

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

September 16, 2011

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 7:02 p.m. by Mayor Samuel R. Cooper on Friday, September 16, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Alderman Judith Catterton administered the Oaths of Office to Mr. Samuel R. Cooper (Mayor), Ms. Lorraine A. Zellers (Commissioner) and Mr. Mark E. Hunker (Commissioner). (Copies attached.)

City Solicitor Glenn Mandalas gave the invocation.

Mayor Cooper requested a moment of silence for Richard Darley who served the City for a number of years as Commissioner. He had been a cartographer with National Geographic and had hand drawn the map of the City which hangs in the Administrative Office of City Hall. The Pledge of Allegiance followed.

ROLL CALL

Present:	Commissioner	Bill Sargent
	Commissioner	Pat Coluzzi
	Commissioner	Kathy McGuiness
	Mayor	Samuel R. Cooper
	Commissioner	Stan Mills
	Commissioner	Lorraine Zellers
	Commissioner	Mark Hunker

Also in attendance were: City Manager Gregory Ferrese
City Solicitor Glenn Mandalas

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the Agenda as written. Motion carried unanimously.

ELECTION OF OFFICERS

Mayor Cooper submitted the following list of officers for approval by the Commissioners:

Vice Mayor – Bill Sargent
Secretary – Pat Coluzzi
Assistant Secretary – Ann Womack
Treasurer – Priscilla Smith
Assistant Treasurer – Paula Simpson

Commissioner Mills made a motion, seconded by Commissioner Kathy McGuiness, to approve the Officers of the Commission of the City as presented. Motion carried unanimously.

ADOPT RESOLUTION relating to the opening of bank accounts.

Mayor Cooper called to adopt the Resolution relating to the opening of bank accounts.

City Solicitor Mandalas read the Resolution. (Copy attached.)

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to adopt the Resolution relating to the opening of bank accounts. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the May 9, 2011 Workshop Meeting, July 15, 2011 Regular Meeting and August 19, 2011 Regular Meeting were distributed prior to the meeting.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the May 9, 2011 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the July 15, 2011 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the August 19, 2011 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 August 2011. There were 96 criminal, 279 traffic and 51 civil charges made during the month. Thirty-two traffic crashes were investigated. September 11, 2011 marked the 10th anniversary of the terrorist attack on the United States. Chief Banks thanked everyone for recognition the Police Department has received from several businesses, churches, etc. for the job it does. Chief Banks attended a service on September 11, 2011 at the Bandstand where the Fire and Police Departments received recognition and flowers. The Dispatch Center handled 642 police incidents, 314 ambulance incidents, 76 fire incidents, 298 traffic stops, assisted other agencies 10 times during the month, and 9-1-1 calls totaling 784 were received. Thirty-five alarm incidents were responded to with only two being valid alarms. Eight summer officers will be working on the Boardwalk and residential areas on weekends until October 31, 2011.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

There was nothing to 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 August 2011. During the month, 42 permits were issued for a value of work totaling \$818,032.89. Fees collected totaled \$22, 036.04 for the month. Fifty-one permit processing fees were received in the amount of \$1,020.00. No restaurant applications were received in August. Two stop work orders were issued for contractors working without permits. Five stop work orders were issued for contractors working without licenses. Six notices of violation were issued for sidewalks in disrepair. One notice of violation was issued for no tree protection. Three notices of violation were issued for flags being too low. Three notices of violation were issued for temporary banners. Seven notices of violation were issued for putting trash out too early. Two notices of violation were issued for freestanding signs. One notice of violation was issued for defacing a sidewalk. One summons was issued for a contractor working without a license and a permit. The Board of Adjustment heard no cases in August.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Joe Maggio and Bill Shields of TWOFORONE LLC, to operate an existing restaurant known as "The Café" with dining on a patio, to serve food and alcohol pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215 – Restaurants and Section 270-19 – Use Restrictions. The restaurant is located at First Street Station, 70 Rehoboth Avenue, Mezzanine 101. Mayor Cooper noted the Public Hearing procedures for both hearings.

Commissioner Mills recused himself from this particular proceeding.

City Solicitor Mandalas noted, for both hearings, the purpose of 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 August 24, 2011. Notice of today's Public Hearing was published in the Cape Gazette on August 30, 2011, Coast Press on August 31, 2011 and Delaware State News on September 1, 2011. 2. Building Inspector's Report dated August 8, 2011. 3. Application for a Restaurant Permit of Compliance, notarized on October 11, 2010 and received on October 14, 2010. 4. Tax Record 5. Depiction of the properties that were notified of this hearing. 6. Interior & Exterior Space Plan – Capacity Totals, dated October 11, 2010 and received October 26, 2010. 7. Menu received October 14, 2010.

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 25% alcohol and 75% food. The Application is for a 1,364 square foot restaurant. There is no bar area. In summary, this is an Application to add alcoholic beverage service to an existing restaurant. There is no proposed bar. The Board of Adjustment approved a variance on September 27, 2010 to allow a second restaurant where alcoholic liquor is consumed to be established in First Street Station. Hooters restaurant currently occupies 4,785.5 square feet with a patio of 750 square feet. The variance granted to The Café was for approximately 1,430 square feet. Patios are not included in Section 270-28 – Limitation on size of restaurants. Offices are required to have parking in the amount of one for every 400 square feet per Section 270-35(D)(4). Based on the patron area of the restaurant/office, The Café is required to have three parking spaces. The owners went to the Board of Adjustment on July 25, 2011 for an appeal and/or a variance to the parking requirement. The appeal was denied, but the variance was granted so that parking is no longer required. Since the variances for the square footage and the parking were granted, this Application is found to be in compliance with Section 215-1 through Section 215-15 of the Municipal Code.

Mr. Seth Thompson, Esq. and Mr. Jay Becker, Esq. of Hudson, Jones, Jaywork & Fisher LLC representatives of the Applicants were in attendance at the meeting. The Applicants were also in attendance. Mr. Bill Shields explained the concept of a real estate café which is when two businesses pay for one space and come together financially. The business consists of 15-20% real estate with the majority of the business being the café. The physical space is principally for a restaurant, and the earnings are principally from the café. The Café will not be open past 10:00 p.m. The Café is a sit-down restaurant with no bar area. Alcoholic beverages will be provided from a server. He does not anticipate any negative effect in terms of noise on the patio. There will not be any outdoor speakers. Mr. Shields felt that he has met all the Code requirements. There will not be any drinking done in the real estate area where the six desks are located because it is not a designated area where a server can provide a drink. Alcoholic beverages will not be provided in this area because it would fall under the category of ethics in regard to his real estate license. A partitioning could be put up in the area where real estate transactions are taking place if ABCC would require it. Someone will be at the fenced area of the patio to not allow people to walk with a drink from the patio to the street. Mr. Shields has no issue with connecting the fence to the front of the building because it is shown as such on the drawing. It is considered a temporary fence which would only be up during the summer months when the patio is being used. The fence would be removed and brought inside when there is inclement weather. Mr. Shields will do what has to be done to stabilize the fence. Alcoholic beverages will not go past the footprint which is shown on the drawing. Attorney Thompson addressed the question of what the primary use would be for The Café. Sixty percent of the area will be dedicated to the restaurant itself. Attorney Jay Becker said that the title court requires that the substantial portion of the premises be utilized for preparation of services of meals. The Commissioner and Deputy Commissioner have taken a position that historically 60% is a substantial amount according to State law.

Commissioner Zellers researched this concept with the Real Estate Commission, and it does not have a problem with this concept.

Mayor Cooper noted that he and Mr. Shields met in regard to this concept and postponement of the hearing from last month to tonight. Mayor Cooper felt that it was important for Mr. Shields to be present at the hearing to explain what his plans are for The Café.

There was no correspondence.

Public Comment:

1. Mr. Drexel Davison of Rehoboth Beach Main Street – in support of.

2. Mr. Frank Cooper, 1006 Scarborough Avenue Extended – in support of.
3. Ms. Carol Wayne, realtor with Maggio Shields – in support of.
4. Ms. Deb Griffin, realtor with Maggio Shields – in support of.

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

Commissioner Pat Coluzzi found the following to be true:

1. The primary purpose is that of a restaurant.
2. The Application meets the City's applicable zoning and licensing provisions.
3. The restaurant would not be a detriment to the peace, order and quiet of the neighborhood and the City.
4. 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.
5. The Applicant has made no false statements to the City employees or Commissioners.

Commissioner Coluzzi made a motion, seconded by Commissioner Kathy McGuiness, to issue the Certificate of Compliance to TWOFORONE LLC for The Café at 70 Rehoboth Avenue.

Commissioner Sargent added the following to be true:

1. The proper Application has 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.

The additions by Commissioner Sargent were accepted by the maker of the motion and the second.

(Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Mills – recused, Zellers – aye, Hunker – aye.)
Motion carried.

Mayor Cooper opened the Permit of Compliance hearing requested by Kenneth Heap of HRC LLC, to operate a new restaurant known as "Mallory Square Fish House & Grille" with dining on a patio, to serve food and alcohol pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215 – Restaurants and Section 270-19 – Use Restrictions. The restaurant will be located at 22 Wilmington Avenue. Mayor Cooper noted the Public Hearing procedures.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on September 1, 2011. Notice of today's Public Hearing was published in the Cape Gazette on September 6, 2011, Coast Press on September 14, 2011 and Delaware State News on September 2, 2011. 2. Application for a Restaurant Permit of Compliance, signed July 27, 2011 and paid July 27, 2011. 3. Building Inspector's Report dated September 7, 2011. 4. Drawing for Mallory Square received July 26, 2011. 5. Menu received September 8, 2011. 6. Tax Record 7. Depiction of the properties that were notified of 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 4,132.5 square foot restaurant inclusive of both floors with a 530 square foot patio. The bar area is 330 square feet with a ratio of bar to permanent seated dining of .28. Per Section 215-1 Restaurant B, the bar area shall be no more than 25% of the square footage of the permanent seated dining area, but not to exceed a maximum of 1,000 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet. In summary, this is an Application to reopen a restaurant which has a patio but whose liquor license had expired so transferring the liquor license was not an option. The last approved floor plan on file for La La Land was dated August 5, 1999. That plan shows dining in the area shown as the Sushi Bar on the current plan. The Sushi Bar area is to be used for permanent seated dining and not for alcohol service. There are also some letters in the file which state that the residential use was terminated on July 20, 1990 so all of the second floor areas are included as part of the restaurant calculations. The address is 22 Wilmington Avenue per the attached letters. The 22½ Wilmington Avenue address was abandoned when the buildings were connected.

Mr. Kenneth Heaps of HRC LLC noted that when he bought the restaurant, he thought this was a transfer of the liquor license but it was not. The restaurant reopened serving food only. Since the summer season has ended, he would like to get a liquor license and run a nice family oriented restaurant. There will not be any loud music. The zoning requirements have been met. The restaurant is not a detriment to peace in the neighborhood.

There is no adverse impact to the City. Access to the second floor would only be for the use of the bathroom. Since there will be no live entertainment, the Fire Marshal is fine with not having a sprinkler system. The Fire Marshal is requiring panic hardware on all the doors.

There was no correspondence.

Public Comment:

1. Mr. Drexel Davison of Main Street Inc. – in support of.
Mayor Cooper closed the public portion of the hearing and called for discussion among the Commissioners.

Commissioner Mills found the following to be true:

1. The proper Application has 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 based on the Application and menu submitted.
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.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to issue the Certificate of Compliance to HRC LLC for Mallory Square Fish House & Grille at 22 Wilmington Avenue. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

REPORT OF THE PLANNING COMMISSION

There was nothing to report.

OLD BUSINESS

Mayor Cooper called to discuss implementation strategies for the City's 2010 Comprehensive Development Plan (CDP).

Commissioner Coluzzi noted that the Commissioners have arrived at consensus in regard to moving ahead with the Emergency Operations Plan (EOP). She thought that a process should be looked at to prioritize items which have been identified in the Comprehensive Development Plan (CDP).

Commissioner Zellers said that a meeting has been scheduled for September 25, 2011 with staff, Mr. Ferrese and Mayor Cooper to look over the plan and discuss how to move forward.

Commissioner Mark Hunker suggested that things should be done regarding neighborhoods and the community for their betterment.

Commissioner Mills reiterated prior notes he had forwarded to the Commissioners on June 17, 2011. (Copy attached.) He had edited these notes today. All the items are within the Executive Summary of the CDP. In regard to completed/ongoing: 1. The Emergency Operations Plan should be adopted - adopted. 2. Continue to refurbish the Boardwalk – completed. 3. Adopt the official Zoning Map – adopted. 4. Act on rezoning the school property - rezoned. 5. Select and fund wastewater discharge alternative – selected but funding is not complete. In regard to ongoing/to be completed: 1. Install uniform wayfinding signage for the oceanfront and the facilities supporting use of the oceanfront. Commissioner Mills will meet with Mr. Ferrese and Mayor Cooper to discuss signage programs for the Boardwalk. 2. Plant and maintain curbside trees on all sidewalked streets within the City and prepare a Community Forest Plan designed to increase public support and public involvement, increase afforestation efforts, reduce undesirable and invasive species and secure the long-term management of its urban forest. Commissioner Sargent has taken charge of this item. 3. The City will refine and communicate its capital needs through preparation of a Capital Improvement Program. This item has not been finalized. 4. Begin Silver Lake recovery; dredging. A Silver Lake task force has been established of which Mayor Cooper and Commissioner Mills are members. 5. Explore the creation, possibly as a public-private joint venture, of a water taxi connection with Lewes. The Lewes/Rehoboth Canal Improvement

Association has been established of which Commissioner Coluzzi is President and Commissioner Mills is a member. In regard to the balance of administrative action items within the Executive Summary of the CDP: 1. Prepare a city-wide stormwater management plan. The Planning Commission should be asked if it could provide insight to the Board of Commissioners at a future workshop meeting to explain this item and have an engineer explain his concept and what the costs would be. 2. Continue regular beach replenishment – ongoing. 3. Thorough enforcement of the vacation rental housing regulations, health and safety inspections and licensure – ongoing. 4. Develop the appendices to the EOP that spell out specific responses to public emergencies should be completed, kept updated, widely publicized and made readily available. A meeting is scheduled for September 25, 2011. 5. Investigate a City policy of requiring that all municipal facilities, City-funded projects and City infrastructure projects be constructed, renovated, operated, maintained and deconstructed using Green Building and Low Impact Development practices. This item should be placed on the agenda for the October or November Workshop Meeting. The Planning Commission should be asked if it could provide insight of what it wants regarding this item. 6. Begin Silver Lake recovery using buffer planting – if not completed, it is ongoing. 7. Work with Federal and State agencies to ensure the maintenance, bank stability and navigability of the Lewes/Rehoboth Canal. Possibly the Planning Commission could share some concepts regarding this item. 8. Assure the walkability of all sidewalks by trimming trees and shrubbery for adequate clearance, maintaining sidewalks in good condition, etc. This is a function of the Building & Licensing Department and Mr. Ferrese. In regard to non-administrative items: 1. Establish a Canal Park along the entire western boundary of the City. Oak Grove has put money aside so there is a timing element for the Commissioners to act or initiate something within a certain amount of time or the monies will be lost. This item needs to be championed by one of the Commissioners. 2. Prepare a long range development, renovation and maintenance plan for Rehoboth's parks and recreation spaces. This item could be merged with Item No. 2 in regard to the ongoing/to be completed category. 3. Assure the connectivity of all sidewalks. The Commissioners changed the ordinance which now requires some people who get building permits over \$20,000.00 in a year to put in sidewalks. The Commissioners hesitated on the rest which had been discussed because of the economy. 4. Adopt a Complete Streets policy to assure that as opportunities to revamp streets occur such streets are designed and operated to enable safe access for all users and connected in a city-wide integrated network. A Plan will be prepared defining city-wide alignments for a connected bikeway system. Develop clear, well-defined, publicly supported policies for traffic management based on the following principles: access for people should not be inhibited, get cars off the street and promote walking, biking and shuttle services. Commissioner Coluzzi has had monies approved, and the project is underway. 5. Institute an architectural review procedure as a limited time pilot program within the normal permitting process. Acceptance of the recommendations of architectural review will be voluntary during this period. No one has shown any interest in championing this item. 4. With Main Street and the Chamber of Commerce, encourage and assist interested property owners in the creative redevelopment of properties on Rehoboth Avenue and its connecting streets. Study how to physically upgrade the first two blocks of Baltimore and Wilmington Avenues and First Street to improve their commercial viability, safety, ambiance and access by pedestrians. No one has shown any interest in championing this item. Commissioner McGuinness noted that there should be something on file because the study had been done a few years ago through Main Street. 5. Examine establishing a mixed-use zone allowing a blend of residential and non-residential uses as a means of encouraging the development and redevelopment of selected commercial areas along major commercial streets. Begin Silver Lake recovery: Establish regulator buffer zones. Review all development regulations. The Planning Commission has just taken on reviewing development regulations. If the Board of Commissioners are interested in these items, they should be remanded to the Planning Commission for its insight. 6. Continue the renovation/replacement of the City's municipal offices. This is one of Commissioner Mills' priority items.

Commissioner Coluzzi had hoped that the Commissioners would accomplish having the Emergency Operations Plan in place. In regard to the process, Commissioners may start to champion some of these projects, but they need to make sure the projects get done. Commissioner Hunker agreed. Closure is key. He is willing to help with some of the projects.

Mr. Patrick Gossett of the Planning Commission said that the list is extracted from the Executive Summary. In going through the CDP, there is more detailed information regarding the items on the list. He will carry back to the Planning Commission what the Commissioners would like to have its insight on.

NEW BUSINESS

Mayor Cooper called to consider an ordinance to amend Section 253-7 of the Municipal Code of the City of Rehoboth Beach, relating to the species of trees that may be planted on City lands and private lands.

Commissioner Sargent had forwarded a copy of the current Section 253-7 of the Code which is a problem

for the State wanting to plant trees in Fall 2011. Mr. Bryan Hall from the Office of State Planning Coordination who has a strong forestry background and Commissioner Sargent worked on the language in the proposed draft of Section 253-7 – Species to be planted. Trees planted on lands owned by the City, including street trees, must be selected by a professional arborist and must be of a species considered acceptable to the area by the State of Delaware Forest Service. Planting on City streets should also adhere to the Arbor Day Foundation's "The Right Tree in the Right Place" guidelines so that trees do not unduly conflict with above ground utility lines. The City will maintain lists of trees recommended for planting on private lands and will at reasonable cost provide for homeowners with the advice of a professional arborist for planting, general care, trimming and removal of trees.

Mr. Bryan Hall was in attendance at the meeting. The planting project has begun in the parks, and the next phase for the remainder of approximately 40 trees as part of the ongoing grant with the Delaware Forest Service would be moving on to City streets. Those locations would be identified by individuals who have expressed direct interest in having a tree placed in front of their property. Upon review of the City Code, it has been determined that many of the trees already listed in the current Section 253-7 are either to be invasive, are no longer trees available for planting and/or would create direct conflict with other elements of the Code in which placement of the tree within direct location of an overhead utility line or underground utility service would result in a potential violation of the Code. Based on that concern and working with Commissioner Sargent, a variety of options were provided. At this point given the potential time concerns associated with the fact that the grant is continuing to move forward, the contractor would like to complete his obligation after October 1, 2011 as initially identified to move on to the year-round residents. This is being brought to the Commissioners attention to address this concern in hopes of avoiding violating the Code.

Mayor Cooper's concern was that this section of the Code was intended for a property owner to be able to plant anything within the list of trees. A property owner could plant anything else he would want to on City property if he had gone to the Parks & Shade Tree Commission. Mayor Cooper was not sure that the City selecting trees for the streets violates that Code. The tree may not be on the list that the City would tell people it has an absolute right to plant.

Mr. Hall said that the reasons why this has been brought before the Commissioners is to seek the guidance of the City Solicitor and to seek input from the Commissioners. Prior to this, there was an ongoing discussion of what revisions are necessary across the tree ordinance. At this point, the discussion this evening is to see if the selected tree not identified in the Code is a valid for the tree planting project and tree planting location.

City Solicitor Mandalas said that originally Section 253-7 dealt with street trees. The intent of that section was for the private property owner and what trees could be planted if he was going to plant a tree on public lands. The new version is much broader to not only include street trees, but to include trees in public parks, etc. City Solicitor Mandalas voiced concern that whenever there is a regulation put in the books it may tie the City's hands someday going forward. The tree ordinance is more a regulation of what can or cannot be done on private property, but bleeds a little over into public property in the special exception context where the private property owner can plant a tree on public lands in certain instances. The proposed Section 253-7 is more expansive and is more regulatory as to the City than he would like to see it.

Commissioner Mills asked which list of trees will be put in the Code. There is reference in the Code to small, medium and large trees. The Commissioners need to articulate what a small, medium and large tree is. In regard to native trees, he asked if the Commissioners would want to better explain to people what particular trees are native to possibly make it easy on the lay person. In regard to specimen trees, Commissioner Mills asked if the Commissioners could be more comprehensive with the list. Section 253-26(E) says that if a dead tree is to be replaced, the replacement tree has to be picked from the list in Appendix A, of which there is no list. Mayor Cooper did not agree with putting a list of the trees in the Code because the list changes. The Commissioners should be very specific with what trees they are not going to allow to be planted in the City, but otherwise, the list of trees is simply guidance. To give property owners a list of trees that are suggested by an organization is not something which is code worthy. Commissioners Coluzzi and Zellers agreed.

Commissioner Sargent said that he was trying to pick the best public policy.

Mayor Cooper said that he was satisfied in moving forward if there is professional guidance in planting the trees in the right-of-way.

Commissioner Coluzzi said that in Mr. Hall's letter sent to the Commissioners on August 8, 2011, he had proposed language that mirrors the initial language. The proposed language reads that trees must be selected by a professional arborist and the City will at reasonable cost provide homeowners with the advice of a professional arborist. This has nothing to do with the initial Code and adding this is dangerous.

Commissioner Sargent said that the proposed ordinance is a broad and general policy. The first paragraph concentrates on the procedure for City owned property. The original language would have restricted property owners privately from using anything but the approved street trees. He wanted to make a clear statement of policy that the City would help people who would want to plant private trees, but an absolute list would not be provided. He liked the idea of offering professional assistance to people who have questions about what tree to plant. Rather than listing all the trees, there are so many variables. The Commissioners should not put all the specific rules in the Code. By referring to a professional arborist who has to live by the right tree in the right place principles would be the best thing the Commissioners could do for the City. Mr. Walter Onizuk, City Arborist, would provide the professional help to the private citizen at no cost. A professional developer should pay for professional advice.

Commissioner Sargent suggested that the State plant the trees, and then the Commissioners will tackle how to address a lot of issues regarding the tree ordinance.

Mayor Cooper said that as long as the City staff is being guided by people who are professionals in the field, he is comfortable with planting the trees.

Commissioner Coluzzi made a motion, seconded by Commissioner McGuinness, proceed with the project of planting the trees on City property including street right-of-ways under the direction of City staff and with the help of Mr. Bryan Hall and folks.

Mr. Hall said that under the current contractual agreement the City has in place with the contractor, there is a one-year warranty on the trees. Those trees that are dead will flagged, identified, removed and replaced. Due to a site condition, the tree may be moved in close proximity to where the original tree was planted. Removal of staking will be done where possible along with mulching and removal of debris and gator bags.

(Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.)
Motion carried unanimously.

Commissioner Mills encouraged Commissioner Sargent to work him or somebody on a web page specific to trees and the Arbor Day Foundation links.

Mayor Cooper called to consider adoption of a Resolution necessary to apply for a Delaware Clean Water Advisory Council planning grant associated with the Schoolvue sanitary sewer project.

Mayor Cooper provided an overview of the proposed project. A sanitary sewer system exists in Schoolvue which is in a seriously deteriorated condition requiring maintenance efforts. The defective portion of the sanitary sewer main is not within the street right-of-way, but is running across private property and is beneath five homes making repair or replacement on the current alignment impossible. The State Department of Natural Resources and Environmental Control (DNREC) has funding available for specific project planning and design necessary to submit a loan application to the Delaware Water Pollution Control Revolving Fund (WPCRF) for funding consideration. Mayor Cooper would like to see this project move forward this winter.

City Solicitor Mandalas read the proposed Resolution. (Copy attached.)

Commissioner Mills made a motion, seconded by Commissioner Sargent, to adopt the Resolution before the Commissioners. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called to consider award of contract for the Energy Grant Project at 229 Rehoboth Avenue, 11 Christian Street and 1 Lincoln Street for which bids were received and opened on September 1, 2011.

City Manager Gregory Ferrese noted that the City has received a \$500,000.00 Competitive Energy Grant. Included in the Grant is a new roof for the Convention Center which will begin on September 26, 2011. Also included in the Grant are energy improvements at the Public Works facility, Senior Citizens' Center and the Municipal Building. Seven bids were received, and the sealed bids were opened on September 1, 2011. The low bid was received from John W. Tieder in the amount of \$107,925.00. It is recommended by the City Engineer that the low bid be accepted. Monies will come from the Energy Grant for this project. A pre-construction meeting will be held with the contractor, and the City will receive a timeline of the schedule for the project.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to award the contract for the energy improvements to John W. Tieder in the amount of \$107,925.00. (Sargent – aye, Coluzzi – aye,

McGuinness – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

(See attached report.)

City Manager Gregory Ferrese reported that the Convention Center roof project will be begin on September 26, 2011. Now that the low bid was awarded to John W. Tieder in the amount of \$107,925.00 for the Energy Projects at 229 Rehoboth Avenue, 11 Christian Street and 1 Lincoln Street, a pre-construction meeting will be held, and Mr. Ferrese will forward a construction schedule to the Commissioners. The final grant application has been submitted to the State's Parks and Recreation Department pertaining to State funding to make the Delaware Avenue restrooms ADA compliant and green. A grant is anticipated in the amount of \$80,000.00. On September 22, 2011, Mr. Ferrese will be attending a workshop in Georgetown, DE pertaining to FEMA requirements in regard to the City receiving reimbursement expenses incurred during Hurricane Irene. The City spent approximately \$24,000.00. On September 17, 2011, a car show will be held on the ocean block of Baltimore Avenue starting at 10:00 a.m. Also on September 17, 2011, the Mid-Atlantic Volleyball Association will have a tournament on the beach, Coastal Cleanup will take place, Pocomotion is currently in the Convention Center and the ALS Walk will take place. Senior Citizen Beach Day will be held on September 23, 2011. A purchase order was issued today for \$14,100.00 to provide the 3M material on the 12 inch concrete border at each of the 38 crosswalks on Rehoboth Avenue. Monies were budgeted in the amount of \$25,000.00 for crosswalks. The project will begin on October 3, 2011 and will be completed in one day. A 10,000.00 grant has been received, and the City has bid out for trees and pruning. No bids have been received. Mr. Hall will be securing quotes on behalf of the City, and he will review the quotes and provide a recommendation to Mr. Ferrese on who the City should hire. Mr. Hall explained what this project will entail. Mr. Ferrese said that City has received monies in the amount of \$50,000.00 from Representative Schwartzkopf for the ADA Ramping Program. The City will receive \$94,000.00 through Municipal Street Aid, and the majority of that money will be used for street lighting in the City. In addition to this money, the City will receive approximately \$24,000.00 in restricted funds to be used for roadway work. Mr. Ferrese received a letter from DelDOT saying that \$22,000.00 could be used toward the ADA ramping program. Monies in the amount of \$27,000.00 remain from the Stormceptor Project in Country Club Estates, and the City budgeted monies in the amount of \$60,000.00 for the ADA Ramping Program. Mr. Ferrese, Mayor Cooper and Commissioner Mills have been meeting with Mr. Bob Palmer, City Engineer in regard to this project. The project will be started at the intersections where the Presbyterian Church and Catholic Church are located and will proceed along King Charles Avenue to at least Stockley Street. Six handicap parking spaces are located on Laurel Street at Star of the Sea which are not ADA compliant. This program includes adding two more parking spaces and making all eight spaces ADA compliant. The City is in the process of having the Handicapped Transition Plan finalized by the engineer, and this plan will be used in regard to the Bicycle/Pedestrian Master Plan. The City budgeted monies in the amount of \$2,500,000.00 for parking meter revenue; and as of September 12, 2011, \$2,524,000.00 has been collected. Approximately \$2,600,000.00 will have been collected at the close of the season. The City budgeted \$950,000.00 for the real estate transfer tax, but approximately \$200,000.00 has been received to date. In regard to Street Aid expenditures, the City has not received the check from the State. Street Aid was taken out of the General Fund in the amount of \$7,800.00. It is anticipated that beach replenishment will start in mid-October 2011.

COMMITTEE REPORT

Commissioner Mills, Chair of Communications Committee, reported that a meeting was held on September 16, 2011. The Committee recognized Commissioner Coluzzi as the former chair from its inception. Accomplishments during her tenure included a major design of a new City website and bringing it online. Commissioner Mills noted the mission statement of the Committee. It has formalized an internal policy to review the City website quarterly to look for maintenance and upgrade recommendations. Current members of the Committee are Commissioner Mills, Ms. Dorothy Cirelli and Mr. Hoyte Decker. Commissioner Zellers has expressed an interest in being on the Committee. There is a vacancy for one or more members. The Committee serves the Board of Commissioners by researching issues and making recommendations to the Board, and the City Manager who serves as gatekeeper by making recommendations on maintenance and improvements to the City website. The Committee's accomplishments besides the City website, include recommendations for the City's E-News program launched approximately one month ago so people can sign up to receive free email announcements of meeting agendas, press releases and emergency notifications. Some ideas with regard to recommendations to the Board of Commissioners are still under examination. In regard to the City website, the Committee will be forwarding to the City Manager such items as: 1. Broken links. 2. Adding a "Rehoboth in the News" feature to include articles intended to market Rehoboth Beach. Two such articles are that the Rehoboth Beach Boardwalk was named one of the top ten in the U.S., and Rehoboth being named a "Superbeach". 3. Reformat the City Board, Commission and Committee listings of schedules to be easier to use and be more comprehensive. The Committee believes it will be providing a better

program to de-clutter the site and be better organized as well as provide multiple routes for finding information. The Committee intends to post the proposed changes and updates on its webpage. 4. Better use of Google maps to highlight parks and restrooms, and enhancing a search feature. A recent change in some pages of the City website has been initiated by the City Manager. The City Manager has determined that the City website is not to have commercial advertising such as pet stores, etc. Users will be directed to the Chamber and Main Street website for business listings.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Mayor Cooper announced that Task Order No. 2 has been received from Mr. Rip Copithorn of GHD in regard to the ocean outfall, and he suggested that Mr. Copithorn should attend the Workshop Meeting on October 11, 2011 to update the Commissioners.

Commissioner Hunker announced that he is glad to be on the Board, and he thanked those people who voted for him and those who did not. He hopes to win trust and confidence, listen as a resident and Commissioner, and be invited to events to hear what is going on.

Commissioner Mills announced that the Rehoboth Beach Homeowners' Association is hosting Coastal Cleanup Day on September 17, 2011 in the City. In regard to Committee appointments, he suggested that the City should issue a press release to invite people to join committees and refer them to the City website.

Discuss items to include on future agendas.

Items to include on future agendas: Presentation by Mr. Rip Copithorn of GHD in regard to Task Order No. 2, recommendations to get start/stop dates in alignment for the various ordinances in the Code, review of the audio policy, a kickoff meeting to review wishlists in regard to the budget, review of the parking meter system.

CITIZEN COMMENT

Mr. Thomas McGlone, 318 Laurel Street, congratulated everyone on the results of the election. He asked if the Commissioners will come up with a solution by the moratorium deadline of December 31, 2011 to the noise and patio issue which occurred one year ago. Mr. McGlone voiced concern that this might go to the end of the year and sort of go through the same issue which occurred last year.

Mayor Cooper said that he expects to address this matter before the deadline.

The Workshop Meeting was cancelled for October 11, 2011 at 8:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:33 p.m.

Respectfully submitted,

(Patricia Coluzzi, Secretary)