise and swimming pools. Enforceability of a zoning regulation depends upon whether the regulation addresses a health, welfare or safety concern within the community. Based upon that standard, it is unlikely an absolute ban on swimming pools would be sustainable if the ban was challenged. The explanations of noise that typically accompanies or is generated by a swimming pool and the lot coverage created by a swimming pool do not seem to be of the type that would be necessary for a swimming pool prohibition.

Chairman Littleton noted that in the report to the City Commissioners at the Planning Commission's last meeting, there was a brief statement from the members to inform the City Commissioners that this matter of swimming pools has been on the agenda. Feedback provided to Chairman Littleton was that there had been discussion among the City Commissioners and the public, and this matter would be addressed in the future. Since then, this matter had alerted builders/developers and property owners who have issues concerning swimming pools.

Mr. Harvey Shulman disagreed with City Solicitor Glenn Mandalas' email. Different things happen on properties concerning structures and uses. A structure can have different uses. There are reasons why there is zoning that do not only deal with whether the structure can be built, but also what kind of uses take place on a property. In the Zoning Code, there are restrictions specifically on certain types of structures and uses. The Code imposes certain restrictions on garage apartments, signage, etc. All of these things somehow relate to some finding about public health, welfare and environment. The notion, without any research or study for someone to say that restrictions cannot be put on swimming pools, is a completely uninformed opinion. The Planning Commission has heard and seen enough that swimming pools are unique structures. There are effects that swimming pools may have on the environment, neighbors of the community and the lot itself which are different from other structures. All of the facts need to be considered when looking at pools. If there are significant problems in terms of the structure of pools, what it does to the lot and how pools are used in terms of what they attract, whether it is people, noise, etc., there may be a basis for the City to treat swimming pools differently from other structures. With regard to the other aspects of the pool problem, the noise levels and rules during the day are different than the noise levels at night. The City has a noise ordinance which says that after 11:00 p.m. until 8:00 a.m., there cannot be noise from an adjacent lot that is plainly audible inside a residence on a neighboring lot. The problem is that frequently the "plainly audible" standard is not enforced in the City. A lot of the problems that relate to pools particularly late at night could be dealt with by better enforcement of the noise ordinance. Equipment such as pumps are structures, and according to the Code, these types of structures are only to be located in certain areas. The noise ordinance applies to noise from pumps. Mr. Shulman suggested that the Planning Commission should look at the issue of pools particularly because a lot of pools are responsible for the destruction of trees. The Planning Commission should look at pools with regard to what issues they present, and the noise issues.

Ms. Lynn Wilson thought that noise from pools is a health, safety and welfare concern. There should be immediate action, and a moratorium on swimming pools.

Mr. David Mellen said that there are concerns with pools and rental properties. There should be a moratorium until the issues around pools can be defined and studied and written into code. Facilities around pools can be designed better than what has been done in the past. Equipment could be located inside the house or in the crawlspace. Lighting can be only ground lighting which would not shine onto neighbors' properties. Noise barriers can be defined. There are issues around the way pools are currently being used. The City has to study this and come up with a solution.

Chairman Littleton said that the uniqueness about pools is that there is another foundation which impacts trees. The contour of land is affected because of water runoff. He noted that this is a Board of Commissioners issue rather than a Planning Commission issue. Articulate the issue and pass it to the Commissioners.

Mr. Markert noted that this is an issue which has significant impact to trees and the future of maintaining the urban forest. The behavioral aspects regarding pools aside from the structural ones seems to be coming from the notion that these are rental properties, and that is significant. The Planning Commission needs to bring its awareness to the attention of the Commissioners.

Mr. Michael Strange said that with the update to the Comprehensive Development Plan (CDP) coming up, several issues could be addressed. The context can be much larger than it was in the past with regard to zoning and the building code. Many properties that have been developed are not in the context of a residential community. They are being developed as a commercial enterprise within a residential setting. The Code and

zoning have not been able to deal with that so there is a spillover of noise, etc.

Mr. Brian Patterson said that another health, safety and welfare issue which needs to be addressed is the discharge of chlorinated water into the stormwater system which then goes into the lakes. Noise, light and impact on trees are all things that are not unique to swimming pools and could be addressed more comprehensively and thoughtfully. The nature of the community during the summer in particular has changed a lot since the series of building booms. The business of residential rentals in the City can be addressed immediately and should be properly regulated. Informing renters, enforcing the rules, having penalties and confiscating deposits, etc. does not happen near as often as it should. The rental issue is the key.

Chairman Littleton thought that it would be worthwhile to schedule a joint meeting of the Planning Commission and the Board of Commissioners to have a discussion on this matter. The Planning Commission should forward a recommendation letter to the City Commissioners with the letter from John and Leah Rodgers, 45 Oak Avenue attached.

Public Comment:

1. John and Leah Rogers, 45 Oak Avenue, voiced concern about neighbors with swimming pools, rentals and noise. They feel their rights have been violated.

Building Inspector Terri Sullivan was requested by the Planning Commission to assemble a list of swimming pools permits for three years.

The Planning Commission will communicate with the City Commissioners that this is an issue and recommend a joint meeting.

Chairman Littleton called for the review and discussion of the draft transmittal report and recommendations to the Board of Commissioners with regard to the resolution regarding the City's Trees passed by the Mayor and City Commissioners asking the Planning Commission to research and propose amendments, as necessary, to the City's ordinances, regulations or procedures which are designed to protect and augment the City's urban forest in order to ensure the environmental health, beauty and enjoyment of Rehoboth Beach's trees; review, discussion and possible finalization of the working draft of an amended City Tree Ordinance; the identification of any additional data needs and plan to attain the same; and public comment.

Edits to the draft are:

1. Line 40. Change "...special matter of question..." to "...special matter or question..."
2. Line 135. Change "him" to "the owners".
3. Line 502. Change "...by wrapping the tree..." to "...by wrapping the tree **trunk**..."
4. Line 591. Change "...meeting the standards of §25328 or 253-31..." to "...meeting the standard of **§253-28 or 253-32**..."
5. Lines 812-21. Rewrite to read. Violations of this article, or failure to maintain all required trees as reflected in the approved tree plan:
 - Shall be subject to the noncompliance fee in the amount of four times the applicable tree-removal permit fee,
 - Shall be subject to the applicable fee in lieu of mitigation if the property owner shall fail to obtain approval for a mitigation plan,
 - Shall be grounds for action by the City Arborist, the Board of Adjustment, the Parks and Shade Tree Commission and any other appropriate City official or entity for appropriate action, including but not limited to postponement of action or denial of a pending application, revocation of any issued building or demolition permit or certificate of occupancy, revocation of any issued permit for tree removal or land clearance, and action for specific performance or other equitable relief in the Chancery Court.

Mr. Markert made a motion, seconded by Mr. Strange, to approve the draft revision to the tree ordinance as corrected and be provided with recommendations and the cover to the Commissioners.

Mr. Shulman read his statement. "Rehoboth Beach's tree ordinance addressing the treatment of trees on private property has been in effect for eight years since 2006. At the time it was enacted, it was a groundbreaking ordinance, and it was controversial with a number of property owners who disagreed about it drew the right balance between private property rights of individual landowners and the rights of the public at large to continued enjoyment of our treed environment. As is the case with almost any law, over the years complaints about the tree ordinance have grown with some residents complaining that our

precious City is still losing too many trees despite the existence of the tree ordinance, and with other residents complaining the tree ordinance is too restrictive in prohibiting the removal of trees and/or requiring the replacement of trees. Although there have also been complaints that parts of the tree ordinance are too complicated and should be simplified, and there is some justification for more simplicity, many of those complaints about simplicity cannot easily be separated from the more specific criticisms from the residents who simply believe the tree ordinance is too restrictive in prohibiting removal of trees. Faced with these complaints, the City Commission asked the Planning Commission to make recommendations in regard to the tree ordinance. As with every task the Planning Commission has taken on, it pursued this task conscientiously and carefully. The Chairman is to be commended for continuing to keep our efforts moving. Commissioner Patterson is to be commended for putting a great amount of time and thought into redrafting the tree ordinance for our initial review, and then redrafting it again and again. The Planning Commission has had several meetings to discuss the general principles that should guide us as well as the specific language for changes that might be recommended to the City Commission. That brings us to this day. It is with sincere regret, however, I must vote against the proposal we are presenting to the City Commission. There is only one significant benefit I can see in the Planning Commission's proposal. The redrafted ordinance does to some degree respond to complaints that the existing tree ordinance is too complicated, and it does so by proposing a somewhat simplified ordinance. But simplification in and of itself cannot be divorced from the substance of the proposal, and is in this regard as the substance that the Planning Commission proposal falls far short in drawing the proper balance between private property rights and the public's interest in protection of the treed environment. Indeed, while the Planning Commission has listened to and acted upon complaints from those who wanted fewer restrictions on what can be done with trees on private property, unfortunately in my view, it has dismissed concerns about the ease with which too many trees, particularly large mature trees in setback areas, can be cut down. This is not just my own evaluation of the ordinance changes proposed today. Rather, midway through the process Commissioner Patterson candidly admitted it would be extremely difficult to add more tree protections to the tree ordinance. And so his draft was really directed at simplification and eliminating impediments to tree removal in some situations where the current tree ordinance prohibited removal, but there appeared to be reasons offered to allow removal. Commissioner Patterson honestly conceded his draft was not intended to find a way to protect against the destruction of large mature trees on lots where new construction is leading to destruction of all or almost all the trees on those lots. The existing tree ordinance is lengthy as is the Planning Commission's proposed redraft, and so although I can provide many, many examples where the Planning Commission's proposal fails, listing just a few of them will suffice. First, as I have just stated, there is not a single change proposed by the Planning Commission that will add more protection to the preservation of existing trees. To the contrary, the only honest evaluation of the Planning Commission proposal is that in terms of the effect on existing trees, the only thing it does is allow more trees to be taken down than is the case under the current tree ordinance. This failing is not just a hypothetical concern. We have all seen and the Planning Commission has received several complaints about the effects of new construction on multiple lots throughout the City. New large homes expanded to the maximum building area with additional patios and driveways, sometimes with in-ground swimming pools has led to the removal of multiple large mature trees, particularly within side setback areas and rear setback areas. That is the trees that are removed are entirely or almost entirely within the setback areas, not smack dab in the middle of the lot where of course they must be cut down if anything is to be built on the lot. The purported reasons for tree removal in these yard areas are many. Either the tree roots allegedly will be harmed by the new construction, and so the tree will die anyway, or the tree roots allegedly will eventually interfere with the new foundation of the new construction or the new swimming pool, and thereby harm the buildings or the swimming pool. Or the limbs of the trees that will overhang the new structure or new swimming pool are so large and heavy that even if they are healthy, they may nonetheless fall and damage the new structure and the inhabitants inside. Or the tree branches and leaves interfere with the sunshine that would otherwise fall upon the house or the swimming pool, and so on. In fact in one of the presentations the Planning Commission received from a tree expert, the expert stated that it would not be too difficult to find a tree expert who would be able to present his or her good faith professional opinion that trees in almost any setback areas of Rehoboth Beach on standard 5,000 square foot lots might be harmed by or might in turn cause harm to the adjacent structures. In other words, even though other tree experts might disagree with that conclusion and might find that trees in the setback areas can coexist with adjacent structures, a property owner would have no difficulty finding a professional to offer a good faith opposite conclusion. The result, of course in the eyes of many residents who complained to the Planning Commission, is that it is far too easy to remove large mature trees, especially in setback areas. The current tree ordinance actually provides a reasonable approach to protecting trees in the setback area. At least three parts of the current tree ordinance are relevant. First, §253-30(A)(2)(a)(7) specifically says that if a tree

prevents reasonable development of a lot that is otherwise permissible, then the tree can be removed unless the applicant has failed to design and locate the proposed improvements so as to minimize the removal of trees. Thus, it is clear from this section that the design and location of improvements must be done to minimize the removal of trees, not the other way around where the removal of trees can be done to minimize changes to the proposed structure and design locations. Second, §253-35(B) says that any protected tree, except historic trees, at least 24 inches caliper shall be preserved and protected in accordance with this section unless the tree prevents the reasonable development of the lot or is determined to be a material safety hazard or cause of material damage to structures or more desirable trees around it. But then there is a big "if". It says only if such hazard is not innate to or commonly associated with the existence of trees in general or if the tree is infected with significant disease from which it is unlikely to recover. Thus, because all trees have roots and limbs, it is hard to read this section to mean that the mere existence of tree roots and limbs in a setback area near a proposed structure means the trees should be removed as opposed to making design modifications in or relocating the proposed structure, or simply realizing that trees always innately present some risk. Third, §253-26(F) says that whether or not the tree density requirements in Subsection (A) of this section are met, all reasonable efforts must be made to save protected trees on a lot. Reasonable efforts shall include, but not be limited to alteration of building design, alternate location of building, parking area, water retention or drainage infrastructure, or relocation of utilities. These words speak for themselves, and it is clear that if a large mature tree is in a setback area, to quote the law, all reasonable efforts including modestly changing the building design and/or relocating the building even by a few feet, should be made to preserve the tree. In other words, if a setback tree conflicts with a proposed structure, the proposed structure does not automatically win. In light of the above sections of the current tree ordinance, during the Planning Commission's months of deliberations, there were questions presented to the Building Inspector about how situations would be handled where large mature trees in the setback areas were claimed to be threatened by or be a threat to a proposed new structure. Specifically, the Building Inspector was asked how she has handled such situations. Although listening to the tapes of our meetings will provide the best details, it is fair to summarize her response as being that she would urge or in some cases require the property owner to flip a house or a porch or a garage or a driveway so as to minimize the interference between setback area trees and the structure or the driveway. But apart from flipping, she would not require any design change that might reduce the size of a planned structure. Apparently, even if that was a swimming pool or a porch, in one example when asked about a large porch that might be planned with a long length, i.e. 30 feet long x several feet wide, the question was raised about whether the property owner might be told that the porch can only be 27 feet long rather than 30 feet long because a smaller foundation would thus avoid a conflict with a large mature, healthy setback tree. The Building Inspector replied that she did not feel she had the authority under the tree ordinance to require a slightly smaller porch be built, and she argued that the tree ordinance should be specific if it is intended for her to have that authority. Likewise in another example, when asked about a proposed new house with a large basement that may require extensive excavation on a lot, the question was raised about whether the property owner might be told that the basement should be a few feet smaller in just one small corner, or in order to avoid a conflict with a large mature setback tree, or at least whether the property owner might be told that he/she must do the excavation using one-sided sloping and trenching accompanied by protective walls on the other three sides that would prevent cave-ins and would be more likely to preserve the setback area trees as opposed to doing the quicker and cheaper three or four-sided sloping trenching that would almost assure destruction of every tree in the adjoining setback areas. In that case, the Building Inspector replied that she did not feel the tree ordinance gave her authority to require that more costly construction techniques be used, assuming the alternative construction methods met OSHA requirements. And again she said that a more specific tree ordinance would be needed in her opinion to require this different type of construction technique. This can all be heard in the tapes. Although it is clear to many of us, the tree ordinance already gives Building & Licensing such authority, she urged such authority be more explicit if the City wants her to be able to take these protective steps. And yet, the Planning Commission has turned a deaf ear to these remarks. My point in giving the above examples is that they are real life situations that can and do occur in which the current tree ordinance is being interpreted not to minimize the removal of trees by using all reasonable methods. And although, as I said above, many residents believe the tree ordinance does give Building & Licensing such authority, apparently Building & Licensing does not think so. It is one thing for the Planning Commission to bemoan the loss of large mature setback trees in such situations, but it is an entirely separate thing for the Planning Commission to throw up its arms and refuse to clarify that such authority either currently exists or that the tree ordinance should be amended to specify such authority. If as part of its entire review process of the tree ordinance, the Planning Commission would have taken even one minor step to provide some greater protection for large mature setback area trees, I might find sufficient balance in the proposal to justify my favorable vote, but instead what the Planning

Commission has done in this instance and in other examples I could cite, is to declare that a new improved tree ordinance must allow for more tree removals. And nothing should be done in the language we proposed to impose or clarify restrictions that could prevent some types of tree removal desecrations that have taken place in the past several years associated with large new construction. My second example is more brief. It involves notice to the public about tree destruction, the posting of the removal permit and a meaningful right of the neighbor to appeal what may be the illegal grant of a removal permit. Right now, the tree ordinance says that any person who is aggrieved by the grant or denial of a tree removal permit can appeal the permit decision to the Parks & Shade Tree Commission. But of course this right to appeal is meaningless once the trees have been cut down. This is not like a building permit to build a structure that turns out to be illegal, and so a neighbor who appeals the building permit might get relief in the form of an order that requires the structure to be taken down or altered. With huge trees after they are cut down, you just cannot replant them. So if you come to your home one day and see that several huge trees on the lot next door are in the midst of being cut down, what is the sense of appealing? You may soon confront rainwater that pools up on your property because the water no longer soaks into the ground, or you may face the searing heat because a huge canopy that has been around for decades is now gone. But what can you do after the fact? The point is that in order for any appeal to be meaningful, a neighbor must know in advance there is a plan underway to cut down trees. And the tree ordinance provides for advance notice by saying in §253-30(C) that the applicant shall prominently display on the site the permit issued on a sign prescribed by the Commission. That is the current ordinance. But the testimony received by the Planning Commission showed it is common practice not to post the tree removal permit until the very moment or day that tree demolition begins, and sometimes the permit is not posted at all but it remains in the tree cutter's truck. Now one would think there is a simple common sense solution to the problem of non-display of tree removal permits, and in order to make it meaningful for a neighbor to appeal the issuance of a permit to the Parks & Shade Tree Commission, either the permit application itself should be displayed on the property even before the permit is granted or at least the permit should be displayed within 24 hours after it is issued, except for true emergencies. The display of the permit would put neighbors on notice that important natural resources are about to be removed and would give neighbors some time, days, maybe longer, to appeal the grant of the permit. In other words, it is the posting of the removal permit that makes the right to appeal meaningful. In an analogous situation, the City requires that permits for demolition of structures must be posted at least 30 days before demolition occurs. The City realizes that once a structure is demolished as a practical matter, it cannot be rebuilt. And the posting of a demolition permit may allow neighbors to talk with a lot owner to see if there are alternatives to demolition or at least to minimize the negative effects of demolition. This analogy is even stronger when it comes to tree removals. Why not posting of tree removal permits for a period of time prior to the trees actually being destroyed? Yet, despite this commonsense simple solution, the Planning Commission has refused to come up with a redraft of the posting section of the ordinance that requires some time period in non-emergency situations between the grant of the removal permit and the actual removal of trees. Instead, the Planning Commission has continued to perpetuate the charade that an aggrieved neighbor has a right to appeal the grant of a tree removal permit even though the Planning Commission knows this right is practically meaningless in just about every situation. This is yet another reason why I cannot vote for this proposal. My third example of the many problems with the Planning Commission's proposal involves the so-called macro-recommendations where the Planning Commission offers ideas, not specific ordinance changes, but just ideas for the City Commissioners to consider as possible future Code changes. But this is where the hard work needs to be done. This is where the Planning Commission itself should have pursued many of those ideas with exact language to change the tree ordinance. And for those ideas that are novel or outside the general contours of the existing tree ordinance such as Commissioner Konesey's suggestion that we look at an alternative approach to tree conservation that is being used in Columbus, Indiana. The Planning Commission should have made more of an effort to look at these novel ideas instead of tinkering with the existing tree ordinance to recommendations that serve only to undermine the concept of tree preservation. To sum up, as I said earlier, I can provide many more reasons why the Planning Commission's proposal should be rejected by the Board of Commissioners, but the principle that underlies all of my objections is a principle that appears at the very beginning of the tree ordinance, and it is the principle to which the Planning Commission has given very little weight. In §253-21, the City lays out findings about the need to protect trees. This section says in key parts that the City's Comprehensive Development Plan calls for preservation, protection and conservation of trees within the City. That the City contains a diversity and abundance of trees that are of economic, recreational and environmental value to the City, and makes it a desirable place for residents and visitors. That the abundance of trees contributes to the City's unique, wooded seaside character and distinguishes the City from any other coastal community. That the appearance of Rehoboth Beach contributes to the economic prosperity and general welfare of the City.

Growth and development in the City of Rehoboth Beach often results in the removal of trees, thereby contributing to their depletion. And that it is necessary to protect and manage trees as valuable assets in order to protect and enhance the health, safety and welfare of the citizens of Rehoboth Beach. Regretfully, I do not see how it could reasonably be said that the action of the Planning Commission that is being taken today is consistent with these findings in §253-21. As I've said, all we are doing is making it easier to take down trees and making it a certainty that more trees will be taken down. The Planning Commission is not preserving, protecting and conserving. The Planning Commission is not making the City a desirable place by valuing the unique, wooded seaside character of the City. The Planning Commission is not protecting and managing trees as valuable assets in order to protect and enhance the health, safety and welfare of the citizens. Instead, the Planning Commission is actively encouraging the type of growth and development that often results in removal of trees, thereby contributing to their depletion. In my mind, the Planning Commission has not embraced the findings that underlie the tree ordinance, but instead, has effectively abandoned many of those findings. For all of these reasons, I cannot vote in favor of the Planning Commission's end result despite my admiration for the time and effort that has gone into its preparation."

(Patterson – aye, Shulman – nay, Hubbard – aye, Mellen – aye, Littleton – aye, Markert – aye, Wilson – aye, Strange – aye.) Motion carried.

Chairman Littleton noted that what he did in the recommendations section of the Trees in the City of Rehoboth Beach – Goals, Realities and Opportunities document was to incorporate the wording from the discussion at the last Planning Commission Meeting.

Edit prior to the recommendations:

The Planning Commission by a vote of 7-1 recommended the attached ordinance. In addition, the Planning Commission has the following other recommendations.

Edits to the recommendations are:

1. Strike "[T]he Planning Commission recommends that the Board of Commissioners take such action as necessary to amend/replace the current tree ordinance with the revised tree ordinance presented in Exhibit 2."
2. The Planning Commission recommends that:
 - i. The Parks and Shade Tree Commission be afforded necessary training and assistance, including professional help as required, in order to best carry out its responsibilities in accord with the proposed revised tree ordinance.
 - ii. That the Parks and Shade Tree Commission develop, upon its approval by the Board of Commissioners, the City's Comprehensive Tree Plan and update it annually per §253-4.
 - iii. That in developing the Comprehensive Tree Plan that representatives from the Board of Commissioners, Board of Adjustment, Planning Commission, Streets & Transportation Committee, City Arborist and interested citizen volunteers be involved.
 - iv. That the Board of Commissioners budget necessary funds to implement the City's approved Comprehensive Tree Plan.
3. The Planning Commission recommends that a searchable computer based record system be implemented whereby all tree plans and permits be entered and their outcome recorded. (Mr. Markert is providing a rewrite of this recommendation.)
4. The Planning Commission recommends that tree permit application forms and instructions be made available on the City's website. (The Planning Commission further recommends that all City application forms and instructions be made available on the City's website.)
5. The Planning Commission recommends that tree permit applications or notice thereof be posted, upon submission, on the City's website. (The Planning Commission further recommends that all City permits be posted upon submission on the City's website.)
6. The Planning Commission recommends that the City take necessary action to inform real estate companies and agents doing business in the City that the minimum tree requirements for a lot become effective upon conveyance of any real estate within the City.
7. The Planning Commission recommends that the Board of Commissioners take such action as necessary to increase the natural area requirements of the Zoning Code in order to provide more space for the planting of new trees and/or survival of existing trees.
8. The Planning Commission recommends that the Chief Building Inspector be given clear authority to specify the type of foundation excavation or construction technique where it would result in saving protected trees.

9. The Planning Commission recommends that the Board of Commissioners take such action as necessary to increase substantially the planting and maintenance of appropriate street trees. Such action should include:
 - a. The City assume the responsibility of maintaining/repairing any damage to sidewalks and/or streets caused by street trees.
 - b. The City takes necessary action to plant, maintain or replace as needed all street trees.
10. Whenever there is a modification or extensive repair of an existing street, the City should increase the number of street trees by such means as:
 - a. The creation of “bump-outs” near intersections that would provide tree planting space.
 - b. Where there is sufficient right-of-way, explore the creation of median islands with tree planting space.
 - c. In areas where there are no sidewalks, the planting of trees on the public right-of-way.
11. The City should maintain its “Tree City” designation and implement a comprehensive public information and education program to inform its citizens not only of the importance of trees to the environment and character of the City, but also to inform them of the tree ordinance and its provisions.
12. The Planning Commission recommends that the City conducts annually an event that makes available, either free or at cost, desirable trees for planting by property owners on their private property.
13. The Planning Commission recommends that the City initiate a special effort to increase the number of trees on both private and public property in areas of the City that are deficient of trees. Particular action should be taken, in collaboration with the Country Club Estates Property Owners Association, to increase the number of trees in the Country Club Estates area of the City.
14. The Planning Commission recommends that the City explore with the Delaware State legislative and executive officials action that can be taken to ensure that insurance companies doing business in the State do not require unwarranted tree trimming or removal by its clients and provide that municipal tree arborists have the means to challenge such insurance company requirements when they conflict with the municipality’s ordinances.
15. Other Recommendations – the Planning Commission needs to discuss if there are other recommendations that it wants to make.

Chairman Littleton noted that Mr. Markert and Mr. Patterson are currently working on the synoptic highlights of the changes between the existing tree ordinance and the proposed tree ordinance. He suggested that a clean copies of the “Trees in the City of Rehoboth Beach – Goals, Realities and Opportunities” and the synoptic highlights of the changes between the existing tree ordinance and the proposed tree ordinance are forwarded to the Planning Commission members for their review before the next meeting and approval at the next meeting.

Mr. Mellen noted that within the realm of maintaining and increasing the City’s tree canopy, there is a possibility for doing tree surveys and having them as a layer within the GIS mapping system. He noted that there are current aerial photographs of the entire state, but there is no guarantee that when the surveys are done they will be done every year or at the same time during the year. There is technology by the University of Vermont to extract canopy information, but it is quite expensive. Chairman Littleton suggested that Mr. Mellen draft a macro-recommendation supporting that effort. Mr. Mellen noted that the City is committed to establishing the GIS information. He will work on an insert for the macro-recommendations.

Chairman Littleton noted that the discussion of the site plan review application fees and Code and possible recommendations to the Board of Commissioners would be deferred to the next meeting.

Chairman Littleton called to discuss possible change to the current requirement for two on-site parking spaces for homes constructed in the residential district that would take into account occupancy density.

Mr. Mellen said that this issue should be addressed with the Comprehensive Development Plan update by July 2015. This item may be part of the discussion at the Joint Meeting with the Board of Commissioners.

Chairman Littleton called for the Building Inspector’s Report.

There was nothing to report.

Chairman Littleton called for the City Solicitor’s Report.

There was nothing to report.

Chairman Littleton called for the report, discussion and possible action concerning those activities or actions taken at Regular or Workshop Meetings of the Mayor and Commissioners that directly relate to the Planning

Commission.

Chairman Littleton noted that the merger/un-merger topic has been deferred until after the city-wide reassessment has completed.

City Commissioner Toni Sharp noted that on June 19th and June 20th, there will be reassessment appeal hearings.

No new subdivision applications have been timely submitted to date.

The next meeting of the Planning Commission is scheduled for August 8, 2014 at 6:30 p.m.

There being no further business, Mr. Mike Strange made a motion, seconded by Mr. Markert to adjourn the meeting at 9:28 p.m.

RECORDED BY

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
JANUARY 9, 2015**

(Francis Markert, Secretary)