



have been sent to the owners of restaurants serving alcohol regarding the yearly inspection of their floor plans, and inspections have begun. The Board of Adjustment heard no cases in March.

### **PERMIT OF COMPLIANCE HEARING**

Mayor Cooper opened the Permit of Compliance hearing requested by Steven Rhone of Modern Mixture LLC to operate a new restaurant to be known as "Modern Mixture" pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215. The restaurant will be located at 62-A 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 March 27, 2013. Notice of today's Public Hearing was published in the Cape Gazette on April 2, 2013, Coast Press on April 3, 2013 and Delaware State News on April 4, 2013. 2. Building Inspector's Report dated April 12, 2013. 3. Application for a Restaurant Permit of Compliance, notarized on March 11, 2012 and received on March 14, 2013. 4. Menu. 5. Floor Plan and Notes, Sheet No. A1.1, dated March 12, 2013 and received March 14, 2013. 6. Property account record for 62-A Rehoboth Avenue. 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 has 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 1,716 square foot restaurant. The proposed bar area will be 60 square feet with a proposed ratio of bar to permanent seated dining of .10. In summary, this is an Application for an existing restaurant to add alcohol to its existing services. There is no patio proposed.

Mr. Steven Rhone of Modern Mixture LLC noted that he would like to grow the clientele. The idea is for the customer to order at the counter, and wait staff will provide table service. No disposable products will be used, only glassware and dinnerware.

There was no correspondence and no public comment.

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

Commissioner Mills 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 Mills made a motion, seconded by Commissioner Sargent, to issue the Certificate of Compliance to Modern Mixture LLC for the restaurant known as Modern Mixture located at 62-A Rehoboth Avenue. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried unanimously.

## **REPORT OF PLANNING COMMISSION**

Planning Commission Secretary Francis Markert presented the report of the Planning Commission. The Regular Meeting was held on April 12, 2013. The Planning Commission accepted the Building Inspector's report that the conditions set forth by the Planning Commission at the Public Hearing for a property located at 12 Rodney Street have been completed and the structure removed. The majority of the Commission's meeting was devoted to the educational program presented by Mr. Bryan Hall, Arborist, entitled "Trees vs. Construction: How can they best co-exist?" His presentation and the follow-up questions and discussions were of significant assistance to the Commission as it proceeds with the task assigned by the Board of Commissioners. A workshop meeting will be scheduled in the near future regarding the issue of trees.

## **OLD BUSINESS**

Mayor Cooper called to consider adoption of a revised Freedom of Information Act Policy for the City, and consider adoption of 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..

Mayor Cooper noted that one of the primary reasons for have a policy and ordinance is the fact that the State legislature and the Governor who signed the legislation last year, said that the City has to follow the State's guidelines for the costs for Freedom of Information Act (FOIA) requests unless the City codifies its own fee schedule.

City Solicitor Mandalas said that there have not been major changes to what was being charged previously, this would be an act to codify those fees. Suggested changes to the policy and administrative fees are:

1. "No recordings will be duplicated without authorization from the City Manager" was removed from the policy and is to be removed from the fee schedule.
2. Information was taken from the ordinance and inserted into the fee schedule rather than trying to figure out what a \$.15 record stored electrically is vs. something that will be printed.
3. Change "...in generating the copies (including, but not limited to, cassette tapes and computer discs costs) and administrative costs" to "...in generating the copies (including, but not limited to electronic storage media) and administrative costs."
4. Change Magnetic Tapes of Recorded Oral Dialogue to Recorded Oral Dialogue.
5. Change Computer Tapes of Stored Information to Computer-Generated Stored Information.
6. Change "Note: The cost for copies of portions of other documents not listed shall be stated in No. 1 above" to "Note: The cost for copies of portions of other documents not listed shall be stated above."

Commissioner Mills suggested that a statement should be added to the ordinance which references the General Information sheet and Administrative Fees. City Solicitor Mandalas said that under Section 3(A)(5) Computer/Electronically Generated, Subsection (a) would remain as is and Subsection (b) could be added that would track the language from the Administrative Fees schedule.

Adoption of the ordinance and approval of the policy and general information/administrative fees was deferred to the next Workshop Meeting for discussion.

## **NEW BUSINESS**

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

Commissioner Mills gave his presentation on household hazardous waste collection programs. The Lakes Report recommendation was that the City should implement a convenient in-City means for residents to dispose of environmentally hazardous waste, e.g. paints, solvents, engine oil, pesticides, herbicides, etc. The intent of this research was to address the possibility of Delaware Solid Waste Authority (DSWA) conducting household hazardous waste (HHW) collection event(s) in the City in order to give residents and property owners the opportunity to easily dispose of HHW. DSWA is the state agency responsible for conducting and overseeing HHW collections. It has conducted special collection events for electronics recycling and paper shredding in the City annually during the past four years. Starting July 1, 2013, future special collection events held in various locations around the state are intended to include HHW collection in addition to the standard electronics

recycling and paper shredding activities. DSWA had scheduled HHW collection behind the Fire Company on May 18, 2013 from 8:00 a.m. to 2:00 p.m. and electronics recycling and paper shredding on September 28, 2013 from 8:00 a.m. to 2:00 p.m. The City is conducting its annual cleanup for discards other than household trash from April 22 to May 3, 2013. The following items can be brought to a collection event: 1. Household. 2. Explosives. 3. Workshop. 4. Garden/yard. 5. Automotive. Helpful tips are to bring materials in original, sealed containers; do not mix products in one container; to prevent leakage or breakage, pack separately in absorbent material or triple bag; and bring rags to clean up any spills and dispose of rags at the collection site. Items not accepted are: 1. Friable asbestos. 2. Non-friable asbestos. 3. Unknown substances. 4. Radioactive waste. 5. Latex paint. 6. Containers with less than 1" of material. 7. Used motor oil. 8. Prescription medications. It is unlikely that special collection events will be scheduled more than once a year because past usage has not justified conducting them more often, and they are conducted by DSWA at considerable cost which includes general minimum setup costs added to the costs for disposal of the various collected materials. Sussex County has two single-day collection dates, both being held at the Jones Crossroads Landfill located mid-county. A listing of collection events can be found on the DSWA website at [www.dswa.com](http://www.dswa.com).

Mayor Cooper called to consider authorizing the Mayor to request the State Legislature to enact a proposed charter change that would rewrite Section 21A of the Rehoboth Beach Charter which section creates and regulates the City offices of Alderman and Assistant Alderman to bring this section into conformance with the desires of the State.

Mayor Cooper and City Solicitor Mandalas met with Mr. Allen Davis, Chief Magistrate for the State of Delaware and Ms. Lydia Prigg in the Governor's office who keeps track of nominations for Alderman and Assistant Alderman. There were concerns with the Charters of all the towns that have Aldermen. The proposed Charter change was drafted based on what Dewey Beach and Bethany Beach had passed. City Solicitor Mandalas noted that Mr. Davis has reviewed the proposed legislative act that would go to the General Assembly; and his comment was that it meets everything that the General Assembly would desire.

Commissioner Mills made a motion, seconded by Commissioner Sargent regarding a request for Charter change. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker - aye.) Motion carried unanimously.

## **CITY MANAGER'S REPORT**

(See attached report.)

City Manager Gregory Ferrese provided the status of numerous projects that were approved in the 2013/14 Budget: 1. ADA Ramping Project from Rodney Street to Queen Street will be completed by mid-June 2013 or sooner. 2. The Scarborough Avenue Extended bump-out will be completed by May 24, 2013. The residents of Scarborough Avenue Extended will purchase and install the landscaping. 3. Widening of 350 linear feet of Surf Avenue near Oak Avenue by 5 feet will be completed by the end of September 2013. Mr. Ferrese was advised by the engineer that this project could be started at the beginning of July 2013, but Mr. Ferrese would not recommend it. 4. Repairing and painting of fire hydrants in and out of the City will be completed by the end of October 2013. 5. Installation of two (2) large inlets on the ocean block of Brooklyn Avenue near the Boardwalk will be completed by the end of October 2013. These inlets will minimize flooding in that area. 6. Rehoboth Avenue Streetscape brick pavers will be repaired the week of April 22, 2013 from the Boardwalk to the round-about. This should take one (1) week. 7. Grove Park restrooms are in the process of being renovated and all work will be completed by May 24, 2013. New lighting, hand dryers, partitions, sinks, doors, commodes, urinals, etc. will be installed. 8. Continuation of the City's landscaping program around the Bandstand, Rehoboth Avenue restrooms and under twenty (20) memorial trees on the ocean block of Rehoboth Avenue will be completed by May 24, 2013. The Garden of the Navigators is on schedule. Brick pavers are currently being laid, and the compass is almost complete. The City Newsletter has been sent to the printer and will be mailed to the residents by mid-May 2013 or sooner. The Courtesy Notices have been ordered.

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

04/03/13	531	Delmarva Power	\$ 7,763.86 (Street Lights)
04/10/13	532	Delmarva Power	\$ 2,265.94 (Street Lights)

Commissioner Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the Street Aid expenditures as presented. Motion carried unanimously.

## **COMMITTEE REPORT**

Commissioner Mills, Chair of Communications Committee, reported on the status of facilitating home page news and supporting documents online. Mr. Ferrese, Ms. Womack, Mr. Max Hamby, Commissioner Gossett, Ms. Toni Sharp and Commissioner Mills attended a meeting to discuss these items. Home Page News would be located on the home page of the City website which would provide information such as a bulletin board. During discussion with the IT Department was that this would be a good program to try to incorporate into the new overhauled website, but currently it would be burdensome and would duplicate efforts. This item was deferred. Commissioner Gossett suggested that on the left navigation column, a new link, What's Happening, should be included. Commissioner Pat Coluzzi suggested that it be made bold and capitalized to capture the residents'/visitors' eye. There was also discussion regarding supporting documents and placing them on the website on a trial basis. Mr. Hamby and Ms. Womack will be working together on how to facilitate putting the support documents on the website. The Communications Committee was charged with developing recommendations for a policy for the users as a guide. The Committee has developed some recommendations, and they will be forwarded to Ms. Womack for her review and feedback.

#### **CITY SOLICITOR'S REPORT**

There was nothing to report.

#### **COMMISSIONER ANNOUNCEMENTS/COMMENTS**

Commissioner Coluzzi announced that Mr. Mike Peterman, Parking Department, has line all of the scooter parking areas. Paving has occurred behind the Fire House, and the scooter parking corral has been put in place. The signage has been put up. Signage will be worked on for the locations coming into the City. Thirteen scooter parking permits have been sold to date.

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

There was none.

#### **CITIZEN COMMENT**

Mr. Walter Brittingham, 123 Henlopen Avenue, noted that it is fortunate for the City to have Mr. Peterman working on the parking areas and signage. With regard to repainting fire hydrants, the Fire Department can tell by the color of the cap on the hydrant whether or not it has been inspected and working properly.

The next Workshop Meeting will be held on May 6, 2013 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 8:18 p.m.

**Respectfully submitted,**

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**(Patricia Coluzzi, Secretary)**