

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

January 18, 2013

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 7:01 p.m. by Mayor Samuel R. Cooper on Friday, January 18, 2013 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	Patrick Gossett
	Commissioner	Bill Sargent
	Commissioner	Pat Coluzzi
	Mayor	Samuel R. Cooper
	Commissioner	Stan Mills
	Commissioner	Lorraine Zellers
	Commissioner	Mark Hunker

Also in attendance were: City Solicitor Glenn Mandalas

Absent: City Manager Gregory Ferrese

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Bill Sargent, to approve the Agenda with the deletion of the minutes for the December 10, 2012 and January 7, 2013 Workshop Meetings. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the December 21, 2012 Regular Meeting were distributed prior to the meeting. Minutes of the December 10, 2012 Workshop Meeting and January 7, 2013 Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the December 21, 2012 Mayor and Commissioners 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 November 2012. There were 15 criminal, 132 traffic and zero civil charges made during the month. Four traffic crashes were investigated. The Dispatch Center handled 205 police incidents, 176 ambulance incidents, 35 fire incidents, 118 traffic stops, assisted other agencies 10 times during the month, and 9-1-1 calls totaling 308 were received.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Mr. Walter Brittingham of the Fire Company reported that in alignment with the Police Department and the US Department of Public Safety and Homeland Security, the Fire Company's and the Police Department's 800 Mhz radios are in the process of having the band width increased at no expense.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for December 2012. During the month, 70 permits were issued for a value of work totaling \$2,576,011.09. Fees collected totaled \$73,139.52 for the month. Fifty-seven permit processing fees were received in the amount of

\$1,140.00. No restaurant applications were received in December. Twenty-seven notices of violation were issued for not having addresses on buildings. Seventy-three notices of violation were issued for damaged sidewalks. One notice of violation was issued for accumulation of refuse. One notice of violation was issued for trash out too early. One notice of violation was issued for a contractor working without a building permit. One stop work order was issued for going beyond the scope of work. The Board of Adjustment heard no cases in December.

REPORT OF THE PLANNING COMMISSION

(See attached report.)

Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on January 11, 2013. With regard to the Rehoboth's Trees Study (and the Commission's first progress report), the primary purpose of this meeting was for the Planning Commission to (a) develop a common understanding of the full scope of charge given to it by the Board of Commissioners by the Board's resolution regarding the City's trees that was passed on December 21, 2012 and some of the related issues, (b) to begin to formulate a work plan to carry out this assignment. A number of immediate actions steps were identified including: 1. Undertake an analysis of all tree permit applications that have been filed since the enactment of the City's tree ordinance. 2. Undertake an analysis of all appeals that have been heard by the Parks and Shade Tree Commission. 3. Undertake an analysis of demolition permits and building permits to develop estimates and trend data concerning the reduction of natural area on private property within the City. 4. With assistance from the State, develop an estimate of what percent of the City's tree canopy results from trees on private property and what percent on public land. 5. Begin to identify, assemble and review pertinent resource documents. 6. With the assistance of Mr. Bryan Hall, identify key contact people within State government who may be able to provide assistance to the Planning Commission. 7. Plan and conduct an educational workshop meeting on March 8, 2013. The Planning Commission intends to meet with and conduct public hearings with the various organizations, agencies and individuals identified in the Board's resolution. The Planning Commission wishes first to become as knowledgeable as possible about trees, tree survival and life spans, preferred species, impact of construction on trees and potential alternative construction methods/costs, etc. While the focus of the public workshop is to educate the Planning Commission, it is expected that it will be of interest to others. With regard to the Draft Rehoboth Lakes Report, the Planning Commission continues to wait for the State to submit its written comments and suggestions following the PLUS review in order to finalize the report. The Planning Commission has been informed that the delay is due to the State making final determination of its ownership of Silver Lake and the effect of such ownership. The Planning Commission was informed that a new partitioning application has been submitted for a property located at 54, 56 & 58 Sussex Street. The preliminary review of this application will be scheduled for the Regular Meeting on March 8, 2013.

OLD BUSINESS

Mayor Cooper called to consider selecting a vendor and authorizing a contract for the city-wide property reassessment that was the subject of the City's Request for Proposals received and opened on November 20, 2012.

Commissioner Mills said that there was consensus at the last meeting to go with PTA. He will be voting in favor of the valuation criteria and the City Manager's favorable assessment of an ongoing relationship with the staff of PTA.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to authorize the City Manager to enter into a contract with PTA for the city-wide reassessment. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of an ordinance to amend Chapter 102 of the City code related to adopting the 2012 version of the International Code Council's Building Code, Energy Conservation Code, Existing Building Code, Fuel Gas Code, Mechanical Code, Plumbing Code, Property Maintenance Code and Residential Code, with certain modifications.

City Solicitor Mandalas noted that minor changes had been made to the proposed ordinances such as the insertion of January 18, 2013 and a reference to inches. This ordinance exempts the City from the International Code's requirement for residential sprinkler systems. All commercial sprinkler systems are still in place. All the other Code items in the City Code and separate from the International Code previously, are maintained.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the ordinance before the Commissioners amending Chapter 102 related to building and related codes. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of a Memorandum of Understanding between the City of Rehoboth

Beach and the Rehoboth Beach Sister Cities Association regarding the construction, maintenance and other items related to the garden to be constructed in Cranberry Park by the Association.

Suggested changes to the Memorandum of Understanding were:

1. Line 48. Change “[A] plaque may be installed commemorating the park and shall be no larger than 18 inches by 24 inches” to “[A] plaque may be installed commemorating the park and shall be no larger than 450 square inches and shall be approved by the City’s representatives.”
2. Line 61. Change “[C]onstruction of the Garden may not begin before full funding of the project is committed or secured by Sister Cities. Such funding shall be demonstrated.” to “[C]onstruction of the Garden may not begin before full funding of the project is secured by Sister Cities. Such funding shall be demonstrated by bank account statements showing the full amount of funds necessary for construction in accounts held by the Sister Cities Association.”

Commissioner Sargent said that there is an outside chance of monies being short, and the figures from a bank statement should be shown. Commissioner Coluzzi did not feel that this would be appropriate. The majority of the Commissioners felt that the current wording in the MOU is sufficient. Mayor Cooper said that Sister Cities Association will not start construction unless there are solid commitments for the money.

Commissioner Gossett said that there is not a clear understanding of the amount from Sister Cities Association. Commissioner Coluzzi said that when the Association talks with the vendor and start to enter into a contract, there will be a price; and all of that will be shared. It is the intention of the Association to have letters of commitment. There will be several in-kind donations where a letter would be needed. Commissioner Coluzzi will make a presentation to other organization, and they will vote to accept to give the Association money and send a check. Commissioner Hunker said that a copy of the minutes from other organizations would be worthwhile to have in the file.

Commissioner Sargent thought that the first funds would probably go to the major construction of the circle and the pathway. The whole point of this is to attractive planning; but if the Association is short in monies, it is the plants that will get cut back. He cannot support the MOU without the funds being in the bank.

Commissioner Coluzzi made a motion, seconded by Commissioner Hunker, to accept the Memorandum of Understanding as presented with one change to Line 48 that the plaque will be to not exceed 450 square inches and shall be approved by the City’s representatives.

Commissioner Zellers suggested another change to the MOU on Line 53. “Sister Cities shall be responsible for providing all funds necessary for the site preparation, landscaping elements, installation of irrigation systems, lighting, signage and all other construction of the garden, and the planting and installation of plant materials unless the parties mutually agree otherwise” should be changed to “Sister Cities shall be responsible for providing all funds necessary for the site preparation, landscaping elements, installation of irrigation systems, lighting signage and all other construction of the garden, and the planting and installation of plant materials.”

Commissioner Gossett said that City Manager Gregory Ferrese has applied through the Forestry Service for some donations of trees. Since the MOU is a contract with Sister Cities Association and the provider, it will not come through the provider for services that the Association selects for the actual work. This would be a donation or commitment from the State. The MOU will provide the City with the flexibility to accept the trees.

Commissioner Mills said that if the City agrees to some of this in part, the dollar limit for that contribution is the maximum of \$7,000.00.

Commissioner Hunker said that the commitment is to not use the \$7,000.00 and use the in-kind donations. He suggested that in Line 56,

Commissioner Coluzzi accepted the change in Line 56 to delete “...unless the parties mutually agree otherwise”, seconded by Commissioner Hunker.

AMENDED MOTION: Commissioner Coluzzi made a motion, seconded by Commissioner Hunker, to accept the Memorandum of Understanding as presented with changes to Line 48 that the plaque is not to exceed 450 square inches and shall be approved by the City’s representatives and Line 56 that unless the parties

mutually agree otherwise will be deleted.

Commissioner Mills voiced concern that once the project is started, he wants to see it carried through to completion. Completion needs to be timely and without further City monies. There will probably be an annual maintenance expense of which \$2,000.00 has been put in the 2013/14 budget.

Commissioner Gossett voiced concern that there are no defined figures to date. He hoped that by the next Regular Meeting, the Commissioner would have an idea of what the final plan would look like and some letters of commitment from organizations. Commissioner Gossett hoped to have that information back from Sister Cities Association by the next Regular Meeting. Commissioner Coluzzi noted that as things move forward, the Association will provide the Commissioners with all the information.

(Gossett – aye, Sargent – no, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried.

NEW BUSINESS

Mayor Cooper called to consider setting a date for a public hearing regarding a proposed ordinance which would amend Chapter 236 of the City Code requiring that building permits for a structure which is within 25 feet of Lake Gerar or Silver Lake be subject to the City's site plan review process.

Mayor Cooper suggested that the public hearing would be set for February 15, 2013 and advertise the public hearing in the newspapers but no mailings would be sent out.

Commissioner Mills said that he would not be comfortable with voting on this matter at the same meeting. He is not clear on what is or is not binding, specifically on the application of Line 34 which would give the Planning Commission the authority to have to put its stamp of approval on a site plan before Building & Licensing can issue the permit. What gives Commissioner Mills the biggest pause is that this is non-binding and then to read that the Planning Commission has site plan approval. There is a disparity that he did not understand. This indicates to him that there is something in the ordinance that can bind the applicant to cause him to have to do something in order for Building & Licensing to process the building permit. Public input is needed on "structure". City Solicitor Mandalas noted that this is in the current language of the site plan review ordinance.

Commissioner Sargent said that he has an issue with the wording that the Planning Commission has reviewed and finally approved a site plan. Site plan review in general is not mandatory.

Commissioner Zellers voiced concern with the site plan review process. "No building permit shall be issued until the Planning Commission has reviewed and finally approved a site plan..." is appropriate for the projects listed. She asked how strictly the Commissioners want to apply all of the things in the site plan review ordinance to a 5,000 square foot lot. The Commissioners need to make sure that everything is covered. It is likely that the first site plan review will be a private property. The lakefront owners have a higher sense of responsibility to the lake. It is the entire lake that will be impacted. The process will take two to three months. She asked what the recourse would be if a site plan is denied. Nos. 26 & 26 are exempted from the site plan review which indicates landscape materials to be used and a sealed survey for the particular properties abutting the lakes. The Commissioners need to move forward with this matter, and a public hearing is needed.

City Solicitor Mandalas reminded the Commissioners that the agenda notes to consider setting a date for a public hearing, not discussion on the matter. The public hearing would not be traditional in the sense of a zoning public hearing. A second public hearing would not be required if the Commissioners would make changes to the ordinance.

Commissioner Sargent said that there are some situations where the Commissioners want the Planning Commission to approve the site plan, but with others the Commissioners want the benefits of the review because that may influence the community, the applicant, etc., but it is non-binding. He was comfortable with that.

Commissioner Mills said that Lines 33-42 should remain as they are so that the four or more dwelling units, commercial property, etc. have to be reviewed by the Planning Commission and also receive final approval. With regard to Lines 43-44 for a structure located within a distance of twenty-five (25) feet from the ordinary high water mark of Lake Gerar or Silver Lake, no building permit shall be issued until the Planning Commission performed the site plan review. He liked the idea that it would be non-binding for structures

located within twenty-five (25) feet.

City Solicitor Mandalas said that when the site plan review ordinance was originally drafted and adopted, it was not done haphazardly. If this is the language that is creating some difficulty, there may be value in each of the Commissioners individually consulting with some Planning Commission members who were involved at the time before reaching a conclusion.

Commissioner Sargent said that only Item 5 would be non-mandatory. Mayor Cooper suggested that Item 6 would be added to it. Not applying it to Item 6 would allow the Building Inspector on his/her own to force someone into an approval but the Commission should not. Nothing has passed through the site plan review process to date. The site plan review does not trump the zoning code.

Commissioner Coluzzi was comfortable with the proposed amendment to the site plan review.

Commissioner Mills said that he and the public need to understand what criteria it is that the Planning Commission will use. It would be very helpful if criteria can be established. Mayor Cooper said that the Planning Commission will need to have a rational basis in the law to do it.

City Solicitor Mandalas said that site plan review is similar to the subdivision ordinance. Any project to come in would have to meet all the criteria of the zoning code. If it does not under the site plan review process, then the Planning Commission would have an option to reject it for that reason alone. The site plan review process is more about inviting a developer or property owner to have a discussion with the Planning Commission and allow the Planning Commission to offer its input from a planning perspective as to some suggestions. Those suggestions would not always have to be adhered to by the property owner because if they met the zoning code, they traditionally would not do it. Similar to a subdivision approval, if there are health, safety and welfare concerns that are identified and the Planning Commission can fashion a reasonable condition to its approval to address the health, safety and welfare concern, some limited conditions would probably be sustainable in front of a court.

Mayor Cooper had insisted in the body of the code that the Planning Commission articulates the reasons and conditions.

City Solicitor Mandalas hoped that if there seems to be a consensus for denial that does not have any basis in the law, the Planning Commission would need to articulate the reasons, conditions, etc. One of the major intents of the site plan review ordinance is to generate discussion so that reasonable people can hear reasonable concerns and make reasonable decisions to alter some plans.

Commissioner Gossett thought that the words need to be massaged in the ordinance. It should not be mandatory to meet the criteria but it would be an expansion of what there is to offer as far as opportunities. Discussion ensued as to take impact, authority and the process for the site plan review.

Commissioner Sargent said that there is an expectation of the Planning Commission to be reasonable. If a person would not be satisfied with the outcome, it could be appeal to the Board of Commissioners.

Commissioner Sargent made a motion, seconded by Commissioner Hunker to conduct a public hearing on an ordinance to amend Chapter 236 of the Municipal Code by amending Sections 236-30, 236-32 and 236-36 relating to site plan review at 7:00 p.m. on February 15, 2013. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

There was no report.

Commissioner Mills recommended the approval of the Street Aid expenditures:

01/09/13	527	Delmarva Power	\$ 9,112.82 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to approve the Street Aid expenditures as presented. Motion carried unanimously.

COMMITTEE REPORT

Commissioner Coluzzi, Chair of Streets & Transportation Committee gave a presentation and possible consideration on the creation of moped/scooter parking areas within the City. George of All Wheels was in attendance at the meeting. The Committee has looked at areas in the past that the Fire Company was not likely to

the Committee change to scooter parking areas. During the presentation, Commissioner Coluzzi presented the ideas that the Committee agreed upon for scooter parking. The primary purpose for scooter parking areas is to get scooters off of the sidewalks and away from bike racks. The following ends of streets are recommended for scooter parking:

1. Queen Street – scooter parking on one side, bike racks on the other side and the use of more decking with plantings.
2. Prospect Street – no scooter parking is being proposed.
3. St. Lawrence Street – use lifeguard parking at the end for scooter parking on one side and bike racks on the other side.
4. Rodney Street – scooter parking on one side and bike racks on the other side.
5. Norfolk Street – scooter parking on one side and bike racks on the other side.
6. Stockley Street – scooter parking on one side and bike racks on the other side.
7. New Castle Street – scooter parking on one side and bike racks on the other side.
8. Philadelphia and Laurel Streets – scooter parking in a designated area.
9. Brooklyn Street – no scooter parking is being proposed.
10. Wilmington Avenue – there is currently scooter parking designated.
11. Delaware Avenue – no scooter parking is being proposed.
12. Hickman Street – no scooter parking is being proposed.
13. Martin’s Lawn – there is currently scooter parking designated.
14. Baltimore Avenue – there is currently scooter parking designated.
15. Maryland Avenue – put in two curb-cuts for scooter parking and bike racks and the use of a scooter parking corral.
16. Olive Avenue – put in two curb-cuts for scooter parking and bike racks and the use of a scooter parking corral.
17. Virginia Avenue – a metered spot would be lost for scooter parking. Currently, there is bike parking located at the end of the street.
18. Rehoboth Avenue – a few areas were selected at the medians so visibility is good for people being able to see other people on scooters. Meter spaces would be removed for these areas. Suggested areas are: (a) South side of median at Rehoboth Avenue and Fifth Street. (b) North side of median at Rehoboth Avenue and Second Street. (c) North side of median at Rehoboth Avenue and Fourth Street.
19. Area behind the Fire Company.
20. Area at VIA.

Commissioner Coluzzi also provided maps of the proposed areas in the City and concentration of the scooter parking areas on Rehoboth Avenue and the existing areas on Wilmington and Baltimore Avenues. A slide was provided for potentially new bike racks to be used on Olive and Maryland Avenues on a trial basis as opposed to the toaster racks currently being used. She also suggested that the bike racks be bolted down. Potential scooter parking in the first two blocks of Rehoboth Avenue was avoided because of the angled parking. Trying to put scooters in between or next to cars in this area would be a nightmare. The Committee’s thought was that scooters can be parked at the parking corrals on Wilmington and Baltimore Avenues and walk through to Rehoboth Avenue.

Commissioner Sargent suggested that scooter parking areas should be provided in the first and second blocks of Rehoboth Avenue. In the corralled areas, it would be a good idea to put in one stanchion between a parking space and a scooter space. Commissioner Hunker agreed.

Mayor Cooper did not think the scooter parking areas at the medians on Rehoboth Avenue would be a good idea because of accidents with parallel parking. Commissioner Gossett suggested that barrier systems could be used. There should be a rule of thumb as to how many scooters can be corralled in the parking area.

Commissioner Coluzzi said that in the scooter corral areas, approximately seven scooters possibly eight could park per car space.

Police Chief Banks noted that there are approximately 200 scooters in the City at one time.

Mayor Cooper voiced concern with putting bike racks on the street and signage in front of people’s homes in the residential areas on the south side of the City.

Commissioner Mills said with regard to new platforms at Queen Street, there is a DNREC building line that

dictates what can be done on one side of the line vs. the other. A permit would be needed. He did not favor consuming the dunes at this location. Commissioner Mills would hesitate to put bike racks on the street and signage in front of people's homes. There are satisfactory bike parking areas on the Boardwalk. He suggested that there should be optimum size bike racks on the platforms year-round. Temporary bike racks could be placed in the sandy areas next to the bike racks. He had suggested to Public Works that the bike racks be bolted down, properly sized and oriented properly. With regard to the pre-existing bike racks at Maryland and Olive Avenues, they were designed so people walk their bikes to the racks. The lip was provided to direct rain runoff. If scooter parking is placed on the street, barriers will be needed. Commissioner Mills voiced concern with the possible scooter parking behind the Fire Company because it may consume paid parking spaces. The majority of people only know how to use the vertical grid bike racks. He was not convinced to use unlined spaces.

George of All Wheels thought that some of the areas for scooter parking would be the areas bordering on fire lanes or fire hydrant areas. If a scooter would be parked there at the owner's own risk, then the scooter would need to be kept unlocked because there would be any emergencies and the scooter would be pushed out of the way.

Commissioner Hunker said that the proposed scooter parking areas behind the Fire Company and at the VIA is open to a corral type concept. The corral concept can be used in a bigger space.

Commissioner Coluzzi said that in order to be ready for the season, the Commissioners would need to discuss the idea of a permit system. The Committee has recommended \$40 - \$50 for an annual scooter permit and \$15 - \$20 for a weekly scooter permit.

Commissioner Sargent suggested that discussion of permit fees and areas of parking for scooters be placed on the agenda for the February Workshop Meeting. Commissioner Mills added that there should be discussion about getting scooters off of the sidewalks. Commissioner Gossett added that there should be a definition of scooter.

Commissioner Coluzzi said that the Committee will be meeting on February 1, 2013 to discuss permit fees and areas of parking for scooters.

Commissioner Mills suggested that this presentation should be placed on the City website under ongoing business. He would like ideas brought forward on barriers, corrals, etc. at the February Workshop Meeting.

Commissioner Gossett would like to see specifics regarding the accommodation of scooters and lost revenue potential for the season. The change that the Commissioners will be making is going from free parking for scooters to pay parking for scooters. Something that the Commissioners have to determine is how to message this and make it understandable.

Ms. Sullivan said that if a bollard is used at the end parking spaces, the street sweeper and the snow plow will not be able to clear the scooter parking spaces.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that scooter parking is needed in the first two blocks of Rehoboth Avenue because it is the busiest part of the city.

Commissioner Coluzzi noted that George of All Wheels is very much in support of the scooter parking and permits. He would buy the permits for the rental scooters. George of All Wheels noted that the permits and changing fees would not be unreasonable. Signage could be provided next to the change machines with regard to this matter.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Coluzzi received an email from a hotel owner with regard to signs. When the sign ordinance was revised, the Commissioners did not take large properties such as hotels into consideration. Hotel owners get the same number of signs as do small shops. She suggested that the sign ordinance be revisited. Mayor Cooper said that the change made in the sign ordinance has made a huge mess out of the city regarding sandwich boards.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

Items to be included on future agendas are signs for a bigger hotel, report on household hazardous waste

collection and reducing the potential for pollutants in the lakes, report on updated recycling and new State mandates to implement recycling in the commercial sector, discussion on a timeline for acting on certain business and discuss approaches and possible cost of maintaining the City website with IT Director.

CITIZEN COMMENT

There was none.

The Workshop Meeting will be held on February 4, 2013 at 9:00 a.m.

There being no further business, Mayor Cooper adjourned the meeting at 8:58 p.m.

Respectfully submitted,

(Patricia Coluzzi, Secretary)