

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

June 19, 2015

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 7:01 p.m. by Mayor Samuel R. Cooper on Friday, June 19, 2015 in the Convention Center, 229 Rehoboth Avenue, Rehoboth Beach, DE.

City Solicitor Glenn Mandalas gave the invocation followed by the Pledge of Allegiance.

ROLL CALL

Present: Commissioner Toni Sharp
 Commissioner Patrick Gossett
 Commissioner Bill Sargent
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Lorraine Zellers
 Commissioner Kathy McGuiness

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 Minutes of the January 16, 2015 Special Workshop Meeting, February 9, 2015 Workshop Meeting, February 20, 2015 Special Workshop Meeting, March 20, 2015 Special Workshop Meeting, April 6, 2015 Workshop Meeting, April 13, 2015 Special Workshop Meeting, May 4, 2015 Workshop Meeting, May 15, 2015 Special Workshop Meeting and May 29, 2015 Special Workshop Meeting.

Commissioner Bill Sargent made a motion to amend, seconded by Commissioner Toni Sharp, to move Item E, Consider adoption of a resolution setting a public hearing on the subject of extending Moratorium Ordinance No. 1014-01 to the beginning of New Business.

Commissioner McGuiness objected. She believed that the way the agenda has been advertised was in good faith and that is why there are many people who were in the audience. Commissioner McGuiness thought that to take Item E out of order was unethical.

Commissioner Mills noted that he would be voting against the amendment. At the last meeting, he was the one who recommended the agenda sequence. There is a logic to this sequence.

Commissioner Sargent defended the amendment. There are a number of issues that the Commissioners have not discussed adequately such as occupancy limitations, quiet hours and stern mechanisms to control noise.

Commissioner Mills objected to Commissioner Sargent getting into discussion of individual topics. This would appear to be an orchestration of postponing votes to get beyond the referendum and election.

(Sharp – no. Gossett – aye. Sargent – aye. Cooper – no. Mills – no. Zellers – aye. There are some things that the Commissioners probably need to address as well. She has gotten many letters from everyone with good comments that there are pieces which should be in place, such as the vacation rental ordinance and guidelines for the realtors and lease agreements, etc. She would like to talk about that a little bit more. McGuiness – no.)
Motion failed.

Motion carried unanimously.

CORRESPONDENCE

More than 100 letters have been received and are part of the record.

APPROVAL OF MINUTES

Minutes of the January 5, 2015 Workshop Meeting, March 9, 2015 Workshop Meeting, April 17, 2015 Regular Meeting, May 15, 2015 Regular Meeting and June 8, 2015 Workshop Meeting were distributed prior to the meeting.

Minutes of the January 16, 2015 Special Workshop Meeting, February 9, 2015 Workshop Meeting, February 20, 2015 Special Workshop Meeting, March 20, 2015 Special Workshop Meeting, April 6, 2015 Workshop Meeting, April 13, 2015 Special Workshop Meeting, May 4, 2015 Workshop Meeting, May 15, 2015 Special Workshop Meeting and May 29, 2015 Special Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Sharp, to approve the January 5, 2015 Mayor & Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the March 9, 2015 Mayor & Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the April 17, 2015 Mayor & Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the April 27, 2015 Mayor & Commissioners Special Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the May 15, 2015 Mayor & Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the June 8, 2015 Mayor & Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

REPORT OF THE POLICE DEPARTMENT

Police Chief Keith Banks presented the report of the Police Department for the month of May 2015. There were 36 criminal, 325 traffic and 33 civil charges made during the month. Twenty-five traffic crashes were investigated. The Dispatch Center handled 422 police incidents, 311 ambulance incidents, 67 fire incidents, 387 traffic stops and 9-1-1 calls totaling 634 were received.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Mr. John Meng of the Fire Company reported that there were 52 crew calls and 13 alarms. There were no fires in the City. The second ambulance crew is on for the summer. One crew will be located at Station No. 2, and one crew will be located in the City.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for May 2015. During the month, 100 permits were issued for a value of work totaling \$1,302,014.75. Fees collected totaled \$43,115.42 for the month. One hundred ten permit processing fees were received in the amount of \$2,200.00. The Board of Adjustment heard two cases in May. Two restaurant applications were received in May. No notices of violation were issued contractors working without a building permit. Thirteen notices of violation were issued for tall grass. One notice of violation was issued a structure in a setback. Two notices of violation were issued for temporary banners. One notice of violation was issued for a freestanding sign. One notice of violation was issued for a damaged sidewalk. There were 89 building inspections, 23 plumbing inspections, 10 rental inspections, one meeting regarding trees, 37 meetings regarding new projects and 24 meetings regarding City business. Mr. Damalier Molina, Code Enforcement Officer, was in attendance at the meeting.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Pete Borsari of Fenway Barr LLC, to modify the floor plan of an existing restaurant known as "The Pond Bar & Grill" pursuant to the City of Rehoboth Beach Municipal Code, Section 215-11 – Modifications of Floor Plan. The restaurant is located at 3 South First Street. Mayor Cooper noted the Public Hearing procedures for both hearings.

City Solicitor Mandalas noted the purpose for both hearings, 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 June 1, 2015. Notice of Public Hearing was published in the Cape Gazette on June 5, 2015, Coast Press on June 10, 2015 and Delaware State News on June 4, 2015. 2. Building Inspector's Report dated June 15, 2015. 3. Application for a Restaurant Permit of Compliance signed and notarized on May 14, 2015 and received on May 14, 2015. 4. Menu. 5. Floor Plan., Sheet No. A-1 received on May 14, 2015. 6. Property record. 7. 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 35% alcohol and 65% food. The Application is for a 3,679 square foot restaurant. The proposed bar area will be 333.5 square feet with a proposed ratio of bar permanent seated dining of .24. In summary, this was an Application to expand the storage and office facilities of an existing restaurant into the neighboring space. The space was previously occupied by Delightful Temptations and Cake Break. There is no patio proposed.

Mr. Pete Borsari said that he would like to put a computer in the neighboring space. This would free up space where there currently is a computer.

There was no correspondence.

Public Comment:

1. Mr. Frank Cooper, 96 East Lake Drive – in support of.

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

Commissioner Sargent made a motion, seconded by Commissioner McGuinness, to approve the Permit of Compliance for The Pond Bar & Grill at 3 South First Street.

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

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Melissa Moore, for a new restaurant to be known as "Egg Restaurant" pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215 - Restaurants. The restaurant is located at 403 Rehoboth Avenue.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on June 1, 2015. Notice of Public Hearing was published in the Cape Gazette on June 5, 2015, Coast Press on June 10, 2015 and Delaware State News on June 4, 2015. 2. Building Inspector's Report dated June 12, 2015. 3. Application for a Restaurant Permit of Compliance signed and notarized on May 15, 2015 and received on May 15, 2015. 4. Menu. 5. Plan. 6. Floor Plan, Sheet No. A-1.01 received on May 15, 2015. 7. Property record. 8. 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 30% alcohol and 70% food. The Application is for a 1,724.3 square foot restaurant. The proposed bar area will be 136 square feet with a proposed ratio of bar permanent seated dining of .24. In summary, this was an Application to build a new restaurant in an existing space that was previously used for retail. The space was previously occupied by Symmetry. There is no patio proposed. No building permits have been issued at this point for this restaurant. All grease traps will need to be approved prior to the building permit being issued. Approval will be needed from the Health Department and Fire Marshal before a building permit can be applied for. There is a large area on the lot for the storage of refuse.

Ms. Melissa Moore noted that she will be serving an awesome breakfast and is excited about becoming part of the community.

There was no correspondence.

Public Comment:

1. Ms. Janice Miller, 409 Rehoboth Avenue, Unit 30, - in support of restaurants on the west end of Rehoboth Avenue. She voiced concern regarding noise issues should there be entertainment or a patio for this restaurant in the future.

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

Commissioner Sargent made a motion, seconded by Commissioner Mills, to approve the Permit of Compliance for Egg Restaurant at 403 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, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

REPORT OF PLANNING COMMISSION

Planning Commission Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was cancelled on June 12, 2015. A Workshop Meeting was held on June 12, 2015 from 2:45 p.m. to 5:15 p.m. The City Solicitor reviewed the recently modified ordinance dealing with Mergers/Un-Mergers of properties that have been merged-by-use and discussed its impact on the traditional manner in which the Planning Commission had dealt with these issues. The Planning Commission continued its State mandated five year review of the 2010 Comprehensive Development Plan (CDP) and has asked Mr. Kyle Gulbranson of AECOM to prepare an initial draft document that both summarizes the current status of the action items from the 2010 CDP and also highlights current issues that the City is dealing with. A number of new issues may also be defined, although it is believed that any detailed deliberation of these new items will be deferred and be included as part of the 2020 CDP. It is expected that this document will serve as an addendum to the existing CDP which can be submitted to fulfill the required review process and will not require a State PLUS review. At this time, there are no new partitioning requests that have been submitted. The Planning Commission may schedule another Workshop Meeting to be held on July 10, 2015 to continue its work on the CDP update. This meeting would be in lieu of the regularly scheduled evening meeting.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called to consider adoption of an ordinance creating a new Chapter 206 of the City Code, related to the permitting and regulation of unenclosed residential swimming pools including hot tubs and spas.

Commissioner Mills noted that a work group, comprised of Mr. Kyle Gulbranson of AECOM, City Manager Sharon Lynn, Building Inspector Terri Sullivan and Police Chief Keith Banks, was formed several months ago to provide guidance for the Commissioners. There had been many meetings including an accelerated schedule of an extra workshop meeting per month. The Commissioners have done their due diligence. The proposed ordinance establishes a new Chapter 206 and establishes regulations for the operation of residential pools. The proposed ordinance addresses qualified operators, requires pools to have licensing, addresses lighting restrictions, addresses drainage and discharge of water, guidelines for draining water toward the street, safety requirements, licensing requirement for private pool owners and rental pool owners, etc. The proposed ordinance establishes the license process and a process for revocation or suspension of a license. One thing that could be incorporated in the ordinance at a future date is establishing quiet hours. The implementation date of the proposed ordinance is immediate in certain respects to come into compliance with lighting restrictions, discharge and drainage requirements. If of when pools are allowed to be permitted again, it establishes a process for making application that insures there is a drainage plan. Implementation of certain areas in the proposed ordinance will be deferred: 1. Getting the license to July 2016. 2. Meeting the safety requirement for signage to July 1, 2016. 3. Inspections accompanying obtaining pool operation licenses to July 1, 2016. 4. Maintenance by a qualified pool operator to July 1, 2016. The Commissioners are also addressing the sound of equipment. The pool pump, in the future, would need to be put into a little building to quiet it down a little bit. One of the benefits of requiring licensing is that it will give the Commissioners an inventory of all the pools and spas within the City. This could be used proactively in the future to enforce the noise ordinance.

Commissioner Toni Sharp said that this ordinance will benefit the community in the absence of nothing. She agreed that the Commissioners have done due diligence on this matter.

Commissioner Patrick Gossett said that the proposed ordinance sets rules, regulations and guidance. Currently, there are approximately 100 pools in the City. He had asked the work group and/or the City Manager to establish a process or program for inspection of the pools and issuing permits. Commissioner Gossett noted that there have been challenges with current building permits being issued. The pool inspections and permits will also be the same. He was glad that a part-time code enforcement officer has been hired to fulfill that, but this needs to be tightened even more. Two days a week will not suffice. Commissioner Gossett would like to see that expanded along with a very strict program and process for these inspections so that inspections are done timely and pool operators and owners will know when the inspections will be done, etc. This process needs to be laid out in a logical and manageable way. These rules and regulations should go along with the proposed ordinance. It is Commissioner Gossett's expectation that this program and process will happen at the passage of this ordinance. He also noted that pool equipment, legally existing at the time of the adoption of this ordinance, is not required to be enclosed until replacement or a permit is issued for changes to the pool or its system. The existing pool equipment is grandfathered in until a change is made where another permit is issued.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to adopt the ordinance before the Commissioners creating a new Chapter 206 of the City Code relating to swimming pools.

Public Comment:

1. Ms. Karen Howland, 309 Hickman Street, voiced concern with the three strike and you are out aspect of the ordinance, that if someone makes a complaint against another person regarding noise violations, a pool license can be revoked. The Commissioners need to look at the noise ordinance in conjunction with the pool ordinance to make sure it is fair, so there are not any particular full-time residents who pick on renters and end up make them lose their license.

Commissioner Zeller said that it would not just be a complaint which would trigger something like that. It would have to be investigated, and there would need to be citations that would come into play.

2. Ms. Marcia Hanewincke, 1025 Scarborough Avenue Extended, said that the City Manager may suspend or revoke a pool operation license for any violation of the requirements of the pool ordinance or the noise ordinance and disturbance of the peace. The pool ordinance is not written as a three strike out ordinance. This is a one strike out. If there is any single violation, the license can be revoked immediately. There are complications which the Commissioners should think

about in that. She supported responsible owners of pool rental properties. There is a complication in not giving some type of warning to a property owner so they can assess the situation and intervene themselves to prevent anything as harsh as this. Those property owners probably have entered into 15 or 20 contractual obligations with third parties, that they have a requirement by law to meet. Those contractual obligations include the use of a swimming pool. It would be much more complicated than just revoking a license for a pool. The ordinance fails in the sense that it does not give a warning system and does not notify the property owner. The Commissioners should give consideration to applying the same warning system.

Commissioner Mills said practice has shown that the Police Department makes every effort to contact those receiving the complaints.

3. Ms. Karen Cordrey, 109 Country Club Drive, asked if the City is going to design the log books and signage that will be required, or if each person is supposed to come up with it themselves. She voice concern that the revocation provisions are harsh. Warnings should be given in order to rectify the problem within a proper period of time. She asked if the person, with a pool company that is doing maintenance, would be the one who would be keeping the log.

Commissioner Mills noted that the logs and signage can be any design as long as it incorporates the details of the ordinance.

4. Ms. Lynn Myers, 43 Oak Avenue, said that the safety aspect of this ordinance is dear to her. She had forwarded notes to the Commissioners from the Academy of Pediatrics which has a committee that addresses pool safety. Ms. Myers would like to have as an addendum that the Commissioners look at the recommendations of the Academy of Pediatrics and other groups and add those components.
5. Mr. Alan Jarmon, 245 Country Club Drive, was in support of the pool ordinance. The City cannot hold him responsible for the actions of someone else. The City can evict his tenants and/or fine them, but it should not be able to take away his license and livelihood to rent his property because of the actions of someone else.
6. Mr. Richard Kirchhoff, 34 Sixth Street, said that the Commissioners should look at the future effective dates, July 1, 2016 because they do not coincide very well with the season. He thought the effective dates should coincide with the traditional rental season to make it smoother. With regard to the requirement to enclose pump equipment, some of the existing pump equipment may be in areas where a structure cannot be built. He asked how the City will deal with existing equipment that if replaced cannot be located where it currently is located. This would be a hardship for a lot of people.
7. Ms. Marcia Hanewincke, 1025 Scarborough Avenue Extended, said the proposed ordinance is written that there are no warnings, and the City Manager may suspend or revoke a license for any single violation. What the Commissioners will be voting on is not what was explained on how the City will proceed with enforcement. The Commissioners are taking a strong ordinance that has to do with operation, maintenance and safety, and they are throwing in the use and occupancy on noise which is part of a separate ordinance. It does not belong in this ordinance.
8. Ms. Carol Marcus Stape, 56 Maryland Avenue, noted that they are having a pool put in. Before any of this discussion became public, they had followed many guidelines for safety. Their pool pump will be installed in a crawlspace in the basement, and they will have an electronically locked cover for the pool, etc. She requested that the Commissioners reconsider reassessing the noise issue within this actual proposal and take it out, and pass the ordinance as a strong safety measure for the community.
9. Mr. Donald Myers, 43 Oak Avenue, said that the person who owns and rents the property has to be responsible for the conduct of his/her tenants. Otherwise the tenant is responsible to no one. It is quite reasonable to require the landlord to be responsible for the conduct of his tenant. This would require landlords to be diligent in making sure the tenants act responsibly and appropriately. If the landlord gets penalized, it has to be the landlord's responsibility. What brought this issue to light is the inordinate amount of noise that comes from pools and rental properties and how it has disrupted the lives of many people. At the very least, any reference to noise needs to be kept in this ordinance and hopefully in going forward, stronger action will be taken with respect to noise.
10. Ms. Rebecca Howland, 510 New Castle Street Extended, agreed with Mr. Myers about responsibility. Her tenants know that there is a noise ordinance and quiet hours. A child at 3:00 p.m., playing in the backyard, will have the police called out on them. She asked where the

standard is, and how to find the responsibility and balance.

11. Mr. John Barnes, 219 Philadelphia Street, asked if a hotel or guest is responsible for a guest who acts badly responsible. The City has a police department to enforce the laws. Whether people rent or own, they are required to follow the laws. It is nobody else's responsibility, but the police, to enforce those laws.
12. Mr. Tom McGlone 318 Laurel Street, said that in conjunction with this component of the pool ordinance, he had asked for a summary of the noise complaint statistics. He had been those statistics this evening. In the month of May 2015, there were 21 noise complaints according to the Chief of Police. Of the 21, two noise complaints came from commercial buildings, 19 were residential complaints. Of the 19 residential complaints, 10 came from rentals and nine came from owners which means that owners are as equally bad behaved as tenants in the City. The numbers are small, with regard to noise complaints from pools, when considering the thousands of people who were in the City in the month of May.
13. Mr. Richard Cooperman, 214 Country Club Drive, asked if someone was given a summons for the complaint about children yelling in the yard. Hotels are generally not responsible for their occupants' behavior. If a hotel has people who behave badly, the operating license can get suspended.

Police Chief Keith Banks was not aware of the specifics with regard to the complaint about children.

14. Mr. Joel Saltzman, 501 Bayard Avenue, asked if a fine can be imposed for a substantial violation for people who are continuously causing undue noise and upsetting the quiet use and enjoyment of the neighborhood, which the citizenry is entitled to in the neighborhood. repeated noise violation for people who are upsetting. If noise is the issue, a more direct approach would be to increase the structure of the fines. The persons responsible for causing the noise would be directly affected, rather than imposing an overreach to all homeowners who have hot tubs and pools. For the last seven years, pools have been considered in every jurisdiction an attractive nuisance. That is why people have to put up fences and ensure safety. If children are involved, the parents bear some responsibility and not landlords or realtors.

Mayor Cooper believed that the fine starts at \$100.00 and can increase to \$250.00 on subsequent offenses.

15. Ms. Patty Derrick, 10 Kent Street, asked the Commissioners if they are willing to pass a law that if a person who rents their house or cottage and has three violations not related to pools would lose their rental license. It would be the same thing as losing a pool license.
16. Ms. Sharon Palmer Stauffer, rental manager for Coldwell Banker Resort Realty in Rehoboth Beach, said that the pool ordinance is a good ordinance with the exception of revoking a license. She will not throw a kid out that is playing in a pool. There needs to be quiet time from 9:00 p.m. to 9:00 a.m. Lighting, if it is disturbing a neighbor, needs to be considered. Amplified music outside should not be allowed after a certain period of time. Private property rights are being affected which she did not want to see happen.
17. Ms. Judy Griffin, Lake Avenue, asked what the repercussions are for an homeowner who has a pool if the renters are singled out and penalized.

Mayor Cooper said that the proposed ordinance does not make a distinction between homeowners and rentals.

Commissioner Mills noted that private owners and rental properties both have to have pool operation licenses, and both can be suspended or revoked under the same conditions.

18. Mr. John Barnes, 219 Philadelphia Street, asked what happens when a pool license is revoked and how non-use of the pool is enforced.

Commissioner Mills said that this is a good ordinance. It was designed to specifically address lighting, discharge, etc. It was also designed to address noise.

19. Mr. Alan Jarmon, 245 Country Club Drive, asked if people are given a fine when there is noise, but no pool. The Commissioners are mixing the noise ordinance into an ordinance about pool maintenance and safety and common respect of neighbors as far as equipment, etc. The noise ordinance is for noise. The pool ordinance is for pools. If the City is going to fine someone who does not have a pool, then that is all the City should be doing with someone who makes noise if

there is a pool involved.

Mayor Cooper noted that a warning is given first.

20. Ms. Carol Marcus Stape, 56 Maryland Avenue, asked what happens if the complaint is coming from a house that has a pool but the pool is not in use, and what happens if a neighbor has a grudge against someone. She urged the Commissioners to reconsider that the noise part of this ordinance should be separated out, but safety should be kept in the ordinance.

Commissioner McGuinness said that when Police Chief Banks presents the Commissioners with his report, noise is included in it. There is a separate column for data collection which lets the Commissioners know where the noise originates from and if a pool is involved.

21. Mr. John Barnes, 219 Philadelphia Street, invited people to join with him in a class action lawsuit if this ordinance is passed.
22. Mr. Tom McGlone, 318 Laurel Street, asked if the pool ordinance will be applicable to individual townhouses with a community pool.

Mayor Cooper responded with no.

23. Ms. Rosanne Roccaro, 32 Olive Avenue, thought that the Commissioners should look into this further and separate the noise part from the pool part of the proposed ordinance.
24. Ms. Lynn Myers, 43 Oak Avenue, said that when there are noisy adults, it might be that these adults are somewhat intoxicated and might not be properly overseeing the safety of a child. She would like to see this ordinance passed because it has a lot of safety factors in it.
25. Mr. Toni Coelho, 51 Baltimore Avenue, said that Rehoboth is not a retirement community. It is a beach town. He was the author of the Americans With Disabilities Act. Kids with disabilities can be swimming in pools when they cannot be out in the ocean. This should be a town that receives everyone and does not discriminate against kids or people with disabilities. The Commissioners are making a decision that will be harmful to the City, and they have the responsibility to be reasonable. This is out of control.
26. Mr. Yavar Rzayev, 703 Scarborough Avenue and 60 Maryland Avenue, said that next to his place on 60 Maryland Avenue, is a hotel which has 250 balconies. Sometimes there are 500 people jumping from balcony to balcony, and they drink until 4:00 a.m. He has not called the police because he chooses to live in Rehoboth. Mr. Rzayev likes Rehoboth because it is a tourist town and is a place for people to come and have fun. People have a right to have fun, and he is fine with it.
27. Mr. Drexel Davison, owner of Bad Hair Day, 20 Lake Avenue, suggested that the Commissioners meetings should be held in the Convention Center every month. Everyone should get involved and keep talking.

(Sharp – no. She has heard a lot this evening that makes her a bit more skeptical than she was when she walked in. Commissioner Sharp appreciated Mr. Drexel Davison’s comment, and everyone needs to take that to heart about it being great to have so much more working together on this. Gossett – aye. There are changes that need to be made. The Commissioners need to get the regulations in place. He has questions about the noise ordinances, but there are also other pieces that the Commissioners need to look at. Doing this in piecemeal fashion is not the right way to approach it. The Commissioners still have to talk about permitted uses and vacation rental ordinances which deals with occupancy and noise ordinance violations with rental homes, outlining responsibilities, rules and regulations. The Good Neighbor Brochure is in place. The Commissioners need to see the results of those. This particular ordinance with the safety issues are important. It gives people a place to begin with regulations. There is a separate noise ordinance that is in place and is beginning to work. The penalties outlined in the pool ordinance should be incorporated into the noise ordinance, but give it to the end of the season to evaluate the data that the police are collecting, and make those changes at that particular time. The Commissioners do not need to be in a rush to do the rest of this because it is a holistic look at it. All of these pieces fit together. The Commissioners are responsible to look at it as a holistic view of this, not just the piecemeal aspects. Sargent – aye. Some points were brought up that there is probably a little bit of ordinances to go. On the whole, he absolutely votes for this ordinance. Cooper – aye. Mills – aye. Zellers – aye. She is comfortable with the ordinance. It gives the City standards it did not have for safety, proper use, tracking, lighting, drainage, etc. Those things were not in place. This gives the Commissioners a good start. It also allows the Commissioners to know how many pools there are and to be able to watch them. It provides a mechanism for enforcement. However, she agrees with the comments that were made tonight, that perhaps the Commissioners need to do more work on that so it is clearer what is considered a violation and what is not.

This is a good first step. There is more work to do. There are other pieces to this. What is happening with the pools and having it brought forward is a symptom of some of the imbalance that is going on in the community. This needs to be brought back. This is a good step. McGuinness – aye. She believes in this ordinance. With the one piece the audience has question with regarding noise, she has faith in the Police Chief and police officers. They have been reasonable. Commissioner McGuinness wanted to see this amendment voted on tonight. The Commissioners should be thorough and look at everything they have looked at for eight months. She is confident that the City Manager and Police Chief will handle the noise which needs to be managed and is the real issue at hand.) Motion carried.

Mayor Cooper called to consider adoption of an ordinance amending Chapter 206 of the City Code, related to the regulation of swimming pools used in conjunction with vacation rentals in the residentially zoned areas of the City.

Mayor Cooper thought that the Commissioners needed a real proposal to debate. It was not his desire to move forward with it this evening.

Commissioner Mills said that he would like to see closure in this, and that he never really liked it.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to adopt the ordinance to amend Chapter 206 to further regulate residential pools.

Commissioner Mills noted that this ordinance would establish regulations for residential pools operating in conjunction with vacation rentals. If there is a private rental pool, then the pool must be made inaccessible.

(Sharp – no. Gossett – no. Sargent – no. The primary reason is that he started out with a sympathetic view of the fact that he hates to take something away from people. The more he has listened to people, the more he has been convinced that the right thing for this community would be to grandfather existing pools. Cooper – no. Mills – no. He did not think it is the right ordinance for the right time. At this time, he did not want to misconstrue his no vote as dismissing that there is a problem with noise at pools. Zellers – no. She was conflicted because she was leaning towards this ordinance, but she has heard from a lot of people and has received a lot of letters with some very good comments in them. It has given her some pause. Commissioner Zellers has appreciated the input she has gotten from everyone. That was one of the reasons why she wanted to defer working on this because there are things that the Commissioners can still improve on and add. There are different pieces that need to be put in place. For the people who brought this to the Commissioners in the beginning, she felt bad for them. Their lives have been adversely impacted by pools and by the behavior coming from pools. That is why they came to the Commissioners, and the Commissioners started addressing this. The pool ordinance is a good first start. On the other hand, she had sympathy for the people who have put in a pool according to the City's regulations, followed the rules and do not have issues with their pools. It is very difficult, very complicated; and there is no easy answer. She firmly believed that the 50 feet x 100 feet lots are too small to put everything that is being put on them. Most people do not have a backyard. They have a pool and that is it. To play a game, they are playing on the sidewalk. It is too much, and at what point are there too many pools in a block. The City will become one big community pool. However, she also felt that it is unfair to punish everybody for a few bad players. With that in mind, she would support this amendment for new pool construction going forward, that there would be a choice between a rental or a pool, or whatever. For existing pools, she would want to see this modified to grandfather them. Everyone should be put on notice, not just pools that the noise ordinance will be enforced going forward and infractions will be addressed. McGuinness – no. She did not believe that this is the right approach. Her position remains the same as it has for months. She urged the Commissioners to vote no.) Motion was defeated.

Mayor Cooper called to consider adoption of a resolution setting a public hearing on amending Chapter 270, Sections 270-4, 270-21, 270-23 and 270-44 of the City Code, related to requirements for natural area, floor area ratio, lot coverage, rear yards and accessory buildings.

City Solicitor Mandalas read the resolution. The actual ordinance provides as to the pending ordinance doctrine such that after this evening if this public hearing is set, the Building & Licensing Department will be able to accept any applications that would be inconsistent with the proposals under the ordinance.

Commissioner Mills noted that the ordinance relates to zoning issues. Natural area on the properties is a minimum of 40%, and the requirement would go to 50%. Natural area would be required to have a maximum of 50% in the front yard. Floor area ratio (FAR) would remain at .60 for house; however, if there is a pool, the FAR would be reduced to .50, or if there is a pool and a basement, FAR would be reduced to .40. This code would establish a maximum of gross floor area in the R1(S) District at 6,000 square feet. In the R1 District, the

maximum would be 4,500 square feet vs. 6,000 square feet. The current maximum for lot coverage is 50% which would be reduced to 40%. The current rear yard setback is 10 feet which would be reduced to 15 feet. Currently an accessory building can be set on the rear and side yard property lines provided it is of certain construction and has neighbors' permission. That is being changed to a minimum of four feet on the rear yard and side yard. No off-street parking would apply to natural area.

Commissioner Mills made a motion, seconded by Commissioner Sargent to adopt the resolution setting a public hearing for July 17, 2015 on the proposed changes to Chapter 270 of the Zoning Code.

Public Comment:

1. Ms. Karen Cordrey, 109 Country Club Drive, asked if these ordinances are all for new construction or if they would be applied retroactively to an existing home.

Mayor Cooper said that it would not apply to an existing home, but an addition to an existing home would require following the proposed changes.

2. Mr. Edward Chescefsky, 200 Laurel Street, said that the proposal is too aggressive as a matter of fairness. He was also concerned about the property values that this will have an impact on. There is a conflict of interest with members of the Board of Commissioners and this ordinance as it stands. He is prepared to file a complaint with the Public Integrity Commission if this is voted on to go to the next meeting.
3. Mr. Frank Cooper, 96 East Lake Drive, thought that the tire tracks, driveway and the space between the two tire tracks being removed is counterproductive to the overall CDP goal of increasing green space. If nothing else, that section should be pulled out of the proposed ordinance and not voted on.
4. Mr. David Clark, works for Yavar Rzayev LLC, said that this unfairly impacts the ability for potential owners to build houses that they would find suitable for this area. It would also create a situation that widens the gap between those who have and those who do not have. He would like the Commissioners to consider information for their next meeting that would include the percentage of properties in the City that would now be nonconforming which may be approximately 90%. The Commissioners would be creating a town full of nonconforming properties.
5. Mr. Ed O'Connor, 10 Cornwall Road, Rehoboth Beach, asked if people can still submit plans prior to this public meeting that are conforming to the current law.

City Solicitor Mandalas noted that with regard to the pending ordinance doctrine, once an ordinance is introduced, which it is being introduced this evening, then the Building & Licensing Department cannot accept plans that would be inconsistent with the proposal that is on the table. If eventually it is voted down, then those plans would be accepted at that future time. As long as the Commissioners are actively considering something that has been introduced, Building & Licensing cannot accept something inconsistent.

6. Mr. Mark Purpura, 5 Third Street, asked when it was posted. He did not see the proposed ordinance posted before the meeting at City Hall.

Commissioner Mills noted that it was posted on the City website under Ongoing Business this past Monday.

Ms. Ann Womack, City Secretary, verified that the proposed ordinance was posted at City Hall on Monday and on the City website the same day.

7. Mr. Ed O'Connor, 10 Cornwall Road, Rehoboth Beach, said that the proposed ordinance was not posted at City Hall.

City Solicitor Mandalas said that the only requirement for this evening's meeting was the posting of the agenda which included this topic of discussion. The actual resolution and ordinance are not required to be posted. If the Commissioners decide to go forward with it, there are certain things that have to be posted and noticed 15 days in advance of the public hearing. The proposed ordinance has to be posted at least 15 days in advance of the public hearing at the bulletin board in City Hall. Those are for legal requirements.

8. Ms. C.C. Alexander, 65 Park Avenue, requested that the Commissioners do not pass this tonight and give it more time and break it down. It will impact those who want to rebuild their homes.

- She did not think it is good to have a community of haves and have not.
9. Ms. Linda Kauffman, 206 Laurel Street, said that what the Commissioners have diligently worked does not do anything more than put houses in proportion in neighborhoods. The proposed ordinance will affect residential areas, not commercial areas. The Commissioners have reduced the size of the houses which reduces the mass which reduces the challenges there are in making a community that everybody wants to live in. The community everyone wants to live in needs to thrive with the people who rent and are tourists in town and the people who live here fulltime. She encouraged the Commissioners to keep working on this and pass the proposed ordinance and not break it out. Noise and rentals vs. residential have divided this community. A lot of that can be resolved without having to put in pool restrictions if the size of houses that are on existing lots are reduced. The majority of the houses being built that are problematic are the six, seven, eight and nine bedroom houses that are putting 20 to 25 people into the residential neighborhoods. She encouraged the people who are in opposition to look closely at what is in the document. It is not that restrictive, and it brings in green space. It puts in more parking when it is needed, and it reduces the size of the footprint so that people can live in harmony in the neighborhoods.
 10. Mr. Tom McGlone, 318 Laurel Street, said that if the Commissioners vote on this tonight and it goes to public hearing, it will be in a similar situation to lots of things that are done as Commissioners and Mayor which is that 80% of the people who do not live in the City will find out about something 30 days prior to it happening. One of the issues is that there has been a tremendous outreach in social media shedding light on what has been done for the last eight to nine months. The Commissioners should get people involved in the process along the way. People need to know that they are being affected by the things the Commissioners are doing.
 11. Mr. Bunky Markert, member of the Planning Commission, 520 New Castle Street Extended, commended the Commissioners for the extensive work they have done in the last several months. This has been an extremely arduous process of filtering all sorts of information impeding into this issue. What the Commissioners are about to vote on as far as the proposed public meeting, is extraordinarily critical for those attending today who may not be familiar with the process of the Comprehensive Development Plan. These issues have been addressed, some before 2004. The Planning Commission is in the process of updating the CDP, but the issues regarding large rental houses, lot coverage, etc. have all been addressed. Now that the Commissioners are attempting to address these problems and formulate them as part of a zoning ordinance is critical. Trees have not been mentioned in this process. One of the issues with lot coverage and house size, etc. is to allow for the space for trees to grow. In the last several years, houses have been allowed to be built to the maximum limits, and there is no effective space for trees. It is critical that trees are addressed.

Commissioner McGuinness said that there are valid points with regard to 80% being non-residents. She requested that the new noise ordinance and pool ordinance be available for outreach at the referendum on June 27, 2015. She would like to have the City Manager implement a better way for awareness for the property owners.

(Sharp – no. Gossett – no. Sargent – aye. Cooper – aye. Mills – aye. Zellers – aye. McGuinness – aye.)
Motion carried.

Mayor Cooper called to consider adoption of a resolution setting a public hearing on amending Chapter 270, Section 270-35 of the City Code, related to the requirements for off-street parking for residential units.

City Solicitor Mandalas noted that the proposed ordinance revises the manner in which the required number of off-street parking spaces is established for residential units and provides that such off-street parking spaces shall not be considered to be natural area. This ordinance has the same publication requirements as the previous one. It is also subject to the pending ordinance doctrine. Upon its introduction this evening, the City's Building & Licensing Department shall thereafter reject any new application that is inconsistent with the amendments in Chapter 270 provided in the ordinance until such time that the Mayor and Commissioners take action on the ordinance.

Mayor Cooper defined that every residential unit today requires two off-street parking spaces, not matter the size is. The proposed ordinance would change that to two off-street parking spaces for up to three toilets plus one additional space for each additional toilet. The thought was that toilets are a good way to measure occupancy. Bedrooms originally had been discussed as a measure for occupancy, but there was difficulty with defining a bedroom.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to adopt the resolution setting a public hearing for July 17, 2015 on the ordinance amending Section 270-35 relating to off-street parking for residential units.

Public Comment:

1. Mr. Charles Champagne, 219 Philadelphia Street, asked what defines an off-street parking space.

Mayor Cooper said that the size of the space is a minimum of 9 feet x 18 feet.

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

Mayor Cooper called to consider adoption of a resolution setting a public hearing on the subject of extending Moratorium Ordinance No. 1014-01, adopted by the Commissioners on October 17, 2014, which established a moratorium on permits or other approvals for the construction of unenclosed swimming pools in the residentially zoned areas within the municipal limits of the City of Rehoboth Beach.

City Solicitor Mandalas noted that the resolution would extend the pool moratorium which would be expiring this evening. The resolution is subject to the pending ordinance doctrine, if the moratorium is extended.

Commissioner Mills said that this can be gotten under control at some point. A lot of landlords have adopted new lease policies to get tenants to sign that they will be attentive to noise. In the original moratorium language, it notes that it is reasonably calculated to prevent unreasonable delay to owners and applicants. The Commissioners started this process nine months ago. He balked on extending the moratorium in part because it penalizes private home builders who want to put in pools.

Commissioner McGuinness agreed. The Commissioners have extended the moratorium once. If the Commissioners are not happy with their progress, they should not be harming others. She was not prepared to agree to extending the moratorium any longer.

Commissioner Sharp reiterated that the Commissioners still do not have a holistic approach to some of the challenges in the community. The Commissioners have not spent any time talking about the tree ordinance, permitted uses, vacation rental ordinance, occupancy, etc. It disturbed her that the Commissioners do not have a clearer and holistic package of solutions.

Commissioner Zellers said that would be a reason she would consider extension of the moratorium so the Commissioners could come together with some of those other packages.

Mayor Cooper thought that the Commissioners have taken the action related to pools vis-à-vis the pool ordinance and the pending zoning that was going to affect pools. The other things are unrelated to pools, but they do not need a moratorium to discuss them or move them forward.

City Solicitor noted that there was no need to vote on this resolution. The moratorium expires by its own terms if the Commissioners do not take any action this evening.

Ms. Donna Mabry, 221 Hickman Street, requested that there should be discussion about moratorium ending because the problems that brought everyone here have not gone away. Many people were waiting to have the opportunity to talk about the problems which brought them here in the first place. Those problems have not been solved. The Commissioners know there is a critical problem with noise and pools, and something has to be done. What needs to be done is to stop new rental pools. The amendment to the pool ordinance would have been the only thing to stop new rental pools on a long term basis. The moratorium should be extended, and the Commissioners should continue working on it.

Mayor Cooper has talked with the City Manager earlier this week, and she has agreed that it has been advertised for a code enforcement officer who will be dedicated to resolve these issues in the way of code enforcement. That person will help the Commissioners evaluate these things.

Mayor Cooper called for the submission of Nominating Petitions for Commissioners' approval as to qualifications for candidates for the annual Municipal Election scheduled for August 8, 2015. The current time was 8:10 p.m.

City Manager Sharon Lynn recommended the following submissions for approval as to qualifications of Nominating Petitions for Commissioner.

Mr. J. Patrick Gossett is seeking the office of Commissioner. His Nominating Petition for Commissioner was submitted on May 26, 2015 at 11:32 a.m., and he has 18 certified signatures of registered voters in the City of Rehoboth Beach on his Petition. Mr. Gossett is a non-resident of the City.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the Nominating Petition of Mr. J. Patrick Gossett for the office of Commissioner in the municipal election on August 8, 2015. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

Mr. Paul G. Kuhns is seeking the office of Commissioner of the City of Rehoboth Beach. His Nominating Petition for Commissioner was submitted on June 8, 2015 at 4:06 p.m., and he has 13 certified signatures of registered voters in the City of Rehoboth Beach on his Petition. Mr. Kuhns is a resident of the City.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to approve the Nominating Petition of Mr. Paul G. Kuhns for the office of Commissioner in the municipal election on August 8, 2015. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

Mr. Richard J. Perry, Jr. is seeking the office of Commissioner of the City of Rehoboth Beach. His Nominating Petition for Commissioner was submitted on June 8, 2015 at 3:53 p.m., and he has 25 certified signatures of registered voters in the City of Rehoboth Beach on his Petition. Mr. Perry is a resident of the City.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to approve the Nominating Petition of Mr. Richard J. Perry, Jr. for the office of Commissioner in the municipal election on August 8, 2015. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

Mr. Willis H. Sargent is seeking the office of Commissioner of the City of Rehoboth Beach. His Nominating Petition for Commissioner was submitted on May 27, 2015 at 2:01 p.m., and he has 10 certified signatures of registered voters in the City of Rehoboth Beach on his Petition. Mr. Sargent is a resident of the City.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to approve the Nominating Petition of Mr. Willis H. Sargent for the office of Commissioner in the municipal election on August 8, 2015. (Sharp – aye, Gossett – aye, Sargent – aye, Cooper – aye, Mills – aye, Zellers – aye, McGuinness – aye.) Motion carried unanimously.

Mayor Cooper called to set the City Real Estate Tax Rate for the tax year beginning July 1, 2015 and ending June 30, 2016.

Mayor Cooper noted that this ordinance sets the tax on real estate including improvements at \$0.04 per \$100.00 of assessed value.

Commissioner Mills made a motion, seconded by Commissioner Gossett, to set the real estate tax rate for the upcoming year at \$0.04 per \$100.00 of assessed value. Motion carried unanimously.

Mayor Cooper called to consider adoption of a resolution necessary to apply to the State of Delaware for a Wastewater and Drinking Water Asset Management Incentive Program Grant to develop and implement asset management plans for the City's water and wastewater systems.

Mayor Cooper noted that the Delaware Department of Natural Resources for wastewater has set aside money as has the Division of Health for drinking water to potentially \$100,000.00 for each for a grant which does not have to be matched with anything to create asset management plans for those two departments. All of the infrastructure would be looked at the water and wastewater departments. On the wastewater side, the loans the City is contemplating for the first five year it could carry half the interest rate by having this approved. The interest rate savings would have to be put back into the plan. This is a good planning tool. In order for the grant to go through, the Commissioners would have to formally say they would approve it.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to adopt the resolution relating to the development and implementation of asset management plans for the City's water and wastewater systems. Motion carried unanimously.

CITY MANAGER'S REPORT

City Manager Sharon Lynn reported that the Lake Drive Project is almost complete and on time. Lake Avenue

is scheduled to be paved by June 24, 2015 and be completed after that for general cleanup. She reminded everyone that the Special Election is scheduled for June 27, 2015 from 10:00 a.m. to 6:00 p.m. in the Convention Center.

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

06/17/2015	564	Delmarva Power	\$8,789.09 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner McGuiness, to approve the Street Aid expenditures as presented. Motion carried unanimously.

COMMITTEE REPORT

There were none.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

There were none.

DICUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

Items to be included on a future agenda are: 1. Three real estate reassessment appeals for the current year. The Commissioners would sit as the Board of Appeals, and the Assessors would need to be present to explain what was done with the three assessments. The proposed date for the appeals to be heard would be scheduled for June 29 or 30 or July 8, 9 or 10, 2015.

CITIZEN COMMENT

There was none.

The next Workshop Meeting will be held on July 6, 2015 at 9:00 a.m.

There being no further business, Mayor Cooper adjourned the meeting at 9:49 p.m.

Respectfully submitted,

(Lorraine Zellers Secretary)