

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

February 7, 2011

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:02 a.m. by Mayor Samuel R. Cooper on Monday, February 7, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

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

ROLL CALL

Present: Commissioner Bill Sargent
 Commissioner Pat Coluzzi
 Mayor Samuel R. Cooper left meeting at 10:02 a.m.
 Commissioner Stan Mills
 Commissioner Lorraine Zellers

Absent: Commissioner Kathy McGuiness
 Commissioner Dennis Barbour

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

CORRESPONDENCE

There was none.

OLD BUSINESS

Mayor Cooper called to discuss the proposed ordinance that would relax the requirements of Section 270-19(A)(1)(f) of the City Code, allowing expanded hours of use of patios associated with restaurants until January 1, 2012, such time period being a test or demonstrations period.

Commissioner Stan Mills recused himself from today's discussion based on the circumstances relating to this agenda item and the concerns that have been expressed.

City Solicitor Mandalas had prepared a resolution setting a public hearing as well as an ordinance. Last meeting he had talked about the possibility of this most probably being a moratorium on this particular section. Moratoriums really relate more to the issuance of land development type permits so it did not seem correct for the moratorium so he did it as a temporary suspension. It will be a zoning ordinance and will suspend Section 270-19(A)(1)(f) which deals with patio hours until the first of the year. City Solicitor Mandalas acknowledged that the part of the current ordinance which relates to seated patrons, no music on the patios, no bar on the patios, etc. will remain the same and will be enforced. As long as the restaurant is open and serving meals, that is how the hours will be enforced for the patio.

The resolution will be placed on the agenda for the February 18, 2011 Regular Meeting for adoption, and the public hearing will be held at the Regular Meeting on March 18, 2011.

Mayor Cooper called to discuss the proposed changes to payment and appeal instructions on parking tickets and State law applicable to same.

Mayor Cooper noted that he excerpted some of the sections of State law regarding payment and appeal instructions on parking tickets. Section 4178 says that violations of offenses prohibiting stopping, standing or parking which in this case would not be related to parking tickets. A violation would be subject to a civil penalty only. Section 4181 - Summons for unattended vehicle; civil penalties, sets out that a summons can be left on the vehicle as opposed to contacting the person directly. The idea of the summons applies to any parking violations that the City might have. Mayor Cooper will contact Police Chief Keith Banks to see if the City has the State's uniform parking summons. Section 4181(A) – Establishment of voluntary assessment centers in an incorporated city or town may establish a voluntary assessment center for the payment of civil penalties for violations of their respective municipal ordinances, codes or regulations involving stopping, standing or parking. Mayor Cooper said that a voluntary assessment center needs to be set up to receive parking tickets. Section 4181(A)(a)(1) says that an incorporated city or town may, by ordinance, establish the amount of the

civil penalty for each stopping, standing or parking offense. The State puts no limits on the amount. Section 4181(A)(a)(3) say that an incorporated city or town which establishes a voluntary assessment center may, by ordinance, provide for the imposition of one or more increases in the amount of civil penalty if the fine is not timely paid. The City is within the law because its escalating fines are within that subsection. Section 4181(A)(a)(4) say that an incorporated city or town which establishes a voluntary assessment cent may, by ordinance, provide for a reduction in the amount of the civil penalty due if such civil penalty is paid during a specified time period which is prior to the summons due date. Section 4181(A)(b) – Payment by voluntary assessment says tha an owner or operator shall pay the amount on the summons to the voluntary assessment center listed on the summons. In lieu of payment, an owner or operator may notify the applicable voluntary assessment center, within the time period specified on the summons, that such owner or operator requests a hearing in the Justice of the Peace Court. Under State law, the City is subject to it that if a person gets a parking ticket and the City is provided with an affidavit saying that this person was not driving his/her vehicle on that day, but another person was, that person is relieved of the responsibility and the City would need to go after the other person. Section 4181(A)(d)(1) – Procedure for contesting says that a request for a hearing must be made no later than the due date indicated on the summons, which date shall not be sooner than 20 days from the date the summons was issued. This adds an additional requirement. Section 4181(A)(e) – Failure to pay or contest the violation says that if the owner or operator fails to respond to the summons on or before the due date in any of the manner permitted by this section or requests a hearing and fails to appear, the Court may, upon motion, enter a default judgment against such owner or operator. However, when the default judgment is sought for a failure to respond to the summons, no default judgment shall be entered until notice by first class is sent by the Court to such owner or operator providing the owner or operator with 10 days to pay the civil penalty to the Court or request a hearing to contest the charge. Section 703(a) – Jurisdiction of offenses says a person arrested without a warrant for a violation of any section of this title, or arrested for any moving traffic violation or any municipal ordinance regulating traffic within its territorial limits as set forth in Chapter 41 of this title shall have such case heard and determined by a justice of the peace. Section 703(e) says that notwithstanding any other provision of this section to the contrary, in those incorporated municipalities which provide duly constituted alderman’s courts or mayor’s courts, the alderman and mayor shall continue to hear and adjudicate those cases in which a person is arrested without a warrant and where the alderman’s court of the mayor’s court is the court of original jurisdiction. The City’s alderman court can hear violations of 21DeIC 41, and it can only do that if the violations are reported to the Motor Vehicle Division, which is done. Mayor Cooper noted that the City is bound by the State Code.

Commissioner Coluzzi was trying to make the wording on the City’s parking ticket by changing “summons” to “ticket”. The other thing of importance is to provide information on the ticket that it can be paid by credit card over the telephone. This would be beneficial for the City to collect fines sooner. The City needs to follow the State Code and go back to some of the original language. The language regarding contesting the ticket within 14 days would need to be rewritten to follow State Code. She would like to continue working on the ticket to make it as clear as possible and to keep the language on it regarding payment of the ticket. Part of the discussion that she and Mayor Cooper had with Judge Judy Catterton was that people have been waiting until six months later to contest a ticket, and they were trying to work on not having to deal with it that way. One of the problems she has with the parking division and the software it uses is that it requires more manual work than it should. Mayor Cooper said that the State and Motor Vehicle Departments are very guarded with the information, and they do not want the municipalities’ software interfacing with theirs because it can cause huge problems on their end if there is a glitch. He would like to look at the Code regarding parking meters and possibly change the language regarding the fines and time period for paying or contesting those fines.

Commissioner Mills suggested that the section number of the violation should be written on the ticket. To know how much to pay a person, would need to know the ordinance number.

Commissioner Sargent suggested that after the 72 hours or seven days expires, the City should automatically send out a form letter because it would tend to get quicker compliance than waiting until 30 days. Commissioner Coluzzi agreed. Mayor Cooper said that currently the City does not have the manpower to do that.

Commissioner Coluzzi and Mayor Cooper will continue to work on this item.

NEW BUSINESS

Mayor Cooper called to discuss the draft new five-year Beach Concession Agreement with Catts & Lynam.

City Manager Gregory Ferrese said that the agreement has expired with Catts & Lynam which has been an umbrella business for the last 60 years and with the City at least the last 50 years. It is a local business and

reputable, and has paid the City an additional \$4,000.00 each year for the last four years. Mr. Ferrese met with Mr. Catts and Mr. Lynam, and they are in agreement with paying the City an additional \$4,000.00 for the next five years. Everything else in the contract other than dates will remain the same. Mr. Ferrese recommended entering into another five year agreement. The City is adhering to the ordinance pertaining to the beach umbrella ordinance. In 2010, the revenue was \$142,000.00, and in 2011, the revenue would be \$146,000.00 and up to \$162,000.00 in 2015.

Commissioners Sargent and Mills were comfortable with the contract. Commissioner Mills expressed a concern to Mr. Ferrese in regard to who takes care of the beach wheels. He thought a better program is needed for monitoring the beach wheels whether it be a credit card, information, etc. In previous years, there has been abuse of the beach wheels where they have been left out long periods of time beyond when the lifeguards were on duty, they were broken, etc.

Mr. Ferrese said that the City offers the use of the beach wheels for free. No identification or driver's license is needed, but people have abused them. There has been discussion with the Beach Patrol Captain on the City having its own shacks, charging a rental fee of \$4.00 per hour to rent the beach wheels, and keep driver's licenses during the rental periods.

Mayor Cooper said that the City should continue to provide goodwill even if it costs \$4,000-\$5,000 for new parts or new chairs. A rule sheet should be provided when renting the beach wheels.

Commissioner Mills agreed that it should be a free service for the goodwill of the City. Driver's license numbers or cell phone numbers should be written down when renting the beach wheels. Commissioner Sargent agreed.

Mr. Ferrese said that rule sheets which were set up by the Beach Patrol Captain are posted on the Catts & Lynam shacks. Catts & Lynam has an employee who supplies the umbrellas and the beach wheels. Rules can be put on the beach wheels themselves.

Commissioner Coluzzi that it would not be onerous for the Commissioners to review the rules that are currently given to people.

This item will be placed on the agenda for the Regular Meeting to be held on February 18, 2011.

Mayor Cooper called to discuss an ordinance to amend Section 46-16(I) related to increasing the amount of the longevity bonus for full-time City employees.

Mayor Cooper read the proposed ordinance which is a direct result of the police contract.

This item will be placed on the agenda for the Regular Meeting to be held on February 18, 2011.

Mayor Cooper called to discuss an ordinance to amend Section 46-25(A) related to the amount of the employee's contribution to their health insurance coverage.

Mayor Cooper said that this proposed ordinance was an outgrowth of the police contract.

Mr. Ferrese said that when the City negotiated with the Police Department and the Union, it was able to get the Union to agree regarding the employees contributing more towards the City's health insurance plan. The hospitalization plan is with the State of Delaware. In regard to the contract negotiations, the City felt that the employees should contribute more since the hospitalization rates are increasing 8-10% each year. By late May or early June, the City will be notified by the State as to what the increase will be. If the cost of a health insurance plan increases by 4% or less, the City will increase its contribution in an amount equal to the increase in cost. If the cost increases by more than 4%, the City and the employee will split the cost of any increase in cost in excess of 4% up to a 12% increase in cost. If the increase in cost is 8%, the City will cover 6% of such an increase, and the employee will cover 2% of the increase. If the increase in cost of a plan exceeds 12%, the City will cover the increase in excess of 12%. Employees are aware of the possible increase and are supportive of the proposed ordinance.

Mayor Cooper would like to work with City Solicitor Mandalas regarding clarification. The State offers three healthcare plans, and the name of the State program should be put in the ordinance. He also wanted to show in the ordinance the numbers are derived and are not arbitrary.

Commissioner Sargent thought that in the future, the language should be simplified.

This item will be placed on the agenda for the Regular Meeting to be held on February 18, 2011.

Mayor Cooper called for the presentation and discussion on anti-smoking initiatives.

Commissioner Mills gave his presentation. At the last meeting, he introduced this subject because prior to that time he and Mayor Cooper had been to a Sussex County Association of Towns (SCAT) meeting where representatives from the American Lung Association presented the opportunity for grants for anti-smoking initiatives. In 2008, the issue was brought forward with respect to paying attention to the amount of litter on the beach and Boardwalk. With current legislation in Bethany Beach and other municipalities, Commissioner Mills thought it would be a good time to initiate the subject. On the earth resource website, some of the concerns are summarized in the smoking debate such as litter, health, economic costs and environmental costs. The ocean conservancy organization monitors marine debris, and it institutes the annual coastal cleanup program which is done worldwide. One hundred eight countries and forty-five of the fifty states in the U.S. are participating in the studies and cleanup. In the worldwide studies, cleaning up the debris on the beaches is 25% as it relates to smoking related activities. The United States ranks the highest with 37.2% as it relates to smoking related activities. According to the ocean conservancy organization, the importance is that cigarette butts, filters, lighters, cigar tips, etc. are hazardous to wildlife when congested and the toxic when leaching out of the cigarette butts into the waters. Coastal conservancy partners with coastal cleanups throughout the world on the third Saturday of September each year. The Delaware partner is the Department of Natural Resources (DNREC). Commissioner Mills and his wife have participated for 10 years as captains at Lewes beach and set up Rehoboth Beach Homeowners' Association as captains for coastal cleanup in Rehoboth Beach for many years. Approximately 150 people participate in the cleanup. Statistics were provided in regard to the number of cigarette butts and cigar tips collected. Not all beach cleaners can pick up cigarette butts. When a new rake is purchased in the future, there is an upgrade where it will sift out cigarette butts. In regard to health aspects, an editorial was published in the News Journal touting the secondhand smoking study. Secondhand smoke may possibly be a problem from Deauville Beach to Prospect Street. Many other municipalities have smoke-free initiatives and smoking restrictions enacted. An outdoor smoking ordinance was provided from Bethany Beach. To apply for a mini-grant for up to \$10,000.00, the City would need an application in hand and change policy in the community. Examples of initiatives would be: 1. No smoking within 25 feet of an entrance or exit. 2. Smoke-free playgrounds, ballparks, etc. 3. Smoke-free parks. 4. Smoke-free beaches. 5. Smoke-free campuses. 6. No candy cigarettes to be sold in the community. The grant can also be used to pay for seasonal officers to educate the public. There are time constraints on grant applications. The City can: 1. Do nothing more than maintaining cigarette disposal urns. 2. Establish smoking areas to promote smoking away from most populated areas on beaches etc. 3. Consider instituting smoking prohibitions in selected public areas such as the beach, Boardwalk, tot lots, parks, etc. and/or establish designated smoking areas. Commissioner Mills suggested allowing time for public input, put this subject on a future agenda and consider possible actions previously mentioned. Commissioner Mills' intent is to place this presentation online along with the supporting documents in order for people to provide feedback.

At 10:02 a.m., Mayor Cooper excused himself from the meeting and passed the gavel to Commissioner Coluzzi to finish the meeting.

Commissioner Sargent said that he would be uncomfortable telling people outside the City's area who really have a bit of a claim to the beaches and ocean that they cannot smoke. He wished it would be a State initiative to prohibit smoking.

Commissioner Mills said that in regard to prohibition, the City can consider designating areas for smoking. The Commissioners may choose to ban smoking entirely in the parks and tot lots.

Ms. Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce said that three things came to mind when this topic was initiated: 1. The City is a destination. Downtown Rehoboth gets approximately 4,000,000 visitors per year. Avoid the strict "no" vs. allowance. 2. From the businesses' point of view if smoking is prohibited in a stringent way, there would be issues with what would be done about kitchen staff who smoke outside on break, etc. 3. There would be an enforcement type of situation. As a destination, the City needs to be as welcoming as it can. There could be areas for smoking, but not a complete ban.

Correspondence:

1. Email received February 4, 2011 from Ms. Linda Lizzio, 208 State Road, suggested creating a bill that will ban smoking on the beach, Boardwalk and within 500 feet of an eating establishment.

Commissioner Zellers said that whatever the Commissioners decide, there will need to be public education. In the areas of tot lots, playgrounds, etc. she could support a prohibition. She would not support a total smoking ban in regard to the beaches. Areas or portion of the beach could possibly designated for smoking.

More thought needs to be given to this idea. A lot of restaurants and businesses will be affected regarding this issue.

This item will be placed on the agenda for the Regular Meeting to be held on February 18, 2011.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese reported that City received the full executed contract for the competitive grant in the amount of \$500,000.00. The engineer will be working on the solar panels, and the architect will be doing the design on the roof of the Convention Center and the proposed windows for City Hall. They will be working together to prepare plans and specifications. On March 2, 2011 at 2:00 p.m. at the Bridgeville Town, there will be a kickoff meeting. Two grants have been received by the City for the bicycle study and LED lighting, and to purchase a fuel efficient vehicle. The signed contract has not been received to date. Currently the City is out to bid for three projects. Bids will be opened for upgrading of the Baltimore restroom, and a grant has been received in the amount of \$62,400.00 for that project. Sealed bids will be received for new decking around the Delaware restroom. The third project is for a new boiler for the municipal building. At the Regular Meeting, Mr. Ferrese will be asking that the low bid be awarded in the amount of \$75,000.00 in regard to the Stormceptor Project. Approximately \$100,000.00 has been received from the State, and the City had allocated monies in the amount of \$75,000.00. Mr. Ferrese will be asking that any monies leftover from this project be transferred to the ADA Ramping Program. Monies in the amount of \$60,000.00 will be allocated in the upcoming budget for the ADA Ramping Program. A letter of intent was submitted to the State asking for community transportation enhancement monies in the amount of \$800,000.00 to \$875,000.00 to upgrade Lake Avenue. The City will not know until July whether it has received the funding. The City intends to submit a letter of intent in September 2011 to upgrade the Delaware Avenue restrooms next year. It is anticipated that the Baltimore Avenue restrooms will be completed by Memorial Day weekend. The State has allocated funds for the second mobi-mat to be located at Laurel Street.

COMMITTEE REPORTS

Mr. Ferrese presented the draft budget for fiscal year 2011/2012. In regard to the Budget, the City is looking at minimal increases and looking at increasing 628 parking meters from \$1.25 to \$1.50 per hour and a 10% tax increase. Underground storage tanks are located at North Shore Pump Station, St. Lawrence Street Pump Station, Lake Gerar Pump Station, Newbold Square Pump Station, City Hall and the Public Works garage. The State requires testing of the tanks, and the tanks at North Shores Pump Station, Lake Gerar Pump Station and Newbold Square Pump Station failed. Mayor Cooper would like to see the tanks above ground instead of underground and fenced in. Because the Stormceptor Project came in under budget, Mr. Ferrese asked that this money be encumbered and use it to hire an engineer to prepare plans and specifications to bid out for three, possibly four replacements. The St. Lawrence Street underground storage tank passed, but it is 18 years old. It has not been determined if this tank will be replaced. Monies in the amount of \$70,000.00 will cover the cost of replacing this tank. The professional services have been decreased for the Planning Commission from \$20,000.00 to \$10,000.00. The contingency was increased to \$104,600.00 for emergency purchases during the course of the year. In regard to capital improvements, two projectors and one screen were added in the amount of \$8,600.00. The screen and a projector would be located in the conference suite. The new projector would be located in the Convention Center. In regard to Beach Patrol, the gator was deleted; but lockers and medical equipment were added. The capital improvement program will be in the amount of \$1,760,671.00 which includes a \$500,000.00 State grant. The Budget is balanced. Property tax at 10% will bring in \$112,500.00. Increasing the 628 parking meters will bring in \$65,000.00. The parking meter season and parking permits would remain the same with no changes. Henlopen Condominiums went to a private hauler, so the Budget reflects a decrease in the residential refuse pickup. The Budget also reflects a 15% increase in the wastewater rates. The monies are allocated towards the ocean outfall permitting process and go into a special account. The Budget reflects an average wage increase of 3% for all full-time and part-time employees starting April 1, 2011. The Police Department through its union negotiations received 3% raises. The Budget reflects an 8% increase in hospitalization rates with the City employees contributing 2% towards the 8%. The Commissioners are aware that the City has refinanced and is going to a different bank. The loan has not been finalized to date, but it is anticipated a decrease in the \$6,000,000.00 loan which the City owes more than \$4,000,000.00. The decrease will go from 4.3% down to 3.2% fixed rate. The Alderman's pay every two weeks would be increased to \$1,200.00. A part-time employee would be hired to make every attempt possible to educate everyone on the ordinances such as the patio and sign ordinances, and putting merchandise out on City sidewalks after 5:00 p.m. or on Saturdays and Sundays. It is proposed to pay this person \$17.00 per hour, and this person would work from 6:00 p.m. to 2:00 a.m. from Thursday through Monday. The Budget also includes 18 police officers including the Chief and the purchase of a new police vehicle. The Budget includes replacing four full-time employees due to vacancies in the Streets & Refuse Department. The Budget includes the recycling program which is paid by the City. Currently there are 1,172 customers, and it is estimated there will be

approximately 1,300 customers in the future. The Budget includes a rate increase from Delaware Solid Waste Authority (DSWA) starting July 1, 2011 in the amount of \$82.00 per ton. The Budget reflects the increase of tree pruning and landscaping to correspond with the tree inventory program. In regard to donations, monies will be allocated in the amount of \$7,000.00 towards the Sister City program. The City was realistic on revenue projections.

Commissioner Mills said that raising parking meters rates gets away from the philosophy of people paying a premium for premium parking spaces. There is no incentive for people to park one, two or three blocks away if there is a space on the main avenue.

Ms. Everhart noted that there is a bigger problem with quarters. She asked if there is a possibility of getting an additional change machine further west on Rehoboth Avenue. She thought that it could be marketed for people to go to the parking meter attendants for change.

Vice Mayor Coluzzi wanted to see the meter system replaced in the near future with a system that would allow easier use of credit cards such as the pay and display system. This is a topic that needs to be put on a future agenda.

Commissioner Sargent expressed that the City is conservative on some of the revenue estimates. The property tax is providing more than \$100,000.00 that makes it more comfortable, but this is not the time to provide \$100,000.00 that is not needed. If there would not be a tax increase, everything could still be done that is listed in the budget. He disagreed with increasing the property taxes. Commissioner Mills disagreed.

Vice Mayor Coluzzi favored the 10% increase in property taxes. She was looking for a higher increase because there should be more money in the emergency fund.

This item will be placed on the agenda for the Regular Meeting to be held on February 18, 2011.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills reported that he and Mayor Cooper met with Tony Pratt regarding the beach nourishment program. Approximately one month ago, beach nourishment started in the southern beach municipalities. The monies come from the Federal government specifically to remediate the November storm damage. Neither DNREC nor the Army Corps of Engineers knows the extent of how much of a beach they will do. It has to be determined soon, but closer to when they get completed in the south. The contract shows the volume of sand that will be pumped onto the beach, and that volume will be determined when they come out and resurvey again to see what the contour is at that moment. The timeline is approximately April 2011. The contract says the replenishment is to be completed by Memorial Day. The quality of sand is from a different borrow site than it was many years ago, but it is the same site and quality sand as was put on Dewey Beach beaches in its replenishment last year.

Discuss items to include on future agendas.

Items to be included on the agenda for the Regular Meeting to be held on February 18, 2011 are the approval of the Budget and the issue of smoking.

There being no further business, Vice Mayor Coluzzi adjourned the meeting at 10:54 a.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)