

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

**April 6, 2015**

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:03 a.m. by Mayor Samuel R. Cooper on Monday, April 6, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Commissioner Bill Sargent 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 was: City Manager Sharon Lynn

Absent: City Solicitor Glenn Mandalas

**CORRESPONDENCE**

Emails received relative to noise and swimming pools that will be placed in the record file:

1. Email received April 2, 2015 from the Rehoboth Beach Homeowners Association encouraging the Board of Commissioners to (1) study and change the zoning code and noise ordinances to preserve the quality of life in the residential areas of the City and (2) require annual inspections of rental properties to insure compliance with the City's code and insure the health and well-being of all residents.
2. Email received April 2, 2015 from Hoyte Decker, 214 Laurel Street, stating that the Commissioners need to draft measures that protect residents, not impose needless burdens on them and regulate businesses, not residents.
3. Letter received April 6, 2015 from Kevin & Valerie Brady, 505 Jones Lane, suggested that the solution with regard to pools is to evaluate each case individually so there would be less large rentals approved with pools.
4. Email received April 5, 2015 from Avrim & Vicki Topel, 102 Stockley Street, hoping that the Commissioners are on the brink of announcing a meaningful solution regarding noise issues in the coming weeks ahead.

**PRESENTATION** by and discussion with Gary Colangelo concerning his proposal to have an anthem composed for the City of Rehoboth Beach.

Mr. Gary Colangelo, 31-A Delaware Avenue, presented a proposal to the Commissioners to endorse an initiative of commissioning an anthem for Rehoboth Beach. The anthem would celebrate the ambiance, history, environment and people of Rehoboth Beach and would be suitable for performing at City functions, increasing citizen pride and for the promotion of the City to the general public. Mr. Doug Yetter has been given preliminary acceptance to the commission to compose an anthem which would be suitable for performance by the Rehoboth Beach Concert Band. Ms. Sharon Still, Band Director, has agreed to collaborate with him. Mr. Colangelo is seeking a partnership with Rehoboth Beach Main Street or the Village Improvement Association which will serve as fiduciary agent as well as assisting in fundraising and promotion of the anthem. The commission and associated costs would be paid by citizens and friends of Rehoboth Beach. After the premier performance of the anthem, Mr. Colangelo proposed acceptance of the anthem as the official City anthem.

Commissioner Stan Mills noted that an anthem did not interest him.

Commissioner Sargent did not see a problem with entertaining the idea of an anthem and later listening and voting on it.

Commissioners Toni Sharp, Patrick Gossett and Lorraine Zellers were in support of starting the exploration of an anthem. Commissioner Gossett noted that the Rehoboth Beach Historical Society would

be able to supply the context of the City's history.

Mayor Cooper said that someone had come forward a number of years ago with a piece which was written about Rehoboth.

## **OLD BUSINESS**

Mayor Cooper called for the presentation by and discussion with Kyle Gulbranson of AECOM, the City's planning consultant, regarding the management of the impact on residential neighborhoods as related to size of houses currently being constructed, swimming pools, rental licenses and noise issues.

Mr. George Bendler of AECOM was in attendance at the meeting. He gave his presentation with regard to Chapter 189, the noise ordinance. The work group made a series of changes to the ordinance based on the discussion from the last meeting.

Changes and comments regarding the noise ordinance, Version 10, were:

1. Line Nos. 67-68. §189-3 Definitions. Removed "Holidays include the day before a holiday and Memorial Day, Independence Day and Labor Day."
2. Line Nos. 98-100. §189-3 Definitions. Changed "Sound Truck. A truck or other vehicle used for broadcasting having one or more loudspeakers usually situated on top typically used for broadcasting while the vehicle is in motion" to "Sound Truck. A truck or other vehicle used for broadcasting."
3. Line No. 231. §189-7. Changed "Sound Trucks and Amplification Equipment" to "Sound Amplification Equipment".
4. Line Nos. 235-236. Added §189-7(A). "Sound trucks are prohibited."
5. Line Nos. 239-242. §189-7(B)(1). Changed "No person shall operate or use any sound amplifying equipment, whether stationary or mounted on a vehicle, without first obtaining a permit therefor from the City Manager" to "No person shall operate or use any sound amplifying equipment without first obtaining a permit from the City Manager."

In summary, the amplifier and the speaker within the truck or fastened to the truck is illegal; however, if the sound system is brought out of the truck and placed on a table, then it is permissible by authorization of the City Manager.

6. Line Nos. 159-164. April 3, 2015 Version. §189-15(C). This deals with landscape maintenance noise which allows for the use of equipment specifically for landscaping and lawn maintenance between 7:00 a.m. and 8:00 p.m., seven days per week. This section is not found in Version 10.

After discussion, the Commissioners reached a consensus that no lawn equipment can be used before 8:00 a.m.

Mr. Bender will work with City Solicitor Mandalas in preparing Version 11 in order for City Solicitor Mandalas to prepare the draft ordinance for consideration at the next Regular Meeting.

Comments regarding the Good Neighbor Brochure were:

1. The Mayor and Commissioners reviewed the Good Neighbor Brochure and were in consensus that the information regarding noise should stand out in the brochure.
2. The 2015 issue should be a seasonal one, and then should be published annually afterwards.
3. The specific dates the parking meters are enforced should also be listed in the brochure.
4. The purpose of this brochure is for people who are renting and there is a pool, and it should include being considerate of neighbors, being considerate when putting trash out, where to park cars, etc.

Mr. Donald Myers commented that there should be a stronger message, and the brochure should be more readable.

Ms. Linda Kauffman, Laurel Street, said that if the brochures will be placed in the rental packets, it should be about the rental issues.

Commissioner Sharp noted that the next step is to tweak the brochure so that it aligns with the intent which is noise, trash and other high priority areas that are caused by the rental community.

City Manager Sharon Lynn said that the work group will rework the brochure before the next meeting. The brochure should be published by approximately May 20<sup>th</sup> or sooner.

Commissioner Sharp – courtesy notices for one more year.

Mr. Walter Brittingham, 123 Henlopen Avenue, noted that the year should be placed on the front of the brochure, and the version should be placed on the rear. Police officers should carry the brochures and courtesy notices with them.

Changes and comments regarding swimming pools were:

1. Line No. 21. Definition of Hot Tub or Spa. Changed "A pool containing water greater than 95°F which is not emptied after each use" to "A pool containing heated water which is not emptied after each use."
2. Line Nos. 28-30. Definition of Private, Residential Pools. Changed "...swimming pools, hot tubs and spas built as an accessory structure to the International Residential Code" to "...swimming pools, hot tubs and spas used in conjunction with a residential housing unit governed by the International Residential Code (IRC) as amended."
3. Line Nos. 34-36. Definition of Private Rental Pools. Changed "...swimming pools, hot tubs and spas built as an accessory structure to the International Residential Code" to "...swimming pools, hot tubs and spas, used in conjunction with a residential housing unit governed by the International Residential Code (IRC) as amended."
4. Line Nos. 95-96. Subsection (d). Deleted "All existing pools on the date of the adoption of this ordinance shall have five years period in which to enclose all pool equipment to meet the requirements of this Section" in its entirety.
5. Line No. 99. Section 6(A). Changed "All private residential and rental pool owners..." to "All private residential and private rental pool owners..."

Ms. Linda Kauffman, Laurel Street, asked why a non-rental homeowner would have to pay a \$50.00 pool operating license. Mayor Cooper noted this would be a way to track a pool, etc.

Commissioner Mills commented that in order to seek compliance, an annual inspection would be needed regarding proper drainage, stray lighting, noise from equipment, safety and signage, etc., and an inspection fee should be required. Spas would not need to be inspected annually.

Commissioner Gossett noted that the fee would cover additional staff to do inspections, and everyone would meet the same standard.

Mr. Randy Mason, St. Michael's Place, did not understand the purpose of an annual inspection for a private pool or spa. An annual inspection will not show how water is discharged from a pool or if there is stray lighting.

Mr. Mark Betchkal, 99 Sussex Street, said that a private pool unconnected to a rental license is not a business.

6. Line Nos. 103-104. Section 6(B). Deleted "The operating permit shall be conspicuously displayed."
7. Line Nos. 106-111. Section 6(C). Changed "Renewal of the Pool Operation Licenses will require the pool to be inspected annually by the City or the City's appointed representative. The inspection will not involve the checking of mechanical equipment, chemical levels or structural components. Inspection of private residential pools shall consist of review of safety requirements, signage and for any alteration or changes. Inspections of private rental pools shall consist of review of safety requirements and any alterations or changes as well as review of records related to the operations of the pool condition" to "Renewal of the Pool Operation Licenses will require the pool to be inspected annually by the City. The inspection will not involve the checking of mechanical equipment, chemical levels or structural components."
8. Line Nos. 113-115. Section 6(C)(a). Added "Private Residential Pool Inspection shall consist of review of safety requirements in conformance with Section 7 of this Ordinance, signage and to determine if any alterations or changes have occurred."
9. Line Nos. 116-123. Section 6(C)(b). Added "Private Rental Pool Inspection shall consist of review of safety requirements in conformance with Section 7 of this Ordinance, signage, and to determine if any other alterations or changes have occurred as well as review of records related to the operations of the pool condition. The information shall include the types of chemicals used and dates and times of chemical and bacterial tests, as well as dates and times of cleaning of the pool and backwashing of filters. Information may be provided in a pool log. Log records must remain on site and be readily available for review."
10. Line Nos. 125-130. Section 6(D). Changed "Private rental pools. The information shall include the types of chemicals used and dates and times of chemical and bacterial tests, as well as dates and times of cleaning of the pool and backwashing of filters. Information may be provided in a pool log. Log records must remain on site and be readily available for review" to "Private rental pools must be maintained by a qualified pool operator as defined by Delaware Division of Public Health. The pool operator must make, at

- a minimum, weekly visits to the pool and maintain written records of information pertaining to the operation of the pools condition.”
11. Line Nos. 166-167.. Section 7(B)(b)(i). Changed “Safety signage advising on the danger of diving into shallow areas and on the prevention of drowning shall be provided as required by the authority that governs such pools” to “Safety signage shall include language advising on the danger of diving into shallow areas and on the prevention of drowning shall be provided as required by the City.”
  12. Line No. 168. Section 7(B)(b)(ii). Changed “Signs shall be positioned...” to “Safety signage shall be positioned...”
  13. Line No. 169. Section 7(B)(b)(iii). Changed “Identify 911 as the emergency contact” to “Safety signage shall identify 911 as the emergency contact.”
  14. Line No. 170. Section 7(B)(b)(iv). Changed “Emergency shutoff switch. Signs shall be posted...” to “Safety signage shall be posted...”
  15. Line No. 173. Section 7(B)(b)(v). Changed “A safety sign shall have...” to “Safety signage shall have...”
  16. Line Nos. 178-188. Section 7(C). Deleted this subsection in its entirety.
  17. Line No. 178. Section 7(B)(b)(vii). Added “Properties with both a pool and a spa may use one sign containing all required information.”
  18. Definitions are needed for drainage and discharge. Drainage should be identified that it has to do with the removal of water from pool to empty it or partially empty it or to control water level. Discharge should be identified that it is water used for pool maintenance operations including but not limited to backwashing filters or cleaning filters and includes water splashed out by the pool user.
  19. Line Nos. 216-297. Section 10(A)(B)(C). Delete this Section in its entirety and replace with:
    - Grading
      - Land surrounding a pool shall be graded so as to not permit sotrmwater runoff or pool drainage or discharge flowing unto a neighboring property.
    - (A) Pool Drainage Water
      - (a) Pool water shall have an acceptable pH of between 6.8 to 7.8 and chlorine levels reduced to at least 0.5 ppm prior to draining.
      - (b) Drainage water shall be directed to and flow over a vegetated area prior to flowing onto pavement or into a storm drain, catch basin or body of water. The designated vegetated area must be a minimum of 200 square feet in area. Should the 200 square feet of vegetated area not be available, the Applicant shall submit an engineering analysis to demonstrate adequate green space for drainage purposes exists based on planned drainage rate and soil characteristics.
      - (c) Drainage water shall not flow onto a neighboring property.
      - (d) Drainage water shall be controlled so as not to cause erosion or carry debris or vegetation.
    - (B) Pool Discharge Water
      - (a) Backwash and splash-out water and water used to clean filters shall be discharged (or directed) onto a vegetated area and absorbed on the property on which the pool is located.
      - (b) Discharge water shall not flow onto a neighboring property.
      - (c) Discharge water shall be controlled so as not to cause erosion or carry debris or vegetation.
    - (C) Grading Plan
      - (a) A grading plan shall be required for the construction of any new pool, any existing pool where a change is being made to the physical size, shape or volume of the pool, or other construction or addition of impervious surface materials on an existing lot with a pool that may increase or change stormwater flows on the property.
      - (b) Required plans must be drawn by a professional engineer or a professional land surveyor licensed to do such work in the State of Delaware.
      - (c) The plan shall include all existing conditions at the time of the application, including all buildings and structures on the lot with all steps, stoops, decks, porches, eaves, soffits, overhangs, and other projections indicated, and all other existing features to include utilities, drainage facilities, easements, topography and landscaping.
      - (d) The plan shall also indicate the proposed conditions to include the pool, additional buildings or structures including patios or any impervious improvements. Dimensions as well as actual setback distances shall be included.
      - (e) The grading plan shall indicate existing and proposed grading and measures being utilized to prevent stormwater runoff from flowing onto neighboring properties.
      - (f) The plan shall clearly indicate direction and destination of stormwater flow from the area surrounding the pool and property as a whole.

(D) Drainage and Discharge Plan

In addition to and in conjunction with the Grading Plan, a Drainage and Discharge Plan is required which clearly demonstrates the ability to comply with Section 10 – Grading, Drainage and Discharge Requirements above.

This item will be placed on the agenda for the April 13, 2015 Special Workshop Meeting.

Changes and comments regarding zoning issues were:

1. Line Nos. 31-32. Section 270-21(A)(1). Changed “In R-1(S), R-1 and R-2 Districts, 40% of the gross lot area of every building lot shall remain a natural area as defined in §270-4” to “In R-1(S), R-1 and R-2 Districts, 50% of the gross lot area of every building lot shall remain a natural area as defined in §270-4. 60% of the front yard setback area shall consist of natural area.”
2. A possible consideration in changing the aggregate setbacks from 16 feet to 20 feet.
3. A possible consideration of having a 60% front yard natural area.
4. Line Nos. 68-70. Section 270-21(B)(6). Added “In the R-1 and R-2 Districts where a pool is included and constructed as an accessory use to a primary residential structure, the FAR of the residence structure combined with all accessory structures shall not exceed (0.50) (0.55).
5. Line No. 73. Section 270-21(C). Changed the “50% permitted residential uses” to “40% permitted residential uses” in all commercial districts.
6. Line No. 172. Section 270-25(A). Changed “10” foot minimum depth of the rear yard in the R-1 and R-2 Districts to “15” foot minimum depth of the rear yard.
7. Line No. 183. Section 270-26(A). Changed “16” foot minimum aggregate total of both side yards in the R-1 District, Uses in R-1 in the R-2 District and Uses in R-1 in the Commercial District to “20” foot minimum aggregate total of both side yards.
8. Line Nos. 220-221. Section 270-44(C). Added “No structure or enclosure containing swimming pool pumps, filters or other associated equipment shall be located within the setback area.

Mr. Bendler provided a presentation of the current and proposed revisions of zoning with pools and FAR in the R-1 District. The different scenarios were shown with changes in the setback areas, buildable area, parking and lot coverage. The possible reduction in FAR would cause some properties to become non-conforming if an owner would be considering putting in a new pool.

A lengthy discussion ensued with regard to a possible change in the front yard natural area. This possible change would allow more room for trees and green space. Also discussed was the possibility of changing the FAR and increasing off-street parking with the number of bedrooms in a house. The Commissioners have had significant discussion about their intention to look at the fact that the City is being paved over and lot coverage with more green space is a fundamental operating principle. At some point in the future, the Commissioners will need to address residential houses as commercial ventures.

Ms. Linda Kauffman, Laurel Street, encouraged the Commissioners to find a way to stop the 3,000 square foot houses even without a pool on a 5,000 square foot lot. By requiring green space and four parking spaces, the size of the house would be reduced.

There was consensus of the Commissioners to reduce the FAR to .5 if there are pools. Any additional bedrooms above three would require an additional off-street parking space. The parking space would be designed as 162 square feet of space.

Mr. Gene Lawson, Esq. said that there are planners and councils in other municipalities that use incentives to get people to do what they want. He has not heard a positive way in this meeting of incentivizing someone to build a smaller house or a smaller pool. People could be incentivized to maintain stormwater on their lots with green architecture. The current Code does not allow that because it does not allow flat roofs.

Mr. Richard Cooperman, Country Club Drive, suggested a possibility of limiting the rental license or the number of bedrooms and apply it to the number of parking spaces.

This item will be discussed at a future date.

Mayor Cooper called to discuss the status of and potential need to extend the moratorium concerning the permitting and construction of unenclosed swimming pools enacted on October 17, 2014.

The consensus of the Commissioners was to extend the moratorium. City Solicitor Mandalas will draft a

resolution to be introduced at the April 17, 2015 Regular Meeting to set the public hearing on May 15, 2015 to extend the moratorium to June 19, 2015.

Mayor Cooper called to discuss a proposed resolution proclaiming Rehoboth Beach an "Idle-Free City".

Commissioner McGuinness had forwarded edits to the proposed resolution to the Commissioners prior to the meeting. At the last meeting when this item was discussed, there were no favorable intentions for codifying it. Commissioner McGuinness read the resolution.

Commissioner Mills noted that resolution will encourage minimal idling in the City. Signage will be put up on existing poles to denote the City as an "Idle-Free City". Information will be marketed and placed in the newsletter and on the City website.

This item will be placed on the agenda for the April 17, 2015 Regular Meeting.

## **NEW BUSINESS**

Mayor Cooper called to discuss the status of efforts to fund the City Hall and Wastewater Outfall Projects.

Mayor Cooper noted that a meeting will be held this afternoon of the City Hall Complex Master Plan Task Force. Mayor Cooper and City Manager Sharon Lynn became aware of funding through USDA. The interest rate for the next three months starting April 1, 2015 is 3.5% with up to 40 years for repayment. With this program, there would be no wage scale. Interim financing would be needed because the USDA loan would not be closed until the project is completed. With the federal government, there has to be a competitiveness. It is anticipated that the construction manager would bid the various trades on behalf of the City. The Commissioners have discussed the timeline for a referendum. With regard to the Wastewater Outfall Projects, Mayor Cooper has met with representatives from DNREC, and all indications show that the City will be able to borrow the monies from DNREC for the \$25,000,000.00 for the outfall and \$10,500,000.00 for the improvements to the wastewater treatment plant. The interest rate on the \$10,500,000.00 is 3.15%, and the proposed rate on the \$25,000,000.00 is 2.871%. DNREC has indicated that it is willing to, if the City agrees to it, transfer the right to borrow the extra monies to a third party so the City would get its money at 2.0%, and the other party would take out a loan with DNREC and they would be responsible for only repaying the principal amount over the same term elected by the City. A presentation will be done at the April 17, 2015 Regular Meeting regarding user rates and path forward on the sludge issue. Two referendums will be held simultaneously to get resident approval for the projects. A Special Meeting will be held on April 27, 2015 to adopt resolutions about the referendums.

Mayor Cooper called to discuss a proposed ordinance that would repeal Subsections 236-4(D) and (E) of the City Code which relate to the cost for reproducing certain documents.

Mayor Cooper noted that since Chapter 55 – Public Records had been adopted, Subsections 236-4(D) and (E) regarding the cost for reproducing certain documents is now redundant and should be repealed.

This item will be placed on the agenda for the April 17, 2015 Regular Meeting.

## **CITY MANAGER'S REPORT**

City Manager Sharon Lynn reported that twice per week trash pickup will be begin on April 20, 2015. The restrooms are now open on the Boardwalk.

## **COMMITTEE REPORTS**

Commissioner Sargent, Chair of the Streets & Transportation Committee discussed the potential locations for additional crosswalks and silent policemen.

Commissioner Sargent noted that the Commission had discussed the possibility of six locations for additional crosswalks and silent policemen. Police Chief Banks and City Manager Lynn said that only three locations would be appropriate: 1. Maryland Avenue and Second Street. 2. Lake Avenue and First Street. 3. Lake and Surf Avenues.

Discussion ensued regarding ADA compliance and whether crosswalks could be put in without ADA compliant sidewalks at Maryland Avenue and Second Street. Also discussed was the upgrading of the entire intersection at Maryland Avenue and Second Street when the money is available. Lake Avenue and First Street is a high traffic area and warrants a silent policeman. It was suggested that a traffic engineer should look at the area of Lake and Surf Avenues. The only answer may be to put up stops signs in this area. It was also

suggested that the Committee reach out the residents who would be immediately affected by the possible changes.

**CITY SOLICITOR'S REPORT**

There was nothing to report.

**COMMISSIONER ANNOUNCEMENTS/COMMENTS**

There were no announcements/comments.

**DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.**

There were none.

**CITIZEN COMMENT**

There was none.

Special Workshop Meetings will be held on April 13, 2015 at 9:00 a.m. and April 17, 2015 at 1:00 p.m. The next Regular Meeting will be held on April 17, 2015 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 1:15 p.m.

**Respectfully submitted,**

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**(Lorraine Zellers, Secretary)**