

**STREETS AND TRANSPORTATION COMMITTEE
CITY OF REHOBOTH BEACH**

January 27, 2014

The Streets and Transportation Committee Meeting of the City of Rehoboth Beach was called to order at 9:02 a.m. by Chair Bill Sargent on Monday, January 27, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Present: Chair Bill Sargent, Lorraine Zellers, Cindy Lovett, Kathy Osterholm, John Gauger, Dennis Diehl, Jim Ellison, Toni Sharp

Also Present: Sharon Lynn (City Manager), Glenn Mandalas (City Solicitor – left the meeting at 10:13 a.m.), June Embert, Peggy Smith

APPROVAL OF AGENDA

Lorraine Zellers made a motion, seconded by Kathy Osterholm, to approve the Agenda as written. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes of the November 25, 2013 and December 20, 2013 Streets and Transportation Committee Meetings were distributed prior to the meeting.

Jime Ellison made a motion, seconded by Toni Sharp, to approve the November 25, 2013 Streets and Transportation Committee Meeting minutes as written. Motion carried unanimously.

Jim Ellison made a motion, seconded by Kathy Osterholm, to approve the December 20, 2013 Streets and Transportation Committee Meeting minutes as written. Motion carried unanimously.

CORRESPONDENCE

There was none.

OLD BUSINESS

Consider adequacy of scooter parking in downtown and beach areas, and consider possible changes to scooter permit program.

City Solicitor Glenn Mandalas was in attendance at the meeting because there is current litigation going on related to the scooter ordinance which was passed last year. He provided a brief overview of what the litigation is and noted that today's discussion should be more related to the broad topic of scooter parking in the City and not the issues related to the ongoing litigation. The case is Myslewski vs. City of Rehoboth Beach. It involves the constitutionality of the motor scooter ordinance. This ordinance was predominantly passed to promote safety and to prevent motor scooter riders from driving on sidewalks and parking at bicycle racks. In May 2013, the plaintiff (Myslewski) commenced the action in the Federal District Court of Delaware. In June 2013, the defendant (the City) filed a motion to dismiss the complaint. The Motion to Dismiss was decided in October 2013, and the Federal District Court dismissed the complaint. In November 2013, the plaintiff filed an appeal with the Third Circuit Court of Appeals. The case currently sits on appeal to the Third Circuit Court. Notification has been received that the appeal needs to go through the Third Circuit Court's mediation process. If that does not resolve the case, it will go on to a full appellate review by the Third Circuit Court. The case involves the constitutionality of the scooter ordinance which was adopted in March 2013. The ordinance requires motor scooter owners to have a parking permit when parking in certain permit parking areas during the summer season. The ordinance was adopted to provide safe and effective use of parking of motor scooters in the City. The Commissioners and the Streets & Transportation Committee felt that motor scooters are a safety hazard due to continued practice of parking motorized scooters on sidewalks and at bicycle racks. The ordinance also mentions that pedestrian safety would be promoted because it prevents motor scooter riders from driving on sidewalks and accommodates the increased usage of motorized scooters. The ordinance specifies that permits to park motorized scooters are only required to park scooters in permit parking areas from the Friday preceding Memorial Day to Labor Day. Motor scooter owners can park in the permit parking areas without permits outside the summer months. No permits are required to park in metered spaces or on private

property. There is a misconception that the only way a rider can park a scooter in the City is by having a permit, but this is not the case. Parking is permitted in metered spaces as long as the meters are paid. The legal issues that arose from the adoption of this ordinance are that it is an equal protection argument. The argument is that owners of motor scooters are somehow being treated differently than owners of other types of vehicles. The Fourteenth Amendment of the Constitution provides that no State shall deny any person in its jurisdiction the equal protection of the laws. There is an equal protection clause that requires municipalities to treat everyone equally and fairly. There are also a line of cases that recognizes that a municipality must often draw distinctions and bestow benefits or impose hardships on some but not all of its citizens. The City is permitted to draw distinctions between similarly situated individuals provided they are rational and related to a legitimate purpose. The City identified the purpose which was to increase pedestrian safety and to make sure the scooters are parking in designated areas that are off the sidewalks and not in the bicycle racks. The plaintiff has not argued that the City does not have a legitimate purpose. It is more about how the ordinance is being applied to the plaintiff who lives in a residential area and thinks that since there are two permits given without charge for automobile parking in the residential areas, they should also be given for scooter parking. The Court is only required to determine whether the parking permit system is rational and related to a legitimate purpose. It is not tasked with determining whether the ordinance is the most effective means to achieve public safety. The fact that the plaintiff has been merely inconvenienced while the City protects pedestrians and promotes safety, the City argues and negates his equal protection claim. The Courts so far have seen it the way the ordinance has been presented. The telephone mediation is set for next week. If that does not resolve the case, it is likely that the Third Circuit Court will not answer or hear this case as quickly as the Federal District Court heard it. City Solicitor Mandalas thought it would be nine months to a year before a decision is reached. He acknowledged that potential recommendations for changes to the scooter permit policy is fine to discuss at this meeting, but a way to resolve the litigation should not be discussed.

Tom McGlone, 318 Laurel Street, asked how much money has been spent of this case so far. He also wondered if the City Solicitor has made recommendations to a committee such as this that a compromise would cut this litigation off and as a result would save the City a lot of money.

City Solicitor Mandalas did not know the amount of money which has been spent on this case. This is subject to an insurance policy that the City has, so there may be a deductible that was initially spent by the City, but beyond that deductible it would be covered by insurance. As to recommendations, it is his job to advise and give counsel to the City.

Lorraine noted that on the current bike map for this year, the Code language was summarized. All scooters must have a permit to park on City streets and in City parking lots during the season. Permits are required starting Friday before Memorial Day, seven days a week, all hours of the day and night. They are not required if paying at a meter, but the meter is paid. The cost of the permit is \$40.00 for the season, and they are available from the Parking Meter Division where they must be affixed. Wherever possible the rear of the scooter should be perpendicular against the curb. Permits were issued at the Parking Department last year because everyone had to fill out an application as a way of tracking and getting information if people were in violation. A person must have a permit on a scooter to park on a permit parking street 24 hours per day. Areas are designated on the bike map for scooters only. Relevant sections of the Code were provided as to parking, operation, definitions, permits required, issuance of motor scooter parking permits, violations and penalties. Differences between the automobile parking permit policy and enforcement for scooters are: 1. Permit parking areas are from 10:00 a.m. to 5:00 p.m. whereas the enforcement for scooters is 24 hours. 2. Permits for scooters can be purchased only at the Parking Meter Division whereas the automobile permits can be purchased at the Parking Meter Division or by mail. 3. Property owners will receive two transferrable hanging permits for automobiles and for each vehicle registered to the name on the deed a permanent sticker affixed to the front window whereas with the scooters, there is a \$40.00 fee for everyone. A motorcycle would get an open-air sticker.

Peggy Smith acknowledged that with any vehicle, including a motorcycle, which is registered to a resident and the name of the resident is on the deed, a free permanent sticker is given to that person.

Members of the Committee felt it was necessary to charge the \$40.00 fee for scooters so the funds could be recouped from taking away ten automobile parking spaces and to cover staff time. Scooters have been treated differently from automobiles because beach parking is provided for the scooters in designated areas.

June Embert noted that there were no complaints from people purchasing scooter permits, and no one was cited after midnight.

Kathy Osterholm and Cindy Lovett thought that tickets should not be given to scooters which do not have permits. If scooters do not have any permits, they should be able to park on any parking permit street after or before

the permit hours, the same as automobiles. Scooters should follow the same parking hours as vehicles. Bill noted that scooters get a huge benefit in free parking downtown during the metered hours if a permit is bought. What is confusing is that parking outside of the metered areas is free after 5:00 p.m., but if a scooter parks in a scooter zone in the metered area, a permit is needed until midnight. Lorraine said that the permit system was made to be as simple as possible, one permit with one price. Cindy also suggested that a resident who has a scooter should have a free permit for that scooter. Kathy thought that a permanent pass should be issued to a resident for a scooter, the same as a motorcycle or automobile.

Frank Cooper, Lake Drive, thought that this matter would be resolved by issuing motorcycle stickers to scooters for residents. The scooters would fall under the same rules as automobiles. Some scooters would have two stickers. The \$40.00 sticker would allow permit parking in the scooter designated areas. June noted that the cost for a non-transferrable motorcycle permit is \$175.00.

Tom McGlone thought that the scooter program worked well last year. The hours should line up with cars. A resident should get a free permit. Parking should be provided for scooters on Rehoboth Avenue. This would encourage people to support businesses on Rehoboth Avenue.

Cindy and Kathy will work on a written proposal of the suggested changes to the scooter policy to be presented at the next meeting.

Lorraine noted that there were a total of 609 scooter permits sold this year at \$40.00. The total revenue was in the amount of \$24,360.00. Data was unavailable to provide a breakdown of residents vs. non-residents. Toni Sharp and Lorraine will work on trying to provide that data. In moving forward with the program, the registration form may be changed to include this information. Lorraine also noted that there were 166 spaces available for scooter parking, and a total of 3,562 people parked in those spaces. The most used spaces were on first block of Wilmington Avenue and the second block of Baltimore Avenue. On Fourth Street at the scooter corral, only eleven people parked their scooters there. These totals do not reflect every day usage. Lorraine said that although 102 scooters were parked behind the Fire Department, she suggested that this area should be advertised better. She and Bill did not think that more spaces should be made available downtown.

Dennis Diehl suggested discussing the possibility of scooter parking on the medians. At the end of last year, the Committee had said it would revisit the idea of tweaking the scooter parking areas. He will have George of All Wheels attend the meeting next month to provide more information on this matter.

Ron Grade, address unknown, was concerned that the Committee does not know the difference between a motorcycle and a moped. He explained the difference. Ron voiced concern about removing the mopeds from Rehoboth Avenue and making them pay for parking.

Lorraine noted that the Committee thoroughly studied the definitions and made the determination that for enforcement, ease and setting up, a moped would be included in the definition of scooter. The issue was that not every state has tags that are issued to mopeds. The Committee tried to balance what would be fair to most people.

Consider policies regarding skateboards.

Kathy noted that her charge was to consider a change in policies regarding skateboards. The reason for this is skateboards are a recognized form of transportation. The skateboard regulations for the City have not been updated. She would like to look at the current regulations and the possibility of changing them to allow a greater use of skateboards for employees coming to work. Suggestions were sent to the Committee prior to this meeting. Skateboards should be allowed as a means of transportation. Currently, the City regulations indicate that it is unlawful for any person to ride or operate a skateboard and, on or over any sidewalk adjoining any street or on any street in the City from May 15th until September 15th of any year. This prohibits any person from parking anywhere in the City and taking their skateboard to work. Other regulations should remain in effect as to not operating a skateboard on public property and not operating it on the Boardwalk. Kathy would like the Committee to consider the idea of using skateboards as a means of transportation for one year to see the use of skateboards and whether or not the skateboard community would support this use, would abide by the set rules and would use skateboards appropriately. She would like to change the regulations to restrict use of skateboards from Memorial Day weekend through Labor Day weekend which would keep it consist with the parking permit season. Kathy would also like to allow for skateboarders to be able to use their boards, but restrict them during the summer season with the same rules used for human powered scooters on City sidewalks in that a skateboard cannot be used on Rehoboth Avenue from Canal Bridge to the Boardwalk and the Boardwalk. Other suggestions were that no ear bugs can be used when riding a skateboard and all traffic laws must be obeyed. Other issues the Committee should look are whether no

skateboards should be ridden on sidewalks at any time and if helmets should be worn.

Grant Willis of Sierra Moon is an advocate for the skateboard community. One of the issues is that it is illegal to skate in the summertime. A skate park is being built at the Epworth Church property. He is advocating for skateboards to be used for transportation only in Rehoboth.

Comments from the Committee were that the biggest problem would be safety. Skateboards should not be allowed on Rehoboth Avenue. One member thought that skateboarding is more recreational and is not a means of transportation. The Committee will need to give this matter more thought. A possibility of using skateboards could be extended to the quieter areas of the City. First and Second Streets and Baltimore and Wilmington Avenues would also need to be considered. The Committee would need to think about usage, safety, enforcement, etc.

Kathy will provide copies of the current regulations and proposed changes at the next meeting for the Committee to review. How much of an issue skateboards have been, safety issues and enforcement will be discussed at the next meeting

Consider dates and times that bicycles are permitted on the Boardwalk.

Kathy noted that currently bicycles are prohibited from being on the Boardwalk from May 15th through September 15th. She proposed that for consistency with the parking permits, the Committee should consider moving those dates to Memorial Day weekend through Labor Day weekend. Kathy and Police Chief Keith Banks had discussed that by allowing bicycles on the Boardwalk, it is assumed they will use common sense and follow bicycle rules. His concern was more in keeping the time the same. One consideration would be the possibility of changing the time for Saturdays and Sundays for bicycles on the Boardwalk. Bicycle riding for workers on the Boardwalk after dark should not be considered because of safety issues.

In 2011, the Commissioners had a discussion on this matter, and they changed the dates from Memorial Day through Labor Day to May 15th to September 15th to be consistent with the other Boardwalk regulations. The thought at that discussion was to leave the time as is.

In order to get the Commissioners to hear this, it has to be something the Committee is looking to solve that is tangible. The consensus of the Committee members was to not change the time this year for bicycles to be off the Boardwalk at 10:00 a.m.

Kathy noted that currently there is no regulation to differentiate surreys as compared to a bicycle. According to Police Chief Banks, it would affect businesses if the Committee attempts to restrict the surreys areas in the City as compared to others for safety matters.

Consider possible street markings and parking restrictions on Surf Avenue.

Bill noted that changes have been made to Surf Avenue. There are three issues: 1. Should there be a white line that separates vehicles from the bicycle area. 2. If so, should there be signage such as sharrows indicating a bicycle area. 3. With the new lane going through, parking occurs mostly in the newly paved area at Surf Avenue and Park Avenue. Concerns from the Committee members were that the newly paved area ends before the intersection of Ocean Drive and Surf Avenue. Bill presented photographs of Surf Avenue. The consensus of the Committee was that there should be no parking along the newly paved shoulder area of Surf Avenue. Bill will work with Bob Palmer, City Engineer and City Manager Sharon Lynn on the proposal to have a white line painted and appropriate signage such as sharrows on Surf Avenue. The consensus of the Committee was that a sharrow should be placed at the turn on Lake Avenue and on Surf Avenue from Ocean Drive for drivers to be aware of bicycles on Surf Avenue.

Consider updates to bicycle information for map.

Jim Ellison said that the decision of the Commissioners is to not have a separate bicycle map. Jim and Bill had decided that one approach would be to do a simple one sheet handout to give to the bike shops, etc. and would have the most essential information. The bicycle regulations and basic information sheet which contains a map on the reverse side was presented to the Committee. The regulations and the caution statement will be put on the parking map.

Discussion ensued as to whether or not a change should be made to the bicycle map to not include Henlopen Avenue as part of the loop for the bicycle trail from Gordon's Pond to the Junction & Breakwater Trail. The State is making a change to the map to reflect that Henlopen Avenue should not be part of the loop for the bicycle trail. The City is a destination, and it does not want to look like it is part of the trail.

Kathy Osterholm made a motion, seconded by Cindy Lovett to accept Jim's single sheet of rules and the current

map as proposed with additional highlighting and leaving going east on Henlopen Avenue from Grove Park as is. (Toni – aye, Cindy – aye, Kathy – aye, Lorraine – aye, Bill – opposed, Jim – aye, John – aye, Dennis – aye.) Motion carried.

Consider adequacy of bicycle parking in downtown and beach areas.

Cindy noted that there is a law that bicycles cannot be locked to meters. People are locking their bicycles to meters, poles, etc. in areas that do not have room for a bicycle rack such as at Browse About.

The concern would be that by allowing bicycles to be parked in a public space in one area, it would not prevent parking in public spaces in other areas. Curb traffic and getting to the parking meters would also need to be considered. Perhaps the answer would be to leave the tougher restriction in place, but issue warning tickets.

Frank Cooper said that merchants have complained about bicycles blocking the area where people get out of their vehicles and walk to the sidewalk. There is legitimate concern about that. The balance could be to designate specific meters, posts, etc. where bicycles can be locked to them. There are places where it is obviously not appropriate to lock your bicycle to City property.

Bicycle racks can be placed in the medians. Currently, in the first two blocks, there are bicycle racks near the intersections. If necessary, multiple short bicycle racks could be placed in the middle of the first two blocks.

Cindy and Kathy will investigate placing bicycle racks at the ends of the alleys at Penny, Lane, Village by the Sea and by the Coffee Mill. They will check to see if Avenue Inn will allow bicycle racks in its pass through. Pictures will be presented to the Committee at the next meeting of areas for potential bicycle racks. Frank Cooper will also help to identify areas.

Consider problem of bicycle riders entering City on Rehoboth Avenue.

Bill sent a memorandum to the Mayor that reflected the Committee's last discussion. He suggested getting together to talk about how to involve the State with regard to this matter. Before meeting, the State came to them as a prelude to its meeting on January 28, 2014. The Delaware Department of Transportation is holding a public workshop on January 28, 2014 from 4:00 p.m. to 6:00 p.m. in the Conference Suite of the Convention Center to obtain comments from surrounding residents, businesses and the general public for the proposed extension of the Junction & Breakwater Trail to Rehoboth Avenue. The project proposes to construct a ten foot wide multi-use path from the termination of the existing Junction and Breakwater Trail at both Hebron Road and Holland Glade Road into the City. It will include pedestrian improvements to the existing drawbridge as well as ADA compliant curb ramps and crosswalks. This work will improve pedestrian and bicycle access and safety along the corridor while connecting to the existing regional network of trails. Bill noted that the traffic circle will be addressed.

Discuss priority or remaining items included on "Possible Agenda Items" document.

This item will be deferred to the next meeting.

NEW BUSINESS

Consider proposed additions to "Possible Agenda Items" document.

An addition would be how to deal with snow removal from the sidewalks on Rehoboth Avenue and possibly the entire City.

All of the municipalities that were contacted either expect homeowners to take care of the snow removal, the municipality itself takes care of it with additional fees to the businesses, or the snow is ignored and people are encouraged to keep their sidewalks clean. The City has a snowblower and a possible way for people to clear the sidewalks. The issues are the number of people required to remove the snow, what the intensity of the snow is and what jobs need to be done above and beyond keeping sidewalks clean. The expectation to find people in the City who do not clean sidewalks is an impractical way to enforce.

Kathy will work with City on coming up with a recommendation for this matter.

Discuss items to be included on agenda for next meeting.

Items to be included are: 1. Skateboards. 2. Bicycle safety – flashing lights on front and back. 3. Discuss any implications garnered from the DelDOT meeting.

Set next meeting date

The next meeting is scheduled for February 24, 2014 at 9:00 a.m.

Citizen Comments

There were none.

There being no further business, Chair Sargent adjourned the meeting at 11:48 a.m.

Respectfully submitted,

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
JUNE 16, 2014**

(Bill Sargent, Chair)