

\$31,433.99 for the month. One hundred one permit processing fees were received in the amount of \$2,020.00. No restaurant applications were received in April. Three stop work orders were issued for contractors working without licenses. One stop work order was issued for no barriers around a dumpster. Thirteen notices of violation were issued for putting trash out too early. One notice of violation was issued for exceeding maximum noise levels. Three notices of violation were issued for patio speakers. One notice of violation was issued for a damaged sidewalk. The Board of Adjustment heard two cases in April. There are eighteen restaurant inspections remaining to be performed. Two restaurants have not passed inspection, and the Building & Licensing Department is working with the owners to try to get those restaurants into conformance. At the beginning of this week, crews started mowing in Central Park. They will be returning the beginning of next week with sprayers. At Deer Park, the crews will spray chemicals first and then return with a smaller mower.

REPORT OF THE PLANNING COMMISSION

Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on May 11, 2012. The Planning Commission conducted the Public Hearing of a partitioning application for a property located at 200 Hickman Street. The Planning Commission voted to conditionally approve the partitioning. Final approval can occur upon the removal of those portions of the structure as specified in the application. The Planning Commission conducted the Preliminary Review of a partitioning application for a property located at 21 Queen Street. The Planning Commission voted to move the application to Public Hearing at its June Regular Meeting and recommended that the applicant provide additional information on those trees that will be and might be saved on the property should the partitioning be approved. Subsequent to the submission of the partitioning application, all structures on this property have been demolished with no loss of trees. The Planning Commission completed its review and approved final edits to two draft amendments to the City Code. The first is to better protect the City regarding bonding for major subdivisions. The second is a technical amendment to the definition of lots in regard to merged lots and their partitioning. The Planning Commission voted to authorize Chairman Littleton to do a final review and forward the Planning Commission's recommended code amendments to the Mayor and Commissioners once the edits had been inserted. The Planning Commission conducted a Workshop Meeting on May 12, 2012 to review the substantial research/resource material that it has assembled and the analyses carried out since its prior meeting, and to identify next steps. In accordance with the Board's resolution, the Planning Commission's second progress report provides more specific information. Commissioner Patrick Gossett was in attendance at the May 12, 2012 Workshop Meeting.

Mr. Bert Flickinger, 1011 King Charles Avenue, voiced concerned that he had received a letter with regard to the first meeting, but he did not receive any notices of subsequent meetings that the Planning Commission has held. Mr. Mellen noted that the Planning Commission has been charged with looking at the issue of the preservation of the City's lakes and the safety and environmental issues as has been recommended in the two preceding Comprehensive Development Plans (CDP) and specifically not to deal with the Lot 6 Silver Lane issue.

PUBLIC HEARING and consideration of a proposed ordinance that would impose a moratorium on the issuance of any permit or other approval for any construction within fifteen (15) feet of the ordinary high water mark of any fresh water body located or partially located within the municipal limits.

Commissioner Zellers recused herself from the public hearing.

City Solicitor Mandalas noted that the proposed Ordinance had been noticed in the Cape Gazette, Coast Press and Delaware State News, and posted in City Hall at least fifteen (15) days in advance of this Public Hearing. He read the proposed Ordinance. This Ordinance establishes a moratorium, effective immediately, on all new construction projects within fifteen (15) feet of the ordinary high water mark of any fresh water body within the municipal limits of the City. The purpose of this moratorium is to maintain the status quo while permitting a reasonable and appropriate amount of time for the Planning Commission and City Commissioners to further evaluate the matter, including the environmental impact of such construction and whether a permanent buffer is in the best interests of the City, and to take any actions deemed necessary and appropriate, including the preparation of a buffer ordinance and conducting any required public hearing or hearings upon such proposed ordinance and taking action, if any, upon such ordinance. This would effectively be a zoning change while it does not actually modify a provision within the zoning code, it is a regulation of private property and would be a zoning amendment.

Correspondence:

1. Letter dated May 17, 2012 from Martha L. Cochran, 1004 Scarborough Avenue Extended, asking that the elements of the moratorium be clarified. She supports reasonable setbacks and protective measures

- to improve the health and water quality of Silver Lake, and the thorough process the Planning Commission has undertaken to address these issues comprehensively. Ms. Cochran asked that the Board clarify that a safety railing set within an existing structure does not expand an existing structure and is not prohibited by the moratorium. She questioned whether the moratorium is warranted and whether it is fair, given the fact that it would impose restrictions on every property owner around Silver Lake except for the ongoing construction on Lot 6 Silver Lake Shores. Other questions were related to the choice of a setback from the ordinary high water mark at six (6) feet, the significance of the ordinary high water mark on Silver Lake as opposed to the low tide water line, determination of where the ordinary high water mark of six (6) feet is on an individual property, and what records the City will rely upon in determining the ordinary high water mark for property where the lake shoreline and property have been disturbed.
2. Letter dated May 9, 2012 from Vince Robertson, Esq. of the law firm Griffin & Hackett P.A., representing Ms. Melissa Thoroughgood, regarding Silver Lake and Thoroughgood Woods. Ms. Thoroughgood and other concerned individuals and groups have been expressing frustration over how properties along Silver Lake are being treated. The City is reacting to a single property by taking action against every other property along the lake. Her subdivision took approximately four years to get approved, and much of that time was spent analyzing the effect of the new lots upon the lake. Properties along Silver Lake are being treated. It is reasonable to assume that the City will likewise take a considerable amount of time to deal with the proposed buffer, as well. It is entirely unfair to prohibit property owners who have not created any problems along Silver Lake from the full use, enjoyment and development of their properties while the City undertakes its review of the buffer issue for an indefinite period of time. It is undisputed that the most significant points of runoff or drainage into the lake are not the surrounding private properties; but instead, the City has multiple point sources where storm drains direct untreated and unfiltered rainwater and runoff from roadways and other impervious surfaces directly into the lake. These drainage points are unaffected by wither the proposed moratorium or any buffers. Ms. Thoroughgood's subdivision deed description confirmed ownership to a point in the middle of Silver Lake. The end result of the subdivision was the imposition of a 10 foot No Mow Zone Buffer starting at the edge of Silver Lake on the lot nearest to the lake. The size of the buffer area is mitigated by the large net area of the lot which is more than 16, 500 square feet in size. It is inappropriate and entirely inequitable to impose a moratorium upon the construction of any improvements on the lot of Thoroughgood Woods nearest to Silver Lake. Given the scrutiny that this lot has received, it is entirely unfair, arbitrary and discriminatory to impose an additional five foot of buffer area upon it. Attorney Robertson, on behalf of Ms. Thoroughgood, requested that her property be exempted from the current moratorium and that the 10 foot buffer impose on Lot 3 in Thoroughgood Woods be allowed to remain unaffected by the current legislation that is being considered by the City for properties along Silver Lake.

Public Comment:

1. Mr. Bert Flickinger Jr., 1011 King Charles Avenue, voiced concern on how people can regulate something they do not own or are a part of. He concurred with the letters which were submitted. It is not fair to impose this on people's private property. He would like to be an exception when his dock has to be replaced. A lot of people are upset about someone ceasing their rights when no environmental has been done. Mr. Flickinger would like to have his attorney respond and have it read into the record in the future.
2. Mr. Peter Gambrill, 38232 Terrace Lane which is adjacent to Lot Nos. 8 & 9 Silver Lane, voiced concern with what can be built on the lots as it relates to the definition of the high water mark. Most of the properties on that side have bulkheads; and it would make to use the water line on the bulkhead as the line from which the setback would take place. He was in support of the moratorium. When the whole process is over with, Mr. Gambrill would support 15 feet or more permanently from a well-defined water's edge.

Mayor Cooper said that the six feet would fall on the face of the bulkhead. Mayor Cooper's thought was that if the water is at the bulkhead all the time, then the moratorium would be interpreted that the setback would take place from where the water meets the bulkhead. Commissioner Coluzzi said that the Building Inspector would make that decision, and that is what would happen.

Commissioner Hunker noted that the moratorium is for a brief period of time until the Planning Commission comes back with some permanent zoning changes.

Mayor Cooper said that if the Commissioners solve nothing else, it would be to better define or

know where the point to measure from is which is not contained definitively in any current ordinance.

Commissioner Coluzzi said that the Board charged the Planning Commission to do the research and come up with the suggested recommendations for an ordinance change. The Board asked the Planning Commission to do it within 90 days which will be June 22, 2012.

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

Commissioner Sargent said that if the Commissioners take any one property and make a clear exception to what the stated purpose of the moratorium is, then the Commissioners would have to do it for everybody. Commissioner Sargent would rather the Commissioners not respond favorably to Attorney Robertson's request to give the Thoroughgood property the right to build within 10 feet of the water line. Commissioner Hunker concurred. The moratorium is for a brief period of time that allows the Commissioners to find out what is fair and equitable. To grant something that has not been voted on, it opens the door to undermining what the Planning Commission will recommend after due diligence. Commissioner Coluzzi agreed. Making exceptions does not make sense for a short period of time.

Commissioner Mills said that the ordinance will stop structures from being built within a certain amount of feet. It allows for repairs of structures, but does not address or stop over-fertilizing or other toxins or contaminants from getting into the lake. Commissioner Mills pointed out the various properties which would be impacted by the moratorium. He was not comfortable with the 15 feet. Due diligence was done by the Planning Commission and has guided him to 10 foot buffers, once articulated in Attorney Robertson's letter and the other articulated in the Planning Commission's Progress Report No. 2. Commissioner Mills favored a 10 foot moratorium because it would restrict construction on the lake side of the line, and it has a greater impact in preserving what is there and maintaining a status quo than doing nothing because the lots that have a 10 foot rear setback and the few lots which may have a six foot side yard setback are allowed to have accessory structures a certain distance within those setbacks. A shed or other accessory structure could be put in up to four feet of the property line.

Commissioner Sargent said that moratorium would be stretched out more than 90 days, then the possibility of leaving it only at 10 feet would encourage people to quickly try to take advantage of that in case they would want to build something. The value of the moratorium is to do nothing until the Planning Commission has given the Commissioners something and to come up with the right number. If the Commissioners are to go to a number great than 10 feet, then he would not want the Commissioners to limit themselves to 10 feet on the moratorium.

Commissioner Gossett said that the Planning Commission's decision of the 10 foot buffer was specific to the Thoroughgood property. It was a myopic view of that tract of land. The decisions and the research which was done were specific to that area. The Commissioners are talking about a greater area of the lake, and there are more conditions to consider, a greater land mass and shoreline, and the five feet between 10 feet and 15 feet is not arbitrary. He did not believe that the 10 foot determined by the Planning Commission for the Thoroughgood property was arbitrary. This is a holistic view of the lake, health of the lake and the aesthetic value of the lake. Commissioner Gossett cautioned the Commissioners not to focus on one decision but to look at the breadth they are dealing with in regard to Silver Lake. Looking at a larger protection is what is needed for the Commissioners' particular issues that they are addressing.

Mayor Cooper appreciated Attorney Robertson's argument, but it is not inconceivable that information changes in four years. Setbacks need to be balanced with the environmental, aesthetic, etc. Ten feet is currently in the Code except for accessory structures. The moratorium was not his proposal, and he probably would not have proposed it. Mayor Cooper did not have a problem with the 15 feet, but someone may be able to convince him that this kind of a setback is needed. He would like to preserve that option.

Commissioner Gossett said that a precedent has been set in the sense of 10 feet. If the Commissioners were to change the moratorium to 10 feet, it would add credibility. Flexibility and protection is needed. There is evidence that setbacks around the lake are made specific to parcels of land. The Commissioners need to allow flexibility to look at that.

City Solicitor Mandalas recalled that the Thoroughgood subdivision was required to install bio-logs, etc. which made sense for the 10 foot buffer, and this is not required in the moratorium for other properties. He suggested that if the Commissioners are going to make an exception for safety railings, the exception should be made for all docks.

Commissioner Gossett thought that a railing to protect children is probably unwise in the sense that if

the child needs a railing, the child should not be on the dock. The Commissioners would need a tremendous safety reason to override the current policy. This policy stands as it should, certainly during the moratorium. There are no compelling reasons to change the ordinance.

Mayor Cooper thought there is an argument to be made that adding a railing is an increase in the non-conformity of a structure that the Commissioners would not allow to be built today. Absent the moratorium, would it have been allowed? City Solicitor Mandalas said that the building official has viewed this railing as an expansion of the structure. Mayor Cooper hoped that how the structures in the water are treated in going forward is part of what the Commissioners discuss.

Commissioner Gossett asked that, depending on specific lot requirements, structures in the lake are not on City property so how can a building permit be granted on something that is not part of the City.

Ms. Sullivan noted that there are quite a few docks which have railings. Mayor Cooper said that if the railing is going to be called a safety railing, it would need to meet the Building Code requirements. He guessed there are a lot of docks which look like they have safety railings that would not meet the Code. They would not classify as safety railings, but rather ornamentation.

Commissioner Coluzzi had mixed feelings about this issue. She would want to put up a railing to help prevent children from falling into the lake if she had a rental property.

Commissioner Pat Coluzzi made a motion, seconded by Commissioner Sargent, to adopt the ordinance before the Commissioners creating a moratorium on construction within a certain distance of the lakeshore. (Gossett – aye. He felt that the language brought forth on the moratorium is appropriate to allow the Planning Commission to give the Commissioners a protection until the Planning Commission brings back specific issues with specific language and a specific zoning ability to let the Commissioners work through this and deal with it with the information they have to work from. He did not want to do any disservice to any of the Commissioners, but the true knowledge that they need to depend on is with the Planning Commission. Sargent – aye. He thought Commissioners Hunker and Coluzzi both stated it well that the 15 feet is extremely reasonable given the fact that they are looking at a series of things which are good for the lake and good for the City ultimately. The 15 foot limit is very reasonable for a limited time period. Coluzzi – aye. She believed that a 15 foot setback is a flexibility to be at 15 feet is that is where it needs to be; and if it turns out to be less, so-be-it. It is reasonable. The Commissioners are now addressing what they should have done as far as the CDP is concerned, and she was happy that they are moving forward. Cooper – aye. He did not bring up the idea of a moratorium, but he thought that taking a pause in order for the Planning Commission to do its work is not a bad thing. The 15 feet is reasonable and is not overkill at this time; but as it has been stated, it gives the Commissioners the flexibility that if 10 feet is not enough, then there is 15 feet. Mayor Cooper looks forward to the discussion on the issues affecting the lake because there are a lot of impacts on the lakes. The Planning Commission is going to and the Commissioners need to get to the bottom of them and find out what really is important. This gives the Commissioners and the Planning Commission the breathing room to do that. It is just as important that it applies out into the waters as it does on the landside. The letter from Ms. Cochran brought up about an ordinary high water mark, etc., and the City Solicitor drafted that language. It is reasonable given the state the Commissioners are at, with the information they have, that that may not be the definition which will ultimately be used in a Code change; but what the City Solicitor had to work with at this point is totally reasonable. It may be somewhat arbitrary, but it was not totally arbitrary in the sense that it was based on information which he had available at this point in time. Mills – no. He favored a 10 foot setback. He also voted no for the reasons stated earlier. Zellers – recused. Hunker – aye. He believed that with what the Commissioners have been going through on the lake and other lakes which are in the purview, it is incumbent on the Commissioners to take this action while working on changing the zoning like the CDP asks the Commissioners to do and think of what is fair and equitable across the board for everybody on the lake. The letters all talk about Lot 6 Silver Lane. Everybody wanted to do something to stop the construction at Lot 6, but when the Commissioners are now taking some action to prevent a possible recurrence of it, people have come out and said “No not me”. Commissioner Hunker thought the Commissioners have to be the stewards of the City and the lake, and say that they need to study this. He did not know the comfort zone for five feet or 10 feet, but he believed what Commissioner Gossett said about the Planning Commission’s work that it will have to look at it as a whole; and that is the key. A particular house cannot be taken, it has to be taken across the board of what the mean would be and what would be good for the City. Commissioner Hunker will look forward to that discussion later on.) Motion carried, and the moratorium is imposed.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called for the presentation by and discussion with Rip Copithorn of GHD, the City's engineer, on the recently completed City of Rehoboth Beach Wastewater Treatment Plant Preliminary Engineering Report.

Commissioner Hunker said that because of a prior commitment he would have to leave the meeting early, but he wanted to let the Commissioners know that he is in full support of the ability to allow the City to ask the USDA, etc. with financing of this project. He in no way did not support this effort, project and the validity to pay for it.

Mayor Cooper noted the City has been under the consent order to remove the discharge for the City's wastewater from the canal. This November, the wastewater treatment plan would have been in operation for 25 years. It was thought to be prudent to also look at the various components at the treatment plant and the condition they are in, some of the processes, etc. A copy of the Wastewater Treatment Plant Preliminary Engineering Report was distributed to the Commissioners prior to the meeting.

Mr. Bob Stenger of Wastewater Department was in attendance at the meeting.

Mr. Rip Copithorn provided a brief review of what is in the Preliminary Engineering Report. This report consists of a condition assessment of the existing plant, what the alternatives analysis and cost estimate. Category 1 is rehabilitation needed immediately. Category 2 is rehabilitation needed within five to twenty years. Category 3 is rehabilitation for cosmetic reasons only. Category 4 is no rehabilitation required within the next twenty years. Consequences of failure are: 1. High. Could impact ability to meet discharge permit requirements. 2. Medium. Could increase operability/maintainability of plant. No immediate impact on ability to meet discharge permit requirements. 3. Low. Minimal impact to operability/maintainability of plant. No immediate impact on ability to meet discharge permit requirements. The report included recommendations for preliminary treatment, emergency storage, oxidation ditches, secondary clarifiers, disinfection, post aeration, sludge pumps, aerobic digestion, sludge thickening/dewatering, scum handling, chemical feed systems, plant drain system, power, structures, buildings and site. Mr. Copithorn provided filtration alternatives with advantages and disadvantages, and anticipated costs: Alt. F-1 - Cloth disc filters. Alt. F-2 - Continuous backwash filters. Alt. F-3 - Traveling bridge filters. He also provided biosolids treatment and disposal alternatives, and anticipated costs: Alt. B-1 - Liquid disposal of Class B biosolids product. Alt. B-2 - Autothermophilic Aerobic Digestion (ATAD). Alt. B-3 - Lime pasteurization. Alt. B-4 - Solids drying. Alt. B-5 - Outsourcing biosolids treatment and disposal. The project costs for Phase 1 upgrades with Category 1 issues and the biosolids would be unit process improvements (\$3,692,000.00), effluent filtration (\$1,722,000.00), biosolids treatment (\$8,452,000.00), electrical (\$3,317,000.00), buildings (\$2,177,000.00), escalate to 2015 (\$1,795,000.00), engineering – design (\$1,549,000.00), construction (\$1,058,000.00), and construction inspection (\$1,058,000.00). The total project cost would be \$24,820,000.00. Mr. Copithorn noted that this is a placeholder for USDA. The Facility Plan has been turned into a Preliminary Engineering Report which meets the criteria of USDA. The Environmental Assessment is a separate document which is ready to be submitted. The goal is to submit this package to USDA to get a commitment. The advantage is that USDA will hold for four years the 3.378% interest rate. All of the major issues are addressed with the Phase 1 upgrades. As long as the City is happy with the direction of this report, it can be submitted to USDA. The package will be ready to be submitted next week.

Mayor Cooper noted that the County will pay a 40% portion of the costs for this project. On May 11, 2012 when the report was received, a copy was sent to Mr. Mike Izzo of the County.

Commissioner Sargent made a motion, seconded by Commissioner Mills for the City Manager and Engineer to prepare the necessary documentation to get the funding commitment from USDA.

Commissioner Mills amended the motion to concurrently accept the draft report and use that as the foundation for applying for financing. Commissioner Sargent accepted the amendment.

Mayor Cooper noted that nothing the City applies to from USDA involves the outfall. USDA money is for 40 years. Mr. Copithorn has recommended that the City adopt a repayment schedule shorter than the 40 years because a lot of the improvements will not last 40 years.

(Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried.

The Preliminary Engineering Report will be placed on the City website for the public to view.

CITY MANAGER'S REPORT

(See attached report.)

City Manager Ferrese reported that the City has received the new beach cleaner which is currently being used. The old beach cleaner will be used as a backup. The ADA Ramping Program is complete, and a final inspection will be done on May 23, 2012. Mr. Ferrese intends to submit to the State for funding in order to continue with the ADA Ramping Project. The Delaware Avenue Restroom Upgrade Project is complete. The Competitive Energy Grant is complete. From this grant, the City was able to construct a new roof on the Municipal Building/Convention Center Complex and new lighting and windows in the Municipal Building. Minor improvements have been completed at the Senior Citizens' Center and Public Works facility. In regard to the Lake Avenue Upgrade Project, the City engineer has submitted the right-of-way and property boundaries plan to the State for its review. Parkmobile will be having a ribbon cutting in front of 306 Rehoboth Avenue (Building & Licensing Department) on May 24, 2012 at 11:00 a.m. which will mark the kick-off of the Parkmobile system. Parking meters are in effect beginning on May 25, 2012 at 10:00 a.m. through the second Sunday after Labor Day. The City of Rehoboth Beach Parking and Walking Guide has been delivered. Mr. Ferrese thanked Mayor Cooper and Commissioner Mills for their input in making this Guide the nicest ever. DART will kick-off the season with a press conference on May 24, 2012 at 10:00 a.m. at the Bandstand. The VFW will hold its Memorial Day celebration at the Bandstand on May 30, 2012 at 11:00 a.m. The 2012 City Newsletter will be mailed out the week of June 11, 2012 or sooner. The City will assist in the distribution of Main Street's 2012 Official Guide to Rehoboth Beach.

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

04/25/12	516	Delmarva Power	\$ 68.60 (Street Lights)
05/16/12	517	Delmarva Power	\$ 8,037.19 (Street Lights)

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

COMMITTEE REPORT

There were none.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that he and Mayor Cooper met with the owner of 2 St. Lawrence Street and his attorney. Progress was made during that meeting, and they are getting closer in finalizing the effort.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Gossett announced that Memorial Day Weekend, Parkmobile will be offering its ambassadors to be in the City with hats and t-shirts. Signs have been placed at all the change machines to show that Parkmobile is available. Ads will be placed in the Cape Gazette and Coast Press starting May 24, 2012, and radio ads will be running on WGMD about the availability of Parkmobile. Parkmobile will be sponsoring this in coordination with Rehoboth Beach/Dewey Beach Chamber of Commerce

Commissioner Zellers announced that the rain garden and baskets at Lake Gerar Bridge are planted and in place. Planting at Canal Bridge has not occurred to date. An estimate has been received, and the project is thought to be well within the budget. Commissioner Zellers will be contacting the City Manager to iron out the details. She thanked all the volunteers, City Manager, Commissioners, City employees and Envirotech.

Discuss items to include on future agendas.

An item to be discussed at the June 4, 2012 Workshop Meeting is Section 5(e) of the City Charter.

CITIZEN COMMENT

Mr. Walter Brittingham, 123 Henlopen Avenue, thought that the Ordinance which was proposed this evening was nice with the line numbers to be able refer to.

The Workshop Meeting will be held on June 4, 2012 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:31 p.m.

Respectfully submitted,

(Pat Coluzzi, Secretary)