

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

**February 20, 2015**

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 7:03 p.m. by Mayor Samuel R. Cooper on Friday, February 20, 2015 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   Bill Sargent  
              Mayor            Samuel R. Cooper  
              Commissioner   Stan Mills  
              Commissioner   Lorraine Zellers  
              Commissioner   Kathy McGuiness

Absent:     Commissioner   Patrick Gossett

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

**APPROVAL OF AGENDA**

Commissioner Stan Mills made a motion, seconded by Commissioner Kathy McGuiness, to approve the Agenda with the deletion of the November 10, 2014 Workshop Meeting, November 25, 2014 Special Workshop Meeting, December 8, 2014 Workshop Meeting, December 19, 2014 Special Workshop Meeting, January 5, 2015 Workshop Meeting and January 16, 2015 Special Workshop Meeting Minutes. Motion carried unanimously.

**CORRESPONDENCE**

There was none.

**APPROVAL OF MINUTES**

Minutes of the August 4, 2014 Workshop Meeting, September 8, 2014 Workshop Meeting, October 6, 2014 Workshop Meeting and January 16, 2015 Regular Meeting were distributed prior to the meeting. Minutes of the November 10, 2014 Workshop Meeting, November 25, 2014 Special Workshop Meeting, December 8, 2014 Workshop Meeting, December 19, 2014 Special Workshop Meeting, January 5, 2015 Workshop Meeting and January 16, 2015 Special Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Toni Sharp, to approve the August 4, 2014 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the September 8, 2014 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sharp, to approve the October 6, 2014 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the January 16, 2015 Mayor and Commissioner Regular Meeting minutes as written. Motion carried unanimously.

**REPORT OF THE POLICE DEPARTMENT**

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of January 2015. There were four criminal, 141 traffic and one civil charges made during the month. Five traffic crashes were investigated. The Dispatch Center handled 111 police incidents, 218 ambulance incidents, 61 fire incidents, 163 traffic stops, assisted other agencies three times during the month and 9-1-1 calls totaling seven 357 were received.

**REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY**

There was no report.

## **REPORT OF THE BUILDING AND LICENSING DEPARTMENT**

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for January 2015. During the month, 71 permits were issued for a value of work totaling \$2,282,992.04. Fees collected totaled \$65,974.93 for the month. Eighty-six permit processing fees were received in the amount of \$1,720.00. The Board of Adjustment heard one case in January. Two restaurant applications were received in January. No notices of violation were issued during the month. There were 50 building inspections, 16 plumbing inspections, four rental inspections, no meetings regarding trees, 33 meetings regarding new projects and 21 meetings regarding City business. Changes that were submitted to FEMA for the flood damage reduction ordinance have been approved. Ms. Sullivan had attended a meeting hosted by DNREC regarding beach regulations and the use of beaches. It is in the process of updating the regulations regarding the dunes and the use of the beaches. DNREC is hoping to have the first draft of the new regulations completed by March 2015 with public workshops in May 2015. Education is available for the public. DNREC officials stated that they would be happy to come to a City meeting or give information that could be displayed on the City website, if interested.

## **PERMIT OF COMPLIANCE HEARING**

Mayor Cooper opened the Permit of Compliance hearing requested by William A. Gibbs of DR DEL LLC, to operate a new restaurant to be known as "The Dough Roller" pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215 - Restaurants. The restaurant will be located at 44 Rehoboth Avenue. Mayor Cooper noted the Public Hearing procedures for this hearing.

City Solicitor Mandalas noted the purpose for the hearing, and he read from Section 215-5 of the Code that in reaching their decision, the Commissioners shall consider the following factors including but not limited to:

1. Whether the Applicant has demonstrated that the establishment's primary purpose will be that of a restaurant or dinner theater as defined in this chapter.
2. Whether the establishment meets all the City's applicable zoning and licensing provisions.
3. Whether the establishment would be a detriment to the peace, order and quiet of the neighborhood and the City.
4. Whether the establishment will have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact on traffic, parking and noise.
5. Whether the Applicant has made any false representation or statements to the City's employees or the Commissioners in order to induce or prevent action by the City, not only in regard to the pertinent pending Application under the statute, but also with regard to the issuance of a building permit or business license for the subject establishment.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on January 28, 2015. Notice of Public Hearing was published in the Cape Gazette on February 3, 2015, Coast Press on February 4, 2015 and Delaware State News on February 5, 2015. 2. Building Inspector's Report dated February 6, 2015. 3. Cover letter dated January 22, 2015 from Harold E. Dukes, Jr., Esq. of the law firm Tunnell & Raysor P.A. 4. Application for a Restaurant Permit of Compliance signed and notarized on January 22, 2015 and received on January 23, 2015. 5. Menu. 6. General Cover Sheet, Sheet No. GS-100. 7. Equipment and Furniture Plan, Sheet No. AI-101 received on January 23, 2015. 8. Furniture, Fixture & Equipment Plan received on January 23, 2015. 9. Property record. 10. Illustration of the properties within 200 feet that were notified for this hearing.

Building Inspector Sullivan presented a complete report, and her findings were based on the application and her knowledge of the Code. (See attached report.) The Applicant has stated that the approximate percentage of revenue between the sale of alcohol and food is 10% alcohol and 90% food. The Application is for a 2,739 square foot restaurant. The proposed bar area will be 128 square feet with a proposed ratio of bar permanent seated dining of .10. In summary, this was an Application to build a new restaurant in an existing retail space. The space was previously occupied by Tidal Rave. There is no patio.

Mr. John Horner, Esq. of the law firm Tunnell & Raysor P.A. clarified that the restaurant is going to be primarily pizza and Italian food. The alcohol, that will be served will be dine-in only and will be beer and wine only. It is clear from the menu that this restaurant will be serving more than pizza and sandwiches.

Mr. William Gibbs, Jr., owner of the restaurant, noted a hostess will be stationed at the door to regulate the

door. This will be a way to insure that no one will come out onto the street with alcoholic beverages. Trash will be taken out through an alleyway at the rear of the restaurant to Wilmington Avenue. Floor drains have been put in the restaurant.

There was no correspondence.

Public Comment:

1. Walter Brittingham, 123 Henlopen Avenue – in support of.

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

Commissioner Bill Sargent made a motion, seconded by Commissioner Mills, to approve the Permit of Compliance for The Dough Roller at 44 Rehoboth Avenue.

Commissioner Sargent found the following to be true:

1. The proper Application and supporting documents have been filed.
2. The proper fee has been paid.
3. The proper notifications have been made.
4. All parties wishing to be heard have been heard.
5. The primary purpose is that of a restaurant.
6. The Application meets the City's applicable zoning and licensing provisions.
7. The restaurant would not be a detriment to the peace, order and quiet of the neighborhood and the City.
8. The restaurant will not have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact of traffic, parking and noise.
9. The Applicant has made no false statements to the City employees or Commissioners.

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

## **REPORT OF PLANNING COMMISSION**

There was nothing to report.

## **OLD BUSINESS**

Mayor Cooper called to discuss Code changes to Chapter 227 – Solid Waste and Chapter 270-27 – Storage of Refuse including but not limited to: Timeline for putting out refuse-yard waste-recycling for collection and for retrieving containers in the residential areas to include addressing refuse put curbside for collection and non-collection days, e.g. on Saturdays; feasibility of the City providing special pickup service, screening of refuse-yard waste-recycling containers; elimination of commercial refuse collection services by the City and miscellaneous updates to Code.

Commissioner Mills provided a brief history and rationale for the proposed Code change. Trash, yard waste and recyclables are currently being put out for collection too far in advance of the collection date. The containers are not retrieved in a timely manner, and there has been no enforcement of it. Making compliance easier would be to provide a valet service where the collectors would retrieve the containers on the property, empty them and return them on the property so it would relieve the property owner from having to be onsite. The Commissioners thought that valet service should be done in-house by either doing it enroute or by or to hire a crew and send them out in advance of the regular collection crew to put the containers out at the street and come back later to return them to the property. Mr. Mike Peterman, Streets Supervisor, had voiced concerns about what the crew would do between the time that the containers are put out on the street and when they are returned to the property. Mr. Peterman was interested in the enroute program which would require an extra refuse truck and a third crew. Commissioner Mills, Mayor Cooper and City Manager Sharon Lynn had met with Mr. Tom Grogan of First State Disposal to discuss the possibility of valet service. Mr. Grogan had noted that it is inefficient for his company to do the enroute program. His recommendation was to go to the advance crew program. It is unknown as to how many participants there will be in the program. At the last meeting, it was discussed about drafting a letter to solicit feedback from property owners. Mayor Cooper had suggested that the recycling collection days should be changed to coincide with the refuse days. Mr. Grogan said that it would be premium to come into the City two days a week, and it would be unlikely for a Monday pickup. Mr. Peterman had suggested eliminating commercial collection. If commercial collection would be eliminated, this would free up a truck and personnel to take over the valet service.

City Manager Sharon Lynn noted that the employees' main concern is business pickup in the commercial district which is done on a daily basis. There are 106 businesses that utilize City services, and the issue is the time involved. The City brings in approximately \$80,000.00 to \$82,000.00 for the commercial pickup. Mr. Peterman said that this requires three employees and one truck. If the personnel would be freed up from the commercial pickup, they could be utilized on the valet service and still have one truck available and not have to purchase a new truck. The City would do a letter campaign, a poll through the City website or through any available resource. Mr. Grogan advised that the City may want to start the valet service off with the rental properties which are approximately 70% to 75% of the pickup in the summertime. Realtors have responded that they would most likely sign up for the service if it would be available to them. It would be helpful for the residents to express an interest when the letter campaign or a poll is being done. If the City would provide valet service, the City would require additional employees. All the trash should be placed in uniform trash receptacles in the commercial district.

Commissioner Mills noted that the City would still collect trash on the beach and trash in all the public trash cans on all the commercial streets and some in the residential areas in addition to the residential service. The Commissioners would need to make a decision on this matter before July 1, 2015. City Manager Lynn had suggested conducting some meetings on outreach with the business community, Main Street, Chamber of Commerce, etc. to garner feedback. Commissioner Mills said that at the budget sessions, there has been discussion about raising the residential refuse rates and possibly commercial rates. A letter would be sent out within the next month. Rather than starting valet service in July in the peak of the season, it would be reasonable to target October.

Mr. John Meng, St. Lawrence Street, said that when a business contracts with an outside contractor that picks up trash, the business can dictate how often it wants its trash picked up, and by law, two containers are required, one for refuse and one for recycling. The City does not require a business to have two containers. How many people sign up for the valet service will be dependent on cost.

Mayor Cooper said that the City picks up at least four times a week in the summertime. The businesses will be hard pressed to find a contractor at a reasonable price to pick up a minimum of four times a week. Most vendors are in the City and would be in here longer for pickup.

Commissioner Toni Sharp said that one piece of information to be considered is the impact of private trash contractors and their amount of equipment in the City vs. the City picking up in the commercial areas.

Frank Cole of Atlantic Cycles suggested that the Commissioners should look at the rate structure. Currently, if a business contracts through the City, it is charged differently if its retail establishment vs. a restaurant. It is also based on square footage. Private haulers are more flexible with pickup depending on what is in the contract. In the summertime, the City picks up trash every day. The City's trash service provides the best service, the friendliest people and the trash trucks do not smell. Based on an individual business's needs, a private hauler may be cheaper. Businesses may be willing to pay the City more for the valet service. Instead of eliminating the City pickup service, the Commissioners may want to tailor the services so the businesses will benefit from it. He suggested that the City should stop picking up cardboard and compel businesses to do more recycling.

City Manager Lynn thought that valet service could cost \$15.00 to \$30.00 additionally per month.

Commissioner Kathy McGuinness said that if there is a timeframe attached to trash pickup and a fine is associated with that, it could possibly cost more than what is paid for the valet service for the month.

Mr. Meng said that a bid should be put out to have a private company do the valet service. He would like to be given the opportunity to put a bid in on it.

Commissioner Mills said that it would be helpful in the letter to be sent to give a preview of the time restrictions which would need to be codified. There is nothing in the current Code that says how far in advance of the collection day trash can be put out. Trash could be put out after 6:00 p.m. the day before collection. If trash is set out overnight, it must be placed in a rigid container. If trash is set out in the morning, it can be placed in a bag. Discussion ensued.

Mr. Frank Cooper, 96 East Lake Drive, said that the residential valet service is the best way to go about it. Curbside trash is a big problem for the residents who do not have rental properties. He suggested that the valet service should be done on a trial basis.

Commissioner Sargent thought that this would offend a lot of people. He would be uncomfortable in

voting for it because he would not be representing his perception of what people want. This could be offensive to a lot of people, and he was not sure if it is worth taking \$300.00 from people who do not want it. It may be helpful if more studies are done with regard to other municipalities. Getting a response from people via a letter would be helpful.

Commissioner McGuinness was offended at looking at unsanitary trash blowing around the streets.

Mr. Walter Brittingham, 123 Henlopen Avenue, noted that people who live on the north side of the City, stack their trash and leaves that it end up coming out into the street. The Commissioners should come up with a policy that can be modified and experimentation until they come up with making it into an ordinance.

Commissioners Mills and Sharp will work on a draft letter regarding a valet service that refers to a time restriction, a deadline ahead of the day of collection. Commissioner Mills noted that yard waste and recyclables would be handled in the same way. Commissioner McGuinness said that a rental manager outside of the City thought that 80% of their clients would use the valet service.

## **NEW BUSINESS**

Mayor Cooper called to consider approval of additional task orders with the engineering firm GHD for work related to the design, permitting and construction of the City's wastewater outfall and wastewater plant improvements.

Mayor Cooper said that there are four task orders for approval:

1. Task Order 13 – Force Main ( \$446,700.00 for design, permitting and bidding process) from the fence at the wastewater treatment plant to the place where the outfall starts in the Deauville Beach parking lot.
2. Task Order 14 – Pump Station (\$227,759.00 for design, permitting and bidding process) at the wastewater treatment plant and includes the force main from the pump station to outside the fence at the wastewater treatment plant.
3. Task Order 15 – Wastewater Treatment Plant Improvements (\$1,018,000.00 for design, permitting and bidding process)
4. Task Order 16 – Outfall (\$414,163.00 for design, permitting and bidding process) from Deauville Beach out into the ocean.

The total of the four task orders is in the amount of \$2,106,622.00. With regard to funding, the City will pay the orders as they accrue. Forty percent will be passed to the County, 36% to Dewey Beach and 4% to Henlopen Acres. Ultimately, another 4% to 5% of the remaining 60% will be passed to North Shores. The City has been accumulating the 50% surcharge on the wastewater bills which is going into a separate account when it is not used for this project. Under the proposed budget, approximately \$500,000.00 will be collected which go towards this project. The City will pay approximately 55% to 56% of this project.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to authorize the execution of the four Task Orders 13, 14, 15 & 16 related to the outfall and plant improvements in the amount of \$2,106,622.00. (Sharp – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness - aye.) Motion carried unanimously.

Mayor Cooper called to consider approval of a task order with the engineering firm GHD for conducting a stormwater evaluation as called for and outlined in the Record of Decision issued by the Delaware Department of Natural Resources and Environmental Control on January 5, 2015, which Record of Decision relates to the construction of the City's wastewater outfall.

Mayor Cooper noted that as part of issuing the Record of Decision which dealt with the funding of the wastewater treatment plant, the State put a condition in there that the City looks at the five outfalls which go into the ocean's stormwater outfalls, and look at the potential sources of contamination, classify what they might be, how they can be controlled or reduced and find a way to move the outfalls further out of the surf zone to improve water quality in the surf zone. The City has requested a proposal from GHD in the amount of \$138,496.00. The proposal has been sent to DNREC, asking it for input. On February 19, 2015, Mayor Cooper received a response from DNREC which was forwarded to GHD for it review.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to authorize the execution of Task Order 12 – Stormwater Engineering Report in the amount of \$138,496.00. (Sharp – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness - aye.) Motion carried unanimously.

Mayor Cooper called to consider authorizing and directing the Mayor to request the State Legislature to amend the City Charter Sections 29(a)(36) and 40(q), modifying the permitted amount for the total indebtedness of the City in order to accommodate two proposed projects.

Mayor Cooper said that approximately four years ago the City Charter was amended indebtedness of the City under its Charter was 25% of the assessed valuation which was approximately \$70,000,000.00. A cap was placed on what the City could borrow at approximately less than \$20,000,000.00. This amount was changed to a \$50,000,000.00 cap in anticipation of the wastewater project. It is anticipated that the City will borrow the entire amount for the outfall project; and each year, the County will pay its share of the interest and principal. The target for the wastewater improvements is approximately \$40,000,000.00. The proposed cost of the City Hall Complex is approximately \$15,500,000.00 which includes the sale of 306 Rehoboth Avenue in the amount of \$2,000,000.00. A comfortable cost in moving forward with the City Hall Complex is \$18,500,000.00. The total for both projects is \$58,500,000.00 which exceeds the \$50,000,000.00 cap. The City also has a little bond indebtedness vis-à-vis with the Lynch treatment facility and Streetscape. The proposal was to increase the cap to \$75,000,000.00. Mayor Cooper would be required to send a letter along with the change to the State legislative delegation Senator Lopez and Speaker Schwartzkopf, asking them to introduce and shepherd this through the State legislature. The Governor would ultimately have to sign it.

City Solicitor Mandalas – proposed charter change.

McGuinness – Senator Lopez

Commissioner Sargent made a motion, seconded by Commissioner McGuinness, to authorize the Mayor to request that the State legislature increase the borrowing authority of the City to \$75,000,000.00 from the current \$50,000,000.00. (Sharp – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

## **CITY MANAGER'S REPORT**

City Manager Sharon Lynn reported that recycling was not picked up today because of the weather and concerns about employee safety. It is anticipated that recycling will be picked up if not tomorrow, definitely by Monday. The Lake Drive bid opening was moved to February 26, 2015 at 10:00 a.m. because of the weather. The next Budget Meeting will be February 27, 2015 at 9:30 a.m.

City Manager Lynn recommended the approval of the Street Aid expenditures:

|            |     |                |                            |
|------------|-----|----------------|----------------------------|
| 02/18/2015 | 559 | Delmarva Power | \$8,151.79 (Street Lights) |
|------------|-----|----------------|----------------------------|

Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the Street Aid expenditures as presented. Motion carried unanimously.

## **COMMITTEE REPORTS**

Commissioner Sargent, Chair of Streets & Transportation Committee discussed issues related to increasing pedestrian safety in the presence of bicycles on the Boardwalk.

Commissioner Sargent noted that the issue is bicycles and the timing on the Boardwalk. There is a need to increase safety, signage, and what the hours and dates should be.

Mr. Frank Cole, owner of Atlantic Cycles, presented a bicycle safety volunteer program. The main goal of the program is to promote bicycle safety and enhance the recreational enjoyment for the public on the Boardwalk during peak times in the summer. To achieve this goal, a strategy of outreach, education and prevention would be followed. Issues of liability would need to be addressed. He will be exploring the idea of obtaining insurance and possibly bring this under an umbrella organization. For the entire program, a minimum of 10 volunteers would be needed and a maximum of 15. Each volunteer would have to pledge to donate 50 volunteer hours. With regard to logistics, there would be three volunteers on the Boardwalk between 8:00 a.m. and 10:00 a.m., operating independently of each other. The volunteers would be taught how to approach people, how to introduce themselves, inform people about rules on the Boardwalk and they would thank people. The most important thing is that it be done as ambassadors of the City and not in a confrontational way. Mr. Cole suggested that the Commissioners allow this program to happen; and if it does not work, the program could be revisited again next year. Aside from the volunteers, the other component is to do an awareness campaign, signage and speed limits. He has contacted one of his suppliers who has agreed to supply the bicycles at no cost. The entire program could be done for under \$5,000.00. He is willing to foot the cost of the program. Mr. Cole thought that he would be successful in soliciting donations from other businesses in and out

of the City.

Mayor Cooper and Commissioner Mills thought that this program would be worth trying.

Mr. Cole will return to the Commissioners with specifics regarding this program. He suggested that the City Solicitor should examine the proposal from a liability standpoint. He would like to work with Chief Banks to appoint a coordinator and have a City official give the volunteers their marching orders each day.

Commissioner Zellers said that the Streets & Transportation Committee was not in favor of putting a speed limit on a sign on the Boardwalk for bicyclists. The Committee suggested that a sign be placed on the Boardwalk for pedestrians/bicyclists to share the Boardwalk. It was suggested by Chief Banks that the times for bicycles to be on the Boardwalk would remain as it currently is. Currently bicycles are allowed on the Boardwalk from daybreak until 10:00 a.m. from May 15 to September 15. Commissioner Zellers suggested that the dates should be changed to May 1 to September 30.

Commissioner Sargent thought that 8 mph would be a good speed for bicyclists on the Boardwalk.

Commissioner Mills thought that nothing should be done about signage this year.

Commissioner McGuiness thought there should be a media campaign, and the information should be provided on the City website and the Bike Guide.

#### **CITY SOLICITOR'S REPORT**

There was nothing to report.

#### **COMMISSIONER ANNOUNCEMENTS/COMMENTS**

Commissioner Mills thought that this would be a good time to address snow removal. Commissioner Sargent said that Ms. Cindy Lovett will return to the Commissioners regarding this issue. Commissioner Mills thanked Public Works for the snow removal and Water Department for its quick response to a water main leak.

#### **DISCUSS ITEMS TO BE INCLUDED ON FUTURE AGENDAS.**

There were none.

#### **CITIZEN COMMENT**

There was none.

The next Workshop Meeting will be held on March 9, 2015 at 9:00 a.m.

There being no further business, Mayor Cooper adjourned the meeting at 9:42 p.m.

**Respectfully submitted,**

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**(Lorraine Zellers Secretary)**