

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

February 8, 2016

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:07 a.m. by Mayor Samuel R. Cooper on Monday, February 8, 2016 on the second floor of the Rehoboth Beach Voluntary Fire Company, 219 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
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Kathy McGuiness

Absent: Commissioner Paul Kuhns
 Commissioner Lorraine Zellers

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

CORRESPONDENCE

Letter received will be introduced during the discussion of the residential rental ordinance portion of the meeting.

PRESENTATION BY REPRESENTATIVES OF THE CAPE HENLOPEN SCHOOL DISTRICT REGARDING THE DISTRICT'S PLANS TO CONSTRUCT A NEW ELEMENTARY SCHOOL.

Mr. Robert Fulton and Mr. Brian Bassett, representatives from Cape Henlopen School District, were in attendance at the meeting. The districtwide plan and an update of designs and renderings for the Rehoboth Elementary School site were provided. Sussex Consortium is not part of the upcoming school referendum and is not part of the local tax dollars. It will be a State funded project. A new Rehoboth Elementary School will be built and will house up to 720 students. On October 30, 2015, the State of Delaware agreed to fund four new schools plus the Sussex Consortium with the amount being \$106,000,000.00 and with the expectation that the School District would raise \$48,000,000.00. An enrollment history was provided of the School District from 2001 to present with an increase of 1,000 students. The design start date for Rehoboth Elementary School is July 2017 with completion in the fall of 2019. It is anticipated that the brick from the current building will be saved with the brick being engraved with alumni names and their graduation class. The Rehoboth Public School stones will be used to replicate the current entrance for the new school. The steel, wood floors, showcases, etc. would be repurposed. The average annual increase, spread over multiple years, would be approximately \$74.00 per year. The tax increase would be based on assessed value of a home (not market value) at \$0.33 needed per \$100.00 of assessed value. The goal would be to turn the old school building into green space. The green space on the property will be reduced a little due to parking requirements. The School District is not asking for any operating money in the upcoming referendum, only debt service for construction. The referendum will occur on March 23, 2016. The polling locations are the same from 10:00 a.m. to 8:00 p.m. A community meeting will be held on February 24, 2016 at Rehoboth Elementary School. A traffic impact study will need to be performed through DelDOT and the City. The State PLUS review was done with DNREC, DelDOT, archeological resources, fire marshal, etc. of which there were no concerns for the school site. The current Rehoboth Elementary School will be in operation while construction is going on.

Ms. Libby Stiff, Scarborough Avenue Extended, commented that as a reminder, her property abuts the school's property.

Mr. Frank Cooper, 96 East Lake Drive, noted that currently there is a walkway from Scarborough Avenue Extended to the footbridge. He hoped the School District would guarantee that access would remain to cross the school property to get to the bridge.

Ms. Mable Granke, 1013 Scarborough Avenue Extended, commented that the neighbors will need to be kept informed of what is planned for the space abutting the road. The School District should keep the

Commissioners involved as to the timing of the project and what impact there will be.

OLD BUSINESS

Mayor Cooper recused himself at 10:06 a.m. The gavel was passed to Commissioner Mills.

Discuss with Kyle Gulbranson of AECOM, the City's planning consultant, a draft Residential (formerly Vacation) Rental Ordinance.

Between the last meeting and this meeting, the Commissioners have received correspondence on this matter from Commissioner Paul Kuhns, Mr. Eugene Lawson, Jr., Mrs. Jan Konesey, Ms. Julie Davis & Mr. John Metz, Mr. & Mrs. Stan Heuisler, Mr. & Mrs. John Roehmer, Mr. Alan O'Leary, Mr. & Mrs. John Darr and Mr. Guy Martin.

Mr. Kyle Gulbranson of AECOM was in attendance at this meeting. The new rental application was modified after the last meeting. The size of the application has been increased to a three-page document. A glossary with definitions of the types of housing required to have a license was added as the first page attached to the rental license application. The first page of the application itself is dedicated to residential rentals only. Information will be needed of the owner's contact information, agent's contact information and local contact person's contact information. The type of structure will need to be identified along with the number of bedrooms and maximum occupancy. Owners will need to verify that they have read and understand the Residential Rental Ordinance and if they request an occupancy exception. The second page of the application itself is for all other types of lodging which would include hotels, motels, etc. As discussed at the last meeting, it would be helpful to have local contact information.

After discussion among the Commissioners, Chief Building Inspector Damalier Molina, Code Enforcement Officer Ed Graves and City Manager Sharon Lynn as to whether or not a reference should be added to the glossary with regard to permitted uses in the zoning districts, it was determined that the applicable uses allowed in each zoning district should be added to the glossary. Also, at the time of submittal of the application, there will be a review process for the application and self-certification.

Ms. Lori Bloxom, 9 Country Club Drive, said that the application implies that everyone will need to have a rental inspection, but some will be done by self-certification. She assumed that Building & Licensing will know who will require an inspection and who will not need one.

The name on the self-certification form has been changed to safety certification for rental license application as per discussion at the last meeting. The language has been eliminated that refers to a checklist. The identified items on the form refer to basic maintenance and safety requirements.

After discussion among the Commissioners, there was consensus that the lengthier form for the safety certification should be used the first year with only the requirements of five items, and then the entire form could be implemented the second year. A suggestion was made that an illustrative and explanatory type of guide or accompaniment to the safety certification application should be uploaded to the City website.

In a letter submitted by Mr. Eugene Lawson, Jr., he noted that the certification of safety issues is an egregious tactic because the draft certification will cause most owners to commit perjury because very few owners have the knowledge and experience to certify many of the requirements. It also encompasses matters that attempt to subject the property to the full Code requirement even if the property is old and grandfathered. City Solicitor Mandalas said that the City can require a self-certification checklist for the privilege of having a rental license.

There is a provision in the draft ordinance that if someone is not comfortable filling out the applications, that person can request an inspection by Building & Licensing.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that the safety certification application should have been done in September 2015, and it should be re-evaluated in Fall 2016.

Mrs. Jan Konesey, 42 Oak Avenue, said that with regard to the safety certification, the items are mainly relative to routine maintenance.

Ms. Libby Stiff, Scarborough Avenue, said that this is a simple form to fill out.

Ms. Joanne Bacher of Jack Lingo, thought that the shorter form is best. As an agent, she would not fill out a form for the owner and have it notarized. Renewal of rental licenses should be done by October 1 of each.

Realtors will be able to send out the safety certification application.

Ms. Judy Griffing, Lake Avenue, thought that a disclosure should be added that the form is being filled out to the best on one's ability.

Mr. Frank Cooper, 96 East Lake Drive, said that the timing should be addressed rather than providing information to people. The application is informational in itself. Having the application notarized is onerous.

Ms. Lori Bloxom, 9 Country Club Drive, did not see anything on the application with respect to a garage apartment or cottage.

After discussion, there was consensus of the Commissioners that the next rental licenses would be renewed for July 1, 2016, and contact information would be gathered. The new application form that solicits local contact information would need to be changed, and no codification would be needed. A note could be sent out that the next license renewal date would be effective January 1, 2017 along with the newly adopted code that requires self-certifications. An ordinance would need to be adopted that changes Section 120.8 which specifies that the license year shall begin July 1 and end with June 30 of each calendar year.

The work group has come up with a proposal for occupancy that limits two occupants per bedroom plus four. More sub-topics should be investigated on the occupancy topic. A suggestion was made that people who have rented at certain occupancy limits over the years should be allowed to have a grandfathering waiver. The Commissioners need to look at a certain number for occupancy, if there is or is not a cap on occupancy, whether or not there will be grandfathering, if there will be a waiver process in addition to grandfathering. The intent from the work group as to documentation being provided of a pre-existing occupancy precedent was that if there is an unsafe situation as viewed by the building official, then that would be a reason to not approve a rental license. A chart should be put together from other municipalities with regard to occupancy and maximum capacity for rental houses.

Ms. Joanne Bacher of Jack Lingo said that with regard to occupancy limits, it is usually two people per bedroom plus two.

Ms. Libby Stiff, Scarborough Avenue said that the occupancy should be in conformity with the Delaware State Housing.

Mr. Frank Cooper, 96 East Lake Drive, said that occupancy should be limited per lot limits.

Ms. Judy Griffing, Lake Avenue, said that with regard to occupancy, two people per bedroom plus four or 14 people per lot size is fair. She is not a proponent of large rental occupancies.

This item will be placed on the agenda for the next Workshop Meeting in March 2016.

The meeting was recessed at 11:40 a.m. and reconvened at 11:50 .am. The gavel was returned to Mayor Cooper.

Discuss refuse, recycling and yard waste issues and potential code changes – Commissioners Mills and McGuinness.

The focus of today's meeting was trash being set out too far in advance of collection days, including Saturdays and when the residential refuse and yard waste containers are not removed from public space per the City Code. Line Nos. 190 to 199 and 211 to 232 address those issues. Line Nos. 190 to 199 are specific to the placement of waste containers for collection in residential zones and time limits. This would allow people to put out their refuse no earlier than 6:00 p.m. on the day prior to collection and not later than 7:00 a.m. on the day of collection. Disposable containers can be put out as early as 5:00 a.m. on the day of collection. All waste container would need to be removed not later than 9:00 p.m. on the day of collection. Lines 211 to 232 are specific to collection of yard waste and recyclables and time limits. Yard waste contained in paper bags or tied together in bundles would be collected year round. Loose leaves cannot be put out other than from October 1 to May 14. Only the owner or occupant can rake loose leaves to the curb, not companies. The timeline would be removed from the proposed ordinance. Yard waste and recyclables collection would reflect the same hours as refuse collection. The matter of loose leaves and pine needles that cannot be placed along the curb earlier than 24 hours prior to the specified day of collection will be removed from the draft ordinance. A test valet service will be provided year round to 50 residents for one year and an extra fee.

Mrs. Jan Konesey, 42 Oak Avenue, noted that 90% of the tenants will not place the refuse/recyclables at the curb by a certain time on specified days.

Ms. Judy Griffing, Lake Avenue, said that the trash is an issue, and the valet service would be a good solution.

Ms. Joanne Bacher of Jack Lingo, said that the valet service is the answer to this dilemma.

There was discussion among the Commissioners with regard to Line Nos. 419 to 500, addressing the screening of waste storage areas and waste containers. All storage areas and refuse containers in commercial areas need to be screened from public view with an acceptable screen material. If a screened refuse storage area is used in the residential areas, it will need to comply with the zoning regulations. The structure will have an impact on lot coverage and open space. Storage of refuse in containers out of view should be removed from the zoning code and put in the solid waste code.

This topic will be discussed further at the next meeting.

Discuss the requirements contained in the City Code related to the size of restaurants, and discuss the status of brewery-pubs as related to the City's applicable zoning and licensing requirements.

With regard to the zoning code and other sections of the code, all the definitions related to restaurants were pulled out and put in the definitions section. The focus was to simplify the definitions, but when there is a need to restrict something it was placed in the body of the code. The definition of a restaurant would be an establishment where meals are, for compensation, prepared and served on the premises and when alcohol is sold or consumed to comply with Section ____ (to be determined). In the permanent seated dining, table and chairs in the permanent seated dining area may not be temporarily moved so as to increase the space where patrons can consume alcoholic liquor without such consumption being secondary to food consumption while seated at tables was removed. Patrons may not consume alcoholic liquor in the permanent seated dining areas unless seated at tables was also removed. A section was created on restaurants to include what was pulled from Section 270-19 – Use Restrictions, definitions and other sections. The change from the 5,000 square foot total of a restaurant is that no more than 2,500 square feet of floor space in any building shall be devoted to permanent seated dining area plus bar area, except that where a restaurant occupies space in a building also housing a hotel/motel containing at least 25 bedrooms, the area so devoted may be up to but not more than 3,750 square feet. 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 500 square feet, except that any restaurant regardless of its permanent seated dining area may have a bar area of 350 square feet. Item C would need to be created for brew-pubs. Both the brew-pubs and patios would be a supplemental permit of compliance issued on top of a restaurant license. The certificate of compliance requirements will need to be looked at.

These topics will be placed on a future agenda.

NEW BUSINESS

Discuss a draft contract renewal between the City and the current beach concessionaire for the rental of umbrellas, chairs and rafts.

The current beach concession agreement has expired. It was a five-year agreement. The changes in the draft renewal would be an increase of approximately \$4,000.00 each year. This year there was also a change in the applicability of the parties of the second part regarding Lynam and Catts. During the contract, the name was changed to Russell Catts Beach Service LLC. An increase was negotiated from the last amount paid to the new amount for the start of the five-year contract, in the amount of \$175,000.00. A suggestion was made that the City Solicitor should have language changes made in the contract agreement.

The consensus of the Commissioners was that they agreed with the changes in the agreement, and that the City Solicitor should revise the agreement to bring it into more current terminology and find the correct mechanism to allow things to continue the way they current are in moving forward.

This item will be placed on the agenda for the March Workshop Meeting.

Discuss a draft agreement between the City and Sussex County whereby the city will continue supplying drinking water to the county for the Dewey Beach Water District.

The City has supplied the drinking water in the Dewey Beach Water District since 1976/77. It has typically been a five-year agreement. The contract has changed over the years. There are changes in the wording and liability in the draft agreement. The rate for October 1 through March 31 was \$1.80 per 1,000 gallons in the off-season and was \$2.80 from April 1 through September 30. The rate was increased from \$1.80 to \$2.04 per

1,000 gallons in the off-season. In the previous contract, there was an escalator of \$0.06 on the basic rate each year. The County Engineer and Mayor Cooper tentatively agreed to continue the \$0.06 increase into the future, based on the approval of the Commissioners and the County. In first year of the contract, \$2.10 and \$3.10 would be paid. In the final year of 2020, \$2.34 and \$3.34 would be paid per 1,000 gallons. Mayor Cooper recommended that this agreement should be adopted.

This item will be placed on the agenda for the next Regular Meeting.

CITY MANAGER'S REPORT

The annual City Auction was held on February 6, 2016, and it was a successful event. The City Hall construction is ongoing. The rubble from the old City Hall will be removed in the next two weeks. The Parking Building should be under roof in the next 10 days or sooner. Today, a webcam will be located on the City website for everyone to view the City Hall construction. The next Budget meeting will be held on February 10, 2016 at 9:00 a.m. on the second floor of the Fire Department.

COMMITTEE REPORTS

There were no reports.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

There were none.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

There were none.

CITIZEN COMMENT

Mr. Walter Brittingham, 123 Henlopen Avenue, asked if there is a plan and schedule for the repairs to the Boardwalk.

There is a broad range estimate for the repairs from \$200,000.00 to \$400,000.00 which has not been finalized to date. The purpose of having the estimate done was for it to be submitted for the damage to the Boardwalk during the Nor'easter and possible inclusion for disaster relief. Once the City finds out if there will be disaster relief, then a plan will be developed to move forward with repairs.

The next Regular Meeting will be held on February 19, 2016 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 1:00 p.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)