

1. Letter dated and received March 13, 2013 from Martha L. Cochran, 1004 Scarborough Avenue Extended – in support of the 10 foot no-build buffer. The ordinance needs to be clarified as to its application to existing structures. The City needs to officially mark the location of the ordinary high water mark around the lakes so that it is not left to individual interpretation. If the City does not plan to do this, the authors of the proposed ordinance and/or the City Solicitor should state how this will be determined. In order to fully protect the lakes, the Commissioners need to address what the Planning Commission identified as the major source of harm to the lakes – stormwater runoff from all areas of the City. Clear and enforceable standards should be developed, adopted and applied to all construction projects in the City to assure that debris and other runoff from construction sites does not find its way into storm drains and into the lakes. Ms. Cochran hoped that the Commissioners will undertake this project and institute a means of measuring progress in improving the water quality of the lakes. On an annual basis, the City should measure, using the best scientific means available, and publish a report on the health of the lakes and the water quality in particular.
2. Email dated March 14, 2013 and received March 15, 2013 from Guy Martin, 87 Henlopen Avenue – in support of the 10 foot no-build buffer. A 10 foot buffer is the very minimum that should be established. Mr. Martin was in favor of a wider buffer, or at the very minimum, language in the ordinance that provides the clear authority for those administering the buffer requirement to impose additional protection up to a 20 foot buffer if the facts indicate that a wider buffer will add measurable additional protection to the lake without significant harm to the property owner. He supported the establishment of a site review requirement for building permits on lots adjoining any of the lakes within the City. Such a review is one of the best and most focused ways that the lakes can be fully protected with sensitivity to the landowner.
3. Letter dated and received March 15, 2013 from K. Cole Flickinger of Kay and Herb Cottage LLC – is in objection to the 10 foot no-build buffer. As part of the proposal, restriction would be applied to mowing and landscaping in the 10 foot buffer to encourage a natural unmaintained landscape to allegedly improve the water quality of the lake. Kay and Herb Cottage LLC was concerned about the City's actions regarding Silver Lake and how they affect its property rights by deed and per the original Rehoboth Heights Development documents and covenants. Kay and Herb Cottage LLC questioned whether or not this proposed ordinance has been coordinate with its deed and the original Rehoboth Heights Development documents. The City has not provided information nor solicited feedback from Kay and Herb Cottage LLC or other lakefront owners regarding this matter. The City has not requested Kay and Herb Cottage LLC to participate in any committee formed to discuss this matter and study of the Lake's health. Silver Lake is currently being used by the City and the County as a large stormwater repository pond which is the major reason for the poor habitat health and water quality in the lake. It is common knowledge and further reinforced in the August 1, 2012 Lakes Report that a large City and County watershed discharges stormwater to Silver Lake. This watershed contains many lots and City streets beyond the lakefront properties, and their storm sewers drain directly into the lake without any flow/surge, environmental and water quality controls. Kay and Herb Cottage LLC wanted to know what the City plans to do related to adding catch basins and underground stormwater pipes to manage its street runoff in the future without utilizing private property as its facility. It is known that a 10 foot buffer is not mowed. Non-native invasive plant species phragmites will take over and choke out any other plant material as it currently does along unmaintained sections of the lakefront. It does not appear that the August 1, 2012 Draft Lakes Report was prepared by Delaware licensed third party professional civil and environmental engineers; therefore, Kay and Herb Cottage LLC is questioning the technical accuracy of this report and the qualifications of its preparers. The proposed ordinance's high water mark datum assumed by the City of six feet at Silver Lake is questionable, and Kay and Herb Cottage LLC is curious about what DNREC, USGS or other survey data was consulted to establish this benchmark. Kay and Herb Cottage LLC's deed says that it has the right to build a private boat landing not extending further shoreward than the average high water mark. It wants to make sure that this right is preserved along with the right to maintain the landscaping/lawn within 10 feet from the water. In the original Rehoboth Heights Development document, all lakefront property owners are given riparian rights which also must be preserved.

Mayor Cooper stated the proposed ordinance does not require that the 10 foot buffer be a no-mow zone, but it has to be maintained as a natural area which would be grass or any kind of plant material. Assuming that the structure of the house is fronting or on the lake, there typically would be a 10 foot setback from the rear yard. The proposed ordinance would extend it that not only could the main structure not be in the 10 feet, but accessory structures and other things that are considered structures could not be in that area as well.

City Solicitor Mandalas said that the 10 foot buffer has to be maintained as a natural area as defined in Section 270-4. That section of the Code sets out that a natural area is an area which is dedicated to either trees, grass, flowers, bushes, other plantings and/or mulched areas.

Public Comment:

1. Ms. Tony Sharp, Scarborough Avenue Extended – in support of a no-build zone, but she questioned if the 10 foot buffer is sufficient. She asked what the vision is or what would be foreseen if all the lots would be vacant that abut the lake, and what the Commissioners would want the view to represent to the City.

Mayor Cooper was not prepared to speak to what he thought it should be. The people who wrote the letter from Kay and Herb Cottage LLC are totally unaffected by this ordinance. There are only a few lots in Country Club Estates, Scarborough Avenue Extended, Schoolvue, Silver Lane and potentially on Lake Gerar which go to the water's edge that are buildable. For all those owners whose residences are behind the street and have a land buffer between the road and the lake, the buffer has no practical effect on the land because it cannot be built on anyway. The buffer there is more than 10 feet wide in all cases. The 10 foot buffer was determined by the Planning Commission. With regard to the school property, the City has gotten a conservation easement that is approximately 150 feet deep.

2. Ms. Mable Granke, 1013 Scarborough Avenue Extended, said that Silver Lake needs protecting. The Commissioners need to move forward with this ordinance and do something positive and concrete to help begin to protect the lake. There is nothing better than to have natural area to act as a buffer and a filter in terms of runoff.
3. Mr. Burt Flickinger, 1011 King Charles Avenue, voiced concern that with his property, he would be required to not mow the grass in the 10 foot buffer. He asked why the residents of Silver Lake were not involved with this process. Mr. Flickinger stated that he had not been contacted once. He has not seen the City come up with a plan about getting the pipes out of the lake. The lake floods, and there are no turtles. He was infuriated by the Commissioners telling the property owners that they need something that might affect the quality of the water in Silver Lake but they show no plan on getting rid of the pollution. There has been no oxygen in the lake for years. Mr. Flickinger asked that the Commissioners represent the 36 homeowners that abut the lake.

Commissioner Sargent explained that someone built a house on Silver Lane, and by a technical reason, the back of the house did not face the lake. Because it was the side, the property owner was able to build within six feet of the lake. The proposed ordinance says that even if the house is faced sideways, the six foot setback cannot be used. The full 10 feet would be used. This ordinance would allow for grass to be mowed and roses to be planted, etc.

4. Mr. Bunky Markert, New Castle Street and Secretary of the Planning Commission, commented about the actions of the Planning Commission. This ordinance is a small measure to improve the health of the lake. The main focus of the ordinance is to prevent what happened with regard to the Silver Lane house from being repeated. The no-build buffer will allow for stabilization of the banks with regard to what runoff exists when it enters the lake and will be filtered. Another aspect would be the aesthetic benefit of the lake. There would be a uniform lake edge at the very least which would not be obstructed by buildings, etc.
5. Mr. Bob Sokolove, address unknown, said that Silver Lake needs to be protected. The Commissioners should be encouraging plant growth in the proposed 10 foot buffer area. The amount of runoff through the catch basins and off of impervious surfaces like roads and is caught in the 10 foot buffer would be infinitesimal and almost non-existent. The problem with Silver Lake is the runoff from the streets. All the lakes here are community-wide retention ponds; and retention ponds by their nature are never clean or healthy and never work well with the goals to create an environmental habitat. The City should be working harder and quicker at retaining the massive amounts of dirty gritty water that is coming off of the streets, sidewalks, etc.
6. Mr. Tom Zellers, 308 Stockley Street, said that the Planning Commission had held noticed meetings. The no-build zone is at 10 feet because everybody else's rear setbacks in the City are 10 feet. The thought was that nothing can be built in that area for the properties abutting the lake. Other properties in the City with a 10 foot rear setback can still build a shed, etc. in that area.
7. Mr. Frank Cooper, 96 East Lake Drive, said that he would like to connect the dock that he had built. The 10 foot setback, no-build zone is a bare minimum if the Commissioners are trying to protect the aesthetics of the lake. There may be consensus that it does not do much as far as the ecological

balance of the lake, but this is about protecting the beauty of the lake. He proposed that the lakefront should be considered as a street front in reverse. The street front throughout the City is considered an asset. With the no-build proposal, there would be no sidewalks. A sidewalk would be allowed on the street front. The existing gazebos and piers would be non-conforming because they connect to land. The same sort of rules should be used as the front setbacks in the Code. With regard to the water runoff issue, the amount of water from sprinklers is not the contributing factor with the nitrogen levels in the lake. The Commissioners should reconsider the format and use the language on the books for 15 foot front setbacks, etc.

8. Ms. Sally Forman, President of Save Our Lake Alliance (SOLA3) – in support of the proposed ordinance. Everyone who has built around the lake, except for Lot 6, is conforming to the ten feet. The Commissioners will need to address how properties will be developed in the future. Ms. Forman also supports a 15 foot setback because it would give a 50% better setback. SOLA3 has never objected to the site review plan. It did not understand what the object of the site review plan is. If the 15 foot setback would be adopted, it would open up more views to the lake and would provide the added objective of what the view is. The 15 foot setback would also create a larger buffer. There is a need to have an ordinance that addresses all deposits from site construction around the City which is the biggest problem that affects Silver Lake. Ms. Forman would like the Commissioners to clarify how the ordinance would be implemented. With regard to measuring from the ordinary high water mark, there are different circumstances around the lake in terms of the terrain. Lot 6 is actually built into and on wetlands. She asked how to measure 10 feet of the property that might be wetlands and establish the ordinary high water mark; how it would be measured for lots that have saturated soil and steep grades down to the lake; and who would be responsible for actually measuring the ordinary high water mark.

Mayor Cooper said that the ordinance establishes the high water mark is at a six foot elevation which would be established by a survey at the time of determination. Under the rules and the survey, it is 10 feet measured horizontally from the point of the six feet to wherever it would go back to, not 10 feet measured angularly.

City Solicitor Mandalas said that wetlands are regulated by the Army Corps of Engineers (ACOE). If ACOE would regulate the wetlands on Silver Lake, he presumed that it would be consulted before a permit would be issued. Elevation does not play a role in the measurement. The measurement is six feet from the datum.

9. Ms. Marty Cochran, 1004 Scarborough Avenue Extended, asked if each property owner will be responsible for the measurement of the ordinary high water mark and what would happen to an existing structure that is currently in the 10 foot area.

Mayor Cooper said that typically the City would require a property owner to hire a surveyor to establish the high water mark. The ordinance contemplates, as well as other laws, that the shoreline is variable depending on erosion, etc. It is time dependent. An existing structure in the 10 foot area would be treated like any other legal non-conforming structure under the Zoning Code. The structure generally could be repaired and replaced if it is damaged by an act of God; but could not be extended in a non-conforming way.

Commissioner Patrick Gossett said that no improvements could be made such as plumbing, etc. The structure can stay in the same footprint, but no dimensions of the building could change.

10. Mr. Dutch Kelley, 1001 Scarborough Avenue Extended, commented that gazebos are what makes the beauty of the lake, and language should be put in the ordinance regarding approval of gazebos.

Mayor Cooper said that the State of Delaware has written correspondence which states it feels it owns Silver Lake. The Deputy Secretary of DNREC has said that DNREC will be scheduling a public meeting in the near future. The State will have more to say about what happens on the surface of the lake and with the landowners than the City would ever contemplate. The moratorium had expired February 15, 2013. The City and everyone will be involved in DNREC's meeting. The City's zoning would override the State, but the State would be preeminent with regard to the surface of the water. Any authority the City has flows from the State. Mayor Cooper's sense was that the State is not contemplating setbacks, building regulations, etc.; but docks, piers, stabilization of the shoreline, etc. would be in play with what the State would be considering.

11. Mr. Tom McGlone, 318 Laurel Street, said that since there are 36 property owners who would

- potentially be affected by the proposed ordinance, it would behoove the City to have a special reach-out such as a special meeting for those people.
12. Mr. Tom Zellers, 308 Stockley Street, said that nothing was done that people did not know about. Nothing has been done behind closed doors, and the people should be attending the meetings.
 13. Mr. David Mellen, 105 Rodney Street, Vice Chair of the Planning Commission, said that the 10 foot buffer has nothing to do with environmental protection of the lake. The technical fact is that 10 feet, 15 feet, 20 feet or 50 feet would do absolutely nothing relative to runoff into the lake from the properties that abut the lake. In order to protect the lake, a 100 foot treed buffer would be needed. The proposed ordinance is to protect against what happened at 6 Silver Lane because of the orientation of the lot. If there is a no-build zone less than 25 feet, it would only apply to 14% of the Silver Lake shoreline properties, 11% if Lake Comegys shoreline properties and less than 1% of Lake Gerar shoreline properties. The decision of the Planning Commission was to accommodate all the existing houses along the lake and not to impose a new condition on Country Club Estates. The Planning Commission's preference was for a larger setback. The Country Club Property Owners' Association has supported the 10 foot setback.
 14. Ms. Forman, President of SOLA3, said that everyone needs to stop using Lake Comegys in the equation because a conservation easement has been placed around the entire lake. Most of those properties cannot have any further building. Lake Comegys is protected.
 15. Mr. Mellen, Vice Chair of Planning Commission, said that the Planning Commission has recognized that there is a conservation easement around Lake Comegys. The Planning Commission had to consider what the conditions are on Lake Gerar, Silver Lake and Lake Comegys.
 16. Mr. Joe Filipek, 8 Silver Lane, said that although he generally supports the 10 foot no-build buffer for structures on the surface of the land, there are a number of people around the lake who have bulkheads. Technically, a bulkhead is considered a structure. He asked if existing bulkheads would be grandfathered into the ordinance.

Mayor Cooper said that the bulkheads could be maintained.

Mr. Mellen said, in talking with DNREC, that although bulkheads are not the preferred way of preparing the bank, it would recognize that if properties had already been prepared with bulkheads, probably the bulkheads could be maintained or even be rebuilt.

Mayor Cooper closed the public portion of the hearing.

Commissioner Mills had looked at the concerns which have been voiced about protection of the viewshed, the lake and overall protection of the health of the lake. In terms of the Zoning Code, the rear yard setback in the residential zone is 10 feet. The side yard setback minimum is six feet. He was not sure it was contemplated when the Zoning Code was adopted that a house could be rotated 90 degrees such that the side yard would be abutting the lake. Under Section 270-44, accessory buildings can be made of any construction material and can be built inside the six or ten foot setback to a distance of four feet. If the accessory building is of a masonry nature, it can be up to the property line with the permission of the property owner. Both of these are deficiencies in the Code. The no-build zone and getting away from allowing accessory buildings close to the lake, provides some measure of protection for the shoreline to keep it from destabilizing or eroding quicker than normal. There is a potential to disturb the shoreline. The proposed ordinance addresses the protection of the viewshed by giving at least a minimum of 10 feet. Commissioner Mills was not 100% comfortable with fences not being able to go to the water's edge.

City Solicitor Mandalas said that increasing the setback from 10 feet to 15 feet would be outside the scope of the public hearing.

Commissioner Mark Hunker said it is due time that the Commissioners take some action and provide some protection, not just for the lakes' environmental piece, but for what they want it to look like and how they want the City to feel.

Commissioner Coluzzi had wanted to see a larger setback such as 25 feet and to do something similar to what was done with Floor Area Ratio (FAR) which was to allow encroachment into the 25 feet for decks, patios, etc. The viewshed is very important and is unique to the City. Commissioner Coluzzi would like to see that the viewshed is maintained.

Commissioner Sargent said that the Planning Commission has made a fair determination for the 10 foot setback. The Commissioners should adopt the ordinance.

Commissioner Gossett said that the proposed 10 foot buffer prohibits the building of sidewalks, sheds,

ancillary buildings, driveways, etc. Currently, those aspects can be built at the lake. The proposed ordinance prohibits what can be done as opposed to a site plan review as a review. Commissioner Gossett supported the proposed ordinance.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to adopt the ordinance concerning the no-build buffer. (Gossett – aye, based on the data presented in the very comprehensive Lakes Report that the Planning Commission presented and on its recommendations based on citizen input. Sargent – aye. No matter what else, the Commissioners need to have some kind of a no-build buffer. In one sense it is sad that it is only 10 feet for historical and various reasons, but it is certainly better than zero. To provide the fact that no structure can be in that area, is very advantageous to the health and the enjoyment of the lake. Coluzzi – aye. This really is only a first step. The Commissioners need to look at further protecting the lake from a viewshed point of view as well as there are other things that the Commissioners need to do as far as the water quality. This is a good first step. Cooper – aye. The Planning Commission did a good job of researching and coming up with this. It is consistent with the Zoning Code in the sense of a back yard, but it gives extra protections which are consistent with good planning adjacent to a water body such as the lakes. It will enhance the lakes. Mills – aye. He believed this helps remedy a deficiency in the Zoning Code that allows a property abutting the lakes to use that area as a side yard rather than a rear yard; and it remedies another deficiency where accessory buildings were allowed to encroach up to the rear property line, meaning the lake's line. Commissioner Mills voted favorably because doing so gives some measures of protection to the shoreline as well as protecting the viewshed. Zellers – recused. Hunker – aye. This first or second step is a step in the right direction for site views, lake preservation, building codes and what the Commissioners are expecting for today's Rehoboth and tomorrow's Rehoboth.) Motion carried.

REPORT OF THE POLICE DEPARTMENT

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of February 2013. There were 27 criminal, 160 traffic and one civil charges made during the month. Two traffic crashes were investigated. Twenty-four seasonal officers have been hired, and their first day of training is April 5, 2013. He welcomed the Mayor and Commissioners to attend the second day of training on April 6, 2013 at 8:00 a.m. The Dispatch Center handled 176 police incidents, 149 ambulance incidents, 26 fire incidents, 132 traffic stops, assisted other agencies four times during the month, and 9-1-1 calls totaling 255 were received. A new full-time police officer was hired on March 8, 2013.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Mr. Walter Brittingham of the Fire Company reported that a second full-time ambulance will be staffed for the service area in the summer months. The ambulance was purchased and will be used as a spare. The Fire Company is currently hiring a full-time administrator and staff to cover that ambulance 24 hours per day and seven days per week. Normally, there are three ambulances, but one will be removed from service this summer to install a new chassis in it.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for February 2013. During the month, 74 permits were issued for a value of work totaling \$2,615,006.94. Fees collected totaled \$60,815.20 for the month. Eighty-six permit processing fees were received in the amount of \$1,720.00. One restaurant application was received in February. One notice of violation was issued for a broken window. Five notices of violation were issued for blinking signs. One notice of violation was issued for a flag too low. One notice of violation was issued for a damaged sidewalk. One stop work order was issued for a contractor not having a building permit. One stop work order was issued for a contractor not having a license. The Board of Adjustment heard no cases in February.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by John Tekmen of Goker LLC to operate a new restaurant to be known as "Semra's Mediterranean Grill" pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215. The restaurant is located at 19 Rehoboth Avenue. Mayor Cooper noted the Public Hearing procedures for this hearing.

City Solicitor Mandalas noted the purpose for both hearings, and he read from Section 215-5 of the Code

that in reaching their decision, the Commissioners shall consider the following factors including but not limited to:

1. Whether the Applicant has demonstrated that the establishment's primary purpose will be that of a restaurant or dinner theater as defined in this chapter.
2. Whether the establishment meets all the City's applicable zoning and licensing provisions.
3. Whether the establishment would be a detriment to the peace, order and quiet of the neighborhood and the City.
4. Whether the establishment will have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact on traffic, parking and noise.
5. Whether the Applicant has made any false representation or statements to the City's employees or the Commissioners in order to induce or prevent action by the City, not only in regard to the pertinent pending Application under the statute, but also with regard to the issuance of a building permit or business license for the subject establishment.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on February 21, 2013. Notice of today's Public Hearing was published in the Cape Gazette on February 26, 2013, Coast Press on March 6, 2013 and Delaware State News on February 28, 2013. 2. Building Inspector's Report dated March 5, 2013. 3. Application for a Restaurant Permit of Compliance notarized and received on February 7, 2013. 4. Menu. 5. Existing and Proposed Floor Plans, Sheet No. A1, dated January 31, 2013 and received February 27, 2013. 6. Property record. 7. Depiction of the properties within 200 feet that were notified for this hearing.

Building Inspector Sullivan presented a complete report, and her findings were based on the application and her knowledge of the Code. (See attached report.) The Applicant had stated that the approximate percentage of revenue between the sale of alcohol and food is 30% alcohol and 70% food. The Application is for a 2,552 square foot restaurant. The proposed bar area will be 90 square feet with a proposed ratio of bar to permanent seated dining of .07. In summary, this was an Application for an existing restaurant to add alcohol to its existing services. No patio was proposed. The difference between Capriotti's and Semra's, in terms of the menu and waite staff, is that Semra's has a waite staff as opposed to Capriotti's which has counter service only. One of the Commissioners' main objections to the Capriotti's hearing was that there was no way to make sure people would walk outside with glasses of alcoholic beverage or any way to regulate it. With regard to Semra's menu, complete meals will be served.

Commissioner Hunker verified the seating before the meeting this evening.

Mr. John Tekmen of Goker LLC noted that the restaurant opened in June 2012 and offers full service and carry-out. Due to people requesting that he serve alcohol, Mr. Tekmen would like to serve alcohol that would complement the food. Full course meals are offered, and there is a lot of take-out during the summer season. The full bar service would consist of beer, wine and spirits. Customers will be served, and he will be able to monitor the alcohol that it will not leave the premises.

There was no correspondence.

Public Comment

1. Mr. Drexel Davison of Main Street, Inc. – in support of.

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

Commissioner Gossett said that one of the unique aspects of the restaurant is that the kitchen/prep area is open and located at the front door so it would be difficult for someone who has alcohol in a glass to walk past a person working in the kitchen, etc. Commissioner Hunker agreed.

Mayor Cooper said that the problem with the other restaurant was that there was no waite staff.

Commissioner Sargent found the following to be true:

1. The proper Application and supporting documents have been filed.
2. The proper fee has been paid.
3. The proper notifications have been made.
4. All parties wishing to be heard have been heard.
5. The primary purpose is that of a restaurant.
6. The Application meets the City's applicable zoning and licensing provisions.

7. The restaurant would not be a detriment to the peace, order and quiet of the neighborhood and the City.
8. The restaurant will not have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact of traffic, parking and noise.
9. The Applicant has made no false statements to the City employees or Commissioners.

Commissioner Sargent made a motion, seconded by Commissioner Mills, to approve the Application for Permit of Compliance for the restaurant known as Semra's Mediterranean Grill located at 19 Rehoboth Avenue. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried unanimously.

REPORT OF PLANNING COMMISSION

Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on March 8, 2013. Based on its preliminary review, the Planning Commission determined that Public Hearing for a property located at Lots 58, 56, 54 and the westerly portion of Lot 52 Sussex Street should be held at its next Regular Meeting. As of late last night, Attorney Chase Brockstedt requested that the Planning Commission defer the Public Hearing until May 2013. With regard to the tree study, the Commission continued its discussion relative to the task assigned by the Board of Commissioners. Planning Commission members are undertaking an analysis of available City records relative to tree permits and the reduction in natural area due to construction. Efforts are underway to re-schedule the planned education program "Trees vs. Construction: How can they best coexist?" that had been cancelled due to the unexpected non-availability of the presenter, Mr. Bryan Hall. As of late afternoon yesterday, Mr. Hall has agreed to be the presenter and give the review at the April 2013 regular meeting. Ms. Connie Holland of Office of State Planning Coordination has informed the Planning Commission that she will represent Sussex County as the circuit rider in the near future.

OLD BUSINESS

Mayor Cooper called to consider adoption of an ordinance that would regulate the use and parking of motorized scooters and mopeds including the setting of the fee for a Motor Scooter Parking Permit.

Commissioner Coluzzi noted that the Commissioners will be looking at a draft of the scooter ordinance this evening. A presentation will be made on the final selection of parking areas. Other areas to be addressed are the line areas and fees. The idea of a \$40.00 permit to park a scooter in designated scooter parking areas has been discussed. One hundred eighty parking areas have been set aside that would address mostly what is needed. A map was provided of the parking areas which had been discussed over the last several meetings of the Commissioners, and it has been discussed in the Streets & Transportation Committee meetings as well. Scooter parking will be provided at most of the ends of the streets at the Boardwalk. The non-metered areas for parking are at Queen, St. Lawrence, Rodney, Norfolk, Stockley and New Castle Streets. The metered parking areas are at Philadelphia and Laurel Streets, first and second blocks of Wilmington Avenue, first and second block of Baltimore Avenue, Martin's Lawn, behind the Fire Department, Maryland and Virginia Avenues and near the VIA. Other areas for parking are at Oak and Park Avenues, Deauville Beach and Fourth Street across from Starbucks. Parking on Rehoboth Avenue is a big issue and poses an inconvenience for workers on Rehoboth Avenue. Parking on Wilmington and Baltimore Avenues and walking through to Rehoboth Avenue would provide parking for workers as well as on Fourth Street, behind the Fire Department and at Martin's Lawn. This will be a flexible plan, and areas can be added, moved or removed if needed.

City Solicitor Mandalas read the ordinance. The purpose of this ordinance is to provide for the safe and effective use and parking of motor scooters in the City through the establishment of a parking permit system and the establishment of use and operation regulations supplemental to those provided elsewhere in Chapter 92 and the Code. This ordinance establishes the definition of Motor Scooter and provides for the establishment and enforcement of a Motor Scooter parking permit system. The Ordinance also deletes Subsection D of Section 92-38 which has been rendered unnecessary. With regard to Section 92-276(C), it is intended that two conditions need to be met with regard to violations and penalties. Any police or other parking enforcement officer may remove or cause to be removed from any street any Motor Scooter which has accumulated three parking citations and which has been parked in substantially the same location for a period in excess of 12 hours during which a parking permit is required and without displaying the required parking permit or any Motor Scooter which has accumulated at least three parking citations of which at least one must be outstanding for more than 24 hours.

Ms. Linda Kauffman, Laurel Street, asked if a scooter can be removed from the street if all three of those violations apply.

Mayor Cooper said that if the scooter has three parking citations and has been in the same place for 12 hours or it has three parking citations, one of which is more than 24 hours old, it can be removed from the street. Commissioner Coluzzi said that a person would be required to have a permit to park in any permitted areas.

City Solicitor Mandalas said that in reference to prohibiting scooters from parking at bike racks and stations, it is reflected in other sections of the Code.

Commissioner Gossett said that under Section 92-18(Q), no bicycle shall be attached to a parking meter post, tree or bench located on any sidewalk, boardwalk, street or public place within the corporate limits of the City. He asked if it was being defined as Motor Scooter and not as a Motor Vehicle. Commissioner Gossett did not think that the definition appeared correctly in the draft ordinance and that there may be competing definitions. Mayor Cooper noted that under motor vehicles, scooters or mopeds cannot be on the sidewalk, curb, lawn areas, etc.

City Solicitor Mandalas noted that in Section 92-28, no vehicle shall be parked upon a sidewalk, crosswalk, street intersection, public lawn, curb or drainage course.

Commissioner Coluzzi said that the definition of Motor Scooter is a vehicle with two tandem wheels.

Commissioner Zellers said that the definition of vehicle is every device in or upon which any person or property is or may be transported or driven upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks and except electric trackless trolley coaches, electric personal assisted devices and excepting H.O.E.'s. The definition of motor vehicle is every vehicle which is self-propelled.

City Solicitor Mandalas said that there would be a redundant definition if motor scooters would be included in the moped, motorcycle, motorized skateboard and scooter. For purposes of this Chapter, his preference was to have all the definitions in one place. He thought that there is enough in the ordinance to be able to take enforcement action.

Commissioner Coluzzi said that under Section 92- 273(C), "a permit shall be prominently displayed on the Motor Scooter's front fork within six (6) inches of the headlight, such that said permit, including the period of time for which the permit was issued, may be readily identified by a police officer or other parking enforcement officer" should be changed to "a permit shall be prominently displayed on the Motor Scooter's front fork such that said permit..."

Mr. Sokolove said that if a motor scooter is backed into a parking space, a police officer will need to walk down the street to check for permits.

City Solicitor Mandalas suggested that under Section 92-273(B), "[I]n an area allowing Motor Scooter parking where the nearby parking of automobiles is parallel to the curb.." should be changed to "[I]n an area designated for Motor Scooter parking where the nearby parking of automobiles is parallel to the curb, motor scooter shall be parked perpendicular to the curb with the back wheel of the motor scooter touching the curb."

Commissioners Coluzzi said that with regard to parking areas where lines were created, the intent was to have lined areas in the business district. These areas would be located on Baltimore and Wilmington Avenues and Fourth Street. She did not think there is going to be an issue with parking in residential areas.

Commissioner Gossett said that if every motor vehicle except for motor scooters stopped or parked upon the street within the corporate limits of the City where parallel parking is permitted, shall park parallel to and within 12 inches of the curb or edge of the roadway in the direction of the flow of traffic of the adjacent travel lane. Parameters can be outlined of how the motor scooter can be parked.

Commissioner Mills said that where scooters will be allowed to park in any metered space. A permit will be needed on a public street which will allow the scooters to park in designated scooter zones or in standard car parking permit zones. The bicycle racks should be used for bicycles only. With regard to pedestrian safety, the Commissioners need to enforce, besides scooters, that there is no rollerblading, skateboards, razor scooters, etc. on sidewalks. The Commissioners need to make sure there is plenty of parking for bicycles. Commissioner Mills believed in the KISS philosophy – Keep It Simple for Scooters and the enforcers by having a multiple free zones around the City, expanding the parking behind the Fire Department, Martin's Lawn, Deauville Beach and scattering some throughout the City, and parking at meters or having a reduced permit fee for parking in permitted areas.

Commissioner Gossett shared projected revenue for scooter parking. Parking meters are available 14 hours per day with 70% usage at 9.8 hours per day. There are 115 days in the parking season and 80% of the parking meters are used at 92 days. The ocean block meters are \$1.50 per hour, and projected revenue per space per day is \$14.70. Revenue per space per season is \$1,352.00. Ten spaces have been converted to corralled areas which would be \$13,524.00 in the loss of revenue. The City would have to sell 338 parking permits just to break even for scooter parking. Not included in the costs are signage, posts, paint, labor, tickets, printing labels, etc. The City will not be making money on motor scooter parking. Two key elements that need to be a part of this are communication as to getting the information out to the residents and measurement as to whether motor scooter parking is successful. A form with an explanation of what is going on can be included in the residential parking letter that is mailed out.

Mayor Cooper said that a very generous warning system is being provided so that people do not get caught unaware.

Commissioner Gossett said that the warning issued instead of a ticket will provide an area for tracking information by license number, VIN number or permit number.

Ms. Joyce Lussier, 99 Henlopen Avenue, was amazed that the downtown merchants were not at the meeting complaining about the proposed ordinance.

Correspondence:

1. Letter received March 8, 2013 from Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce – in support of the proposed ordinance.

Public Comment:

1. Ms. Linda Kauffman asked if only a scooter with a step through chassis will be allowed in the corrals.

City Solicitor Mandalas said that if there is technically a motorcycle under the State Code, as long as the City's definition of motor scooter is met, it will be allowed to park in the corrals.

2. Mr. Bob Sokolove asked how Police Chief Banks will handle the situation when a visitor who does not know what is going on and sees a scooter taking up a spot, moves it and parks his car in the same metered space. Currently, there has not been a single reported accident on a pedestrian being hit by a scooter on a sidewalk.

Mayor Cooper asked if any scooters are currently moved. Currently, a scooter can park in a metered space.

3. Ms. Carol Ellison, address unknown, asked why she would take up a vehicular space just because she has not paid \$40.00 for a scooter permit.

Commissioner Sargent said that motor scooters can park downtown for free in the designated parking areas if it has a permit.

4. Ms. Linda Kauffman asked how many metered areas are being taken away from vehicular parking.

Commissioner Gossett responded with 10 spaces. There are 20 spaces in non-metered areas that will be used for scooter parking. Mayor Cooper said that the City is reserving some of the finest parking spots in the City in non-metered areas for scooter parking.

5. Ms. Sharon Messina, 129 Loganberry Lane, Rehoboth Beach, said that she does not have a problem with paying \$40.00 for a permit. The locations of some of the scooter parking areas are not conducive for some people who work in the City. She thought that there should be some allowances for scooters to park at the bike racks. Scooter parking at the meters will be an issue.
6. Mr. Dennis Diehl of Streets & Transportation Committee supported the efforts to get scooters off of the sidewalks. There are too few scooter parking spaces for the downtown area. He would like to see this work on a trial basis before charging \$40.00.
7. Ms. Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce said that with whatever the Commissioners decide on, she would like it in a timely manner to get it out to the public. The education part of it is really important.
8. Ms. Linda Kauffman said that the City is being shortsighted in the areas where there are large bump-outs. These areas could be allowed for scooter parking.

Commissioner Coluzzi said that the Streets & Transportation Committee had looked at the possibility of using the bump-outs for scooter parking, but an issue was the need for curb-cuts. The Committee thought that there would be confusion for visitors coming into the City if scooters are not allowed on the sidewalks, but they would be allowed on the bump-outs to the sidewalks.

9. Mr. Bob Sokolove thought that good signage would go a long way. For most people, \$40.00 is not the issue. It barely the costs of implementing the program. It is not clear how the ordinance will be enforced.

Commissioner Hunker said that if a plan is implemented and then it is communicated to the public, it can work. Commissioner Sargent said that in the downtown area, there will be a lot more parking places than there have been before. There will be 24 places which have been marked out behind the Fire Department and 12 places at Martin's Lawn. Those can be easily expanded if needed. Plans are to have many more parking places.

10. Ms. Linda Kauffman asked if the opposition to the cutouts is because of confusion. To her, that would be a logical place to put the scooter parking.

Commissioner Sargent responded with no. The cutout at Fourth Street and Rehoboth Avenue is a very dangerous spot. He said that Police Chief Banks had pointed out that the cutout area on Rehoboth Avenue are dangerous.

11. Mr. Frank Cooper, 96 East Lake Drive, said that this is a great plan. There is only one way to see if it is going to work. Try it and fly with it.
12. Mr. Walter Brittingham, 123 Henlopen Avenue, said that the curb-cuts, bump-outs and cutouts should be defined. He thought the intent of the ordinance is right, but the scooters will be taken off of the sidewalks of Rehoboth Avenue with no place to go. The City Manager should be given permission to work with this issue. There should be some scooter parking spaces on Rehoboth Avenue.

Commissioner Gossett said that there is a perceived problem here with driving and safety on the sidewalks. This plan that the Streets & Transportation Committee has worked on has addressed that issue. He suggested another way to monitor the parking issue by having the Commissioners implement the plan from the standpoint of the available parking spaces and then monitor it for a season and continue to not enforce the parking on Rehoboth Avenue where the natural draw is for people on scooters, but to educate them as they park there whether it is by a leaflet, advertised in the newspaper, etc. Commissioner Coluzzi said that the Streets & Transportation Committee has put together a scooter policy which has been presented to the Commissioners which condenses the body of the ordinance. This will be put into the parking and walking guide. Information will be forwarded to Main Street and the newspapers.

13. George of All Wheels Scooter Shop said that everyone agrees that \$40.00 is fine, and sidewalks are relatively bad spots for scooters. A lot of the spaces created are for daytime use. Scooter parking at night where some of the parking areas are located would most likely result in theft. The commercial district on Rehoboth Avenue is where everyone wants to be. More spaces should be made available on Rehoboth, Baltimore and Wilmington Avenues. He has asked everyone for him to come back in the future with ideas, pictures and plans to open up other areas for scooter parking. There needs to be an abundance of parking in the true areas where people want to be. People on scooters on the sidewalks should be heavily fined.

Commissioner Zellers referred to Duvall Street in Key West and thought that the Commissioners could look at parking for scooters and bicycles at the corners of intersecting streets in order to keep parking off of Rehoboth Avenue. The City would lose revenue with using vehicular parking spaces for scooter and bicycles.

Commissioner Coluzzi said that the Committee has provided a lot of spaces. She believed that parking on Rehoboth Avenue should be considered. The Committee decided not to move forward with parking on Rehoboth Avenue on the advice of Police Chief Banks, but there are potential options for doing something on Rehoboth Avenue. She suggested moving forward with the proposed ordinance and plan, and then doing something on Rehoboth Avenue in the future, if needed.

Commissioner Sargent made a motion, seconded by Commissioner Coluzzi, to adopt the ordinance to amend Chapter 92 by adding a new Article 37, Sections 92-269 through 92-277 providing to motor scooters with the following changes that have been noted on line 75, deleting "allowing motor scooter parking" and

adding “designated for motor scooter parking”, line 79, striking “... within six (6) inches of the headlight...”, changing the section numbers on line 168, 172 and 177, and striking lines 164 and 165. (Gossett – aye. He asked that the Streets & Transportation Committee present a draft communication plan and measurement statistics or plan at the next Workshop Meeting for the Commissioners’ review. This is perfect as the enemy of the good. The Commissioners have a good start, but they need to manage it. Sargent – aye. Coluzzi – aye. Cooper – aye. Mills – no. He fully endorses getting the scooters off of the sidewalks and away from parking a bicycle racks as he had articulated earlier; and also because of his concern voiced earlier. He is favoring the Annapolis model that includes free parking areas, having to pay at parking meters or getting a permit for the other permit areas including adhering to those hours. Zellers – aye. Hunker - aye.) Motion carried.

NEW BUSINESS

Mayor Cooper called to consider adoption of a revised Freedom of Information Act Policy for the City and an ordinance to add a new Chapter 55 to the City Code related to setting the fees for providing copies of City records requested under the Freedom of Information Act.

Due to lateness of the meeting, both these items were deferred to the next Workshop Meeting.

Mayor Cooper called to consider adoption of an ordinance to amend Section 46-17 of the City Code related to clarifying the holidays observed by the City and to change the day that in certain circumstances is observed as a holiday as it relates to the compensation for the City’s 911 Center dispatchers.

Mayor Cooper noted that the City Code tracked the State law closely, but not exactly. It referred to celebrating holidays on the day the State celebrates them. This ordinance sets out what the City’s holidays are. If a holiday falls on a Saturday, it would be celebrated the previous Friday; and if the holiday falls on a Sunday, it would be celebrated the following Monday. Other than the 4th of July, the dispatchers will be compensated on the actual holiday no matter what day of the week it falls on. Mayor Cooper had made a change to Return Day. The policy for the dispatchers has been that whatever time they are supposed to work, the hours will be split in half and they get the last half off as opposed to afternoon.

Commissioner Coluzzi made a motion, seconded by Commissioner Sargent to adopt the ordinance amending Chapter 46. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called for the report and discussion on household hazardous waste collection programs in Delaware and Rehoboth Beach.

Due to the lateness of the meeting, this item was deferred to the next Workshop Meeting.

Mayor Cooper called to consider adoption of City Budget for fiscal year April 1, 2013 through March 31, 2014.

City Manager Gregory Ferrese presented the recommended 2013/14 Budget. The revenue is anticipated to be \$15,963,640.00, and the expenditures including a Capital Improvement Program in the amount of \$1,274,345.00 is anticipated to be \$15,963,640.00. The 2013/14 Budget does not include increases in rates for any City services. Mr. Ferrese recommended that the 2013/14 Budget be adopted.

Commissioner Coluzzi made a motion, seconded by Commissioner Sargent to adopt the budget that the City Manager has presented. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, except he recused himself on Line Item No. 10-108-5065, Zellers – aye, Hunker – aye.) Motion carried unanimously.

The 2013/14 Budget be placed on the City website as soon as possible.

CITY MANAGER’S REPORT

Mr. Ferrese recommended the approval of the Street Aid expenditures:

03/13/13	530	Delmarva Power	\$ 8,240.59 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the Street Aid expenditures as presented. Motion carried unanimously.

The City Manager’s report was deferred to the next Workshop Meeting.

COMMITTEE REPORT

There was none.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Gossett reminded the Commissioners that they have been invited by the City of Lewes to attend ethics training on March 28, 2013. On March 13, 2013, he has attended a Delaware League of Local Governments (DLLG) meeting at the US Capitol.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

The items were stated earlier in the meeting.

CITIZEN COMMENT

There was none.

The next Workshop Meeting will be held on April 8, 2013 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 11:00 p.m.

Respectfully submitted,

(Patricia Coluzzi, Secretary)