

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

May 21, 2010

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 7:02 p.m. by Mayor Samuel R. Cooper on Friday, May 21, 2010 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

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

ROLL CALL

Present: Commissioner Bill Sargent
 Commissioner Pat Coluzzi
 Commissioner Kathy McGuiness
 Mayor Samuel R. Cooper
 Commissioner Dennis Barbour
 Commissioner Stan Mills

Absent: Commissioner Lorraine Zellers

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

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Kathy McGuiness, to approve the Agenda as amended with the deletion of the May 7, 2010 Workshop Meeting and Executive Session minutes. Motion carried unanimously.

CORRESPONDENCE

Correspondence received will be read when the Permit of Compliance Public Hearing portion of the meeting is held.

APPROVAL OF MINUTES

Minutes of the April 30, 2010 Regular Meeting were distributed prior to the meeting.

Commissioner Mills made a motion, seconded by Commissioner Pat Coluzzi, to approve the April 30, 2010 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

REPORT OF THE POLICE DEPARTMENT

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of April 2010. There were 27 criminal, 176 traffic and three civil charges made during the month. Six traffic crashes were investigated. The Dispatch Center handled 237 police incidents, 189 ambulance incidents, 55 fire incidents, 171 traffic stops, assisted other agencies 12 times during the month, and 9-1-1 calls totaling 459 were received. Twenty-three alarm incidents were responded to. Correspondence was sent out about shoplifting prevention tips, and the Police Department will be available to speak with any of the business owners regarding this issue. Today, the seasonal officers were out on the street, and bicycle training was being held. The Click it or ticket campaign will be held from May 23, 2010 to June 5, 2010. A press release was sent out in reference to a rental scam.

REPORT OF THE FIRE COMPANY

There was no report.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

City Solicitor Mandalas presented the report of the Building & Licensing Department for April 2010. During the month, 100 permits were issued for a value of work totaling \$1,707,347.69. Fees collected totaled \$42,665.41 for the month. One hundred eighteen permit processing fees were received in the amount of \$2,360.00. One restaurant application was received in April. Three stop work orders were issued for no permits and no licenses.

One stop work order was issued for no license. Three signs were confiscated from City property. One notice of violation was issued for merchandise on the Boardwalk. One notice of violation was issued for tall grass. The Board of Adjustment heard one case in April.

Ms. Bitsy Cochran, 27 Baltimore Avenue asked if the City actively investigates whether to the rental taxes are being paid. City Manager Gregory Ferrese said that Ms. Holly VanSciver in the Administrative Office has been handling this matter.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Darius Mansoori of Stingray Rock L.L.C., to expand the dining area of the restaurant "Stingray Sushi Bar & Asian Latino Grill" onto a patio and serve food and alcohol on the patio pursuant to the City of Rehoboth Beach Zoning Code, Section 270-19 – Use Restrictions. The restaurant is located at 59 Lake Avenue. Mayor Cooper noted the Permit of Compliance hearing procedures.

City Solicitor Mandalas presented a complete report of Building Inspector Terri Sullivan's findings based on the application and her knowledge of the Code. (See attached report.) The Applicants have 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 5,285.25 square foot restaurant with a total of 378 square feet for the proposed patio. In summary, this is an Application to add a patio to a restaurant whose liquor license has been transferred between owners since 1991.

City Solicitor Mandalas said that the restaurant is grandfathered and has never had a permit of compliance before. It has been transferred from owner to owner, and grandfathered since prior to 1991. The restaurant is currently operating as a legally non-conforming restaurant. The request is to expand the restaurant by adding a patio. Is that sort of expansion to expand the restaurant in that way, does it have to come into conformance with all of the zoning code. This restaurant does not comply with the zoning code with regard to the 5,000 square foot requirement. The bar area is 684 square feet with a ratio of bar to permanent seated dining of .29. That ratio cannot be more than .25 under the zoning code.

Mayor Cooper said that a non-conforming grandfathered restaurant has not been expanded without a variance.

Commissioner Mills said that the first step would be to get a variance. The restaurant will need to come into compliance to be considered for a special patio license. He would be hesitant to approve this tonight because the restaurant must be compliant. The alternative is to direct the applicant to the Board of Adjustment to seek a variance, and then come back to the Board of Commissioners.

Commissioner Sargent said that variances do not establish precedence.

Mr. Darius Mansoori gave his presentation. Mr. Mansoori noted that he is not looking to expand his restaurant. He is looking to use space outside of the restaurant to add 28 seats in a zen garden type of atmosphere. Mr. Mansoori has all intention to comply with the requirements to add a patio as stated in Section 270-19 of the Code. There was talk about expanding the dining area which was the issue if it is a non-compliant restaurant. He cited Section 215-7(B) and said that an existing restaurant or dinner theater which has a liquor license issued by the Alcohol Beverage Control Commission prior to June 14, 1991 is not required to obtain the certificate of compliance unless required as a condition of extension or modification of the premises. He is not extending or modifying the premises as stated in Section 215-1 under the permanent seated dining area. The square footage of the floor space of a dining patio as defined in Section 270-19(A)(1)(b) shall not be included as part of the permanent seated dining area or as part of the bar area. To use a patio outside of the restaurant basically does not add to the square footage of the permanent seating or the permanent bar area. It is its own entity and therefore has no bearing on the restaurant itself. It is not an expansion or a modification. The definition of modification as written in Section 215-11(B) of the Code means internal rearrangements limited to the interior walls of only that portion of the structure used for the restaurant or dinner theater purposes as shown on the floor plan on file with the City Manager. This shall not authorize the extension of the restaurant or dinner theater to be used in other parts of the structure not shown on the floor plan. Mr. Mansoori has no intention of modifying, expanding or changing the floor plan within the restaurant. To use the 720 square feet outside of the restaurant as a patio space would not be considered an expansion or modification. The square footage of the floor space of a dining patio as defined in Section 270-19(A)(1)(b) shall not be included as part of the permanent seated dining area or as part of the bar area. The 720 square feet does not expand or modify the restaurant in anyway whatsoever. The only necessary step to expand or use that area for seated dining would be to require a permit of compliance and not a variance for the extension of the square footage. The 5,000 square

foot limitation applies to all areas; however it does not include the patio area.

Commissioner Mills read Section 270-28 – limitations on size of restaurants. The area in a given building devoted to restaurant purposes where alcoholic liquor is consumed on the premises shall not be larger than 5,000 square feet of floor space including seated dining area, food storage and preparation area, passageways and entrance foyer, restrooms, dance floor, and bar area.

Mr. Mansoori said that the liquor license issued to the restaurant was issued before June 14, 1991 which essentially does not require the restaurant to comply to the 5,000 square foot requirements. The restaurant is grandfathered in which gives it a non-conforming use that legally allows him to have a liquor license, which he has now. Since Mr. Mansoori knew that there was going to be no modification to the building, he used an older drawing that just showed the perimeter and the internal square footage, and not the exact floor plan. With that floor plan, the bar area is another 12-15 seats as well as more dining in the lounge area which now is shown as four tables. The permanent seated dining issue had the floor plan been the exact floor plan within the restaurant, would put the percentage less than 25% and would conform within the ratio of seated dining to bar area. Mr. Mansoori would like to move towards a request for a variance to have seated dining on the patio area. The requirement from the ABCC is that there is no entrance in and out from the patio area. Access to the patio would be through the restaurant. Planters and a bamboo wall would be around the area. A little area off of the bar would be used for the seated dining and would not be used for waiting of guests to be seated. Smoking would not be allowed. The ratio is 71% food to 29% alcohol. Mr. Mansoori has support from the neighbors and the neighboring restaurant to embrace the changes that have been made over the past 2-3 years. Parking spaces would be eliminated. Mr. Mansoori reiterated what is not accurate on the plan, and he identified the seated sushi bar area. Four tables were taken out, and a seated sushi bar was put in. No liquor is served over the bar, but liquor is served to the bar. It is seated dining where the chefs prepare the food and pass it to the guests who are seated there. There are eight additional seated spaces within the bar area; and along the lounge area where meals are served, are 22 additional seats. The use of the patio does not add to the square footage of the permanent seated dining.

Correspondence:

1. Email received May 11, 2010 from Dr. Dagmar Henney, 34 Sussex Street, said that the Stingray has been a much better neighbor than any of the previous nightclubs at the location; however, he urged the Commissioners to show restraint when granting a business permission to serve alcohol on a deck or patio adjacent to a residential neighborhood. Dr. Henney suggested that the Commissioners at a minimum prohibit music, live performances, etc. and limit patio serving to no later than 9:00 to 10:00 p.m. Any patio restrictions should be conveyed to any future businesses at this location.
2. Email received May 11, 2010 from Mr. Gary Trosclair, 20 Lake Avenue, concurred with Dr. Henney's comments and hoped that the Commissioners will not grant permission for an outdoor patio at 59 Lake Avenue.

Public Comment:

1. Ms. Ruth Cope, 30 Lake Avenue – in support of.
2. Mr. Terry O'Brian, 31 Sussex Street, asked if the petitioner was to change his mind in the future and decide that a nightclub would be desirable, if there is anything in the permit restrictions that would prevent him from doing that; and if so, what the enforcement mechanism would be for making sure he could not do it. He did not understand how it cannot be an expansion when there is going to be additional seating. Mayor Cooper said that there are regulations in place for restaurants. Whether this is an extension or it is not, there is not a fine defined line between a nightclub and a restaurant. Commissioner Coluzzi said that the previous owner started the establishment out as a restaurant and became a nightclub, and there was nothing the City could do in terms of enforcement. There is no enforcement mechanism for making it a restaurant and not a nightclub.
3. Mr. Jack Musser, 31 Sussex Street, said that he was also speaking for his neighbor, Ms. Carol Schwartz. Both do not want the patio, and it should not be granted.
4. Ms. Bitsy Cochran, 27 Baltimore Avenue, expressed concern about proliferation of outdoor patios and noise.
5. Ms. Gloria Walls, 34 Lake Avenue, was not opposed to what Mr. Mansoori wants to do, but she asked the Commissioners to give a great deal of thought because there are a lot of patios popping up. The restaurant is already over the 5,000 square feet; and since it was grandfathered once, it can grow to 10,000 square feet. She would like the Commissioners to use some caution that if the restaurant would not stay as Mr. Mansoori's restaurant, something can be done if it goes to somebody else. She does

- not want a nightclub outside and across the street. Mayor Cooper said that typically a restaurant is grandfathered to what existed on the date of adoption of the ordinance and no more. Whatever the metrics are, then none of those can be greater than on the date the ordinance was passed.
6. Mr. Gregory Talcott, owner of the property at 59 Lake Avenue, said that Mr. Mansoor's request should be favorably considered. In addressing the concerns about a subsequent owner, the Code for a patio in Rehoboth is extremely restrictive regarding the hours allowed for any service, and what time it needs to be shut down and the deck entirely cleared. Mr. Talcott asked if he could get a copy of the inspector's calculations of the permanent seated dining area to the bar area.
 7. Ms. Jenny Barger said that Rehoboth Beach Main Street supports outdoor dining areas. Stingray has been a member since the restaurant's beginning, and is a great addition to the City. Main Street will support the patio area as a charming addition to downtown Rehoboth.
 8. Mr. Jack Musser, 31 Sussex Street, asked how many parking spaces would be lost. Commissioner Mills said that there is no requirement for a restaurant to have parking. Mayor Cooper said that two parking spaces would potentially be lost.
 9. Mr. Greg Talcott said that almost none of the area that Mr. Mansoor is looking at is parking. Possibly two parking spaces would be lost in front of the area he is looking to do. The restaurant supplies a 10,000 square foot parking lot.

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

Commissioner Mills identified the exhibits: 1. Notice of Public Hearing. 2. Application. 3. Building & Licensing Report dated May 14, 2010. 4. Existing Floor Plan dated 4/19/10 and received April 20, 2010. 5. Proposed New Floor Plan dated 4/19/10. 6. Menu. 7. Tax record. 8. Map indicating who was sent notices. Ms. Ann Womack, City Secretary, confirmed that the property owners within 200 feet had been notified.

Commissioner Mills asked if the Commissioners have to address the existing size of the restaurant and bring it into compliance before considering this Permit of Compliance request. He said that the size and limitation of the restaurant needed to be reiterated because this could potentially be tabled and sent to the Board of Adjustment. City Solicitor Mandalas said that this is one of the main issues. There has been some discussion of the definition about modification in Section 215-11 of the Code. In this definition, modification of the floor plan will only address the floor plan. The better definition to look to is the definition of restaurant in the Restaurant Code which includes the patio area. In his view, if the Applicant is adding a patio, it is expanding the restaurant. The Code talks about expanding a restaurant and not expanding the seated dining area. Under Section 215-7(2), any extensions and/or modifications of the premises of an existing restaurant or dinner theater regardless of the date that the said restaurant's or dinner theater's liquor license was approved or issued, creates a scenario where the provisions of the restaurant chapter become applicable. The provisions of the restaurant chapter require a Permit of Compliance. One of things the Commissioners are required to consider in granting a Permit of Compliance is under Section 215-5(B)(1), is whether the establishment meets all the City's applicable zoning and licensing provisions. This restaurant does not meeting the zoning provisions because it is greater than 5,000 square feet, and the proposed patio would be an extension of the restaurant. Once something is grandfathered, it is not grandfathered for all time. Typically, the law will favor a property coming in as a conformity. There are triggers within a Zoning Code that will move a property into conformance. If there is some ambiguity, a court will interpret the zoning provisions and move a non-conforming property into conformity. This expansion of the restaurant should move the property towards conformance with the Zoning Code. Mayor Cooper said that the City should operate to move it towards compliance.

City Solicitor Mandalas said that the examples which have been identified and discussed here and earlier with other restaurants, have typically followed the same path. The owners of the other restaurants went to the Board of Adjustment and requested a variance for whatever excesses as they viewed in the Zoning Code. Then they came before the Board of Commissioners for a Permit of Compliance.

Commissioner Barbour asked that to the extent anything the Board of Commissioners did were to be ambiguous, if it could be used as a precedent. He asked if the Board of Commissioners need to make a determination as to whether the patio is covered by the Restaurant Code or the Zoning Code. City Solicitor Mandalas said that as a municipal governing body, the Board of Commissioners has established the Board of Adjustment years ago. The Board of Commissioners granted certain powers to the Board of Adjustment; and that was to grant variances from zoning laws. His concern was that if Board of Commissioners would grant the Permit of Compliance tonight, it would in essence be granting a variance over the 5,000 square foot limitation, a power that the Board of Commissioner no longer upholds itself. City Solicitor Mandalas read Section 215-7 – Applicability. Under Subsection (A), the provisions of this section shall apply to (2) any extensions and/or modifications of the premises of the existing restaurant or dinner theater regardless of the date that the said

restaurant's or dinner theater's liquor license was approved or issued. The definition of restaurant in Chapter 215 reads that where alcoholic liquor is sold or consumed on the premises, is fully enclosed except where a special patio license has been granted for commercial establishments. The definition of restaurant includes the patio area. A patio is an extension of a restaurant. Both the Restaurant Code and the Zoning Code are applicable regarding the patio. An argument has been made that the addition of a patio is not an extension of the restaurant. The better argument is that the addition of a patio is an extension of a restaurant. When a restaurant is extended, provisions of the Restaurant Code become applicable, meaning that a whole Permit of Compliance is needed. One of the factors to be considered in granting a Permit of Compliance is whether the restaurant is compliant with the Zoning Code.

Commissioner Sargent said that the patio area would be an extension of the restaurant, and it violates the Zoning Code.

Commissioner Sargent made a motion, seconded by Commissioner Coluzzi, to deny the Certificate of Compliance on the basis that the restaurant exceeds the specifications for a conforming restaurant, the extension of the restaurant into the patio is prohibited by the Code because of its non-complying nature, and Section 215-7 makes this Application necessary to be in conformance with the Restaurant Code and the Zoning Code.

Commissioner Mills found the Code unclear in this matter. He read the special patio license as being a separate entity from the Permit of Compliance. The Code specifically talks about issuing a special patio license. Practice has been in the past when someone asks for a Permit of Compliance and for a patio, they are combined as one unit; but he reads the Code as two different entities, and they should be treated differently. It was not clear to Commissioner Mills that the Commissioners have to consider an existing Permit of Compliance in order to issue a special patio license.

City Solicitor Mandalas read from 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 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 concerning 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 regards 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.

Mayor Cooper said it is clear that the square footage of the total restaurant, and the bar percentage is a threshold standard. He did not think that it meets the general standards which are set out in the Code. Mayor Cooper could not see how this could not be found that the patio is clearly an extension of the premises. When seats are added inside or outside, it is an extension of the premises.

Commissioner McGuiness' concern was that the number of seats according to the Applicant was different from what was shown on the drawing. In her opinion, she did not know if a legal non-conformity could be expanded; and it sounded like the Applicant would need to go the route of getting a variance.

Commissioner Barbour said the issues are: 1. Whether the patio is an extension. 2. Whether or not the percentages are accurate. 3. Relating to zoning.

Commissioner Mills found that the Application is deficient in that the floor plan is not accurate because it does not include all the tables and chairs.

Mayor Cooper noted that the Applicant has said there is additional seating in the areas which would have been counted as bar area by the building official.

(Sargent – aye, Coluzzi – aye, McGuiness - aye, Cooper – aye, Barbour – aye, Mills – aye.) Motion carried unanimously, and the Certificate of Compliance was denied.

REPORT OF THE PLANNING COMMISSION

Vice Chair David Mellen presented the report of the Planning Commission. On May 14, 2010, the Planning

Commission conducted its Regular Meeting. The Public Hearing for Major Subdivision Application No. 0708-05 (the Oak Grove property) was continued from the April 9, 2010 Regular Meeting. The Planning Commission agreed to accept the Ad Hoc Committee's report and recommendations that the proposed dead-end street sufficiently satisfies the requirements for preservation of trees and other natural resources as required by the Code. Further recommendations were that four (4) conditions be set which relate to mitigation/replacement of trees identified to be preserved, should they suffer subsequent damage as a result of construction. These conditions are: 1. If any tree identified as being preserved as illustrated in Exhibit 1 is damaged or dies within a period of three (3) years from the date the site preparation illustrated on the approved plot plan is complete and the street is accepted by the City, such dead or damaged tree shall be replaced or treated in accordance with Section 253-32(F) of the City Code. 2. The Applicant shall prepare conservation easements to be approved by the Planning Commission for the preservation of the nine (9) trees illustrated in Exhibit 2. Any violation of the conservation easement resulting in death or damage to one or more of the trees shall be replaced or treated in accordance with Section 253-32(F) of the City Code. 3. The Applicant shall include a covenant within the subdivision's restrictive covenants to be approved by the Planning Commission for the preservation of the nine (9) trees illustrated in Exhibit 2. Any violation of the restrictive covenant resulting in death or damage to one or more of the trees shall be replaced or treated in accordance with Section 253-32(F) of the City Code. 4. Construction techniques for site preparation, to include utilities, roadway, stormwater and site grading, shall be reviewed and approved by the building official and city engineer to ensure best practices are observed for tree protection and preservation. This condition shall be included as a note on the recorded plot plan. Further discussion will be required related to actual street design. The Planning Commission addressed the issue related to the rear lot line configuration proposed by the Applicants and concluded that based on current wording of the Zoning Code, a variance would be required from the Board of Adjustment in order to proceed with the currently proposed lot layout. The proposed lot layout provides a reasonable compromise for the use of this property because the design helps to preserve much of the property's natural tree canopy resource. Other issues related to this Application will continue to be discussed while the Applicants proceed with a variance request on the rear lot line issue. The Public Hearing was closed and will be officially re-noticed prior to placing it on the next agenda. The Applicants of the Oak Grove property have filed a variance request with the Board of Adjustment, and that hearing will be held on June 28, 2010. The Planning Commission was made aware of the ongoing discussions related to the Tree Ordinance that have been undertaken by the Mayor and Commissioners at their recent meeting. The Planning Commission requested that it be permitted to review and comment on any proposed changes to the Tree Ordinance before they are offered. No new partitioning or subdivision requests were brought before the Planning Commission at this time.

OLD BUSINESS

Mayor Cooper called to discuss the proposed sign ordinance changes.

Commissioner McGuiness noted that a copy of the proposed changes resulting from City Mandala's discussion with Ms. Sullivan was distributed to the Commissioners prior to the meeting.

Commissioner Mills did not recall taking out the fee for the stickers. He asked what the purpose was for having a sticker on a real estate sign. Mayor Cooper thought that there was not a consensus on the annual fee. Commissioner McGuiness said that having a sticker on a real estate sign would ensure that it is a legal and permissible sign. Mayor Cooper said there are a number of real estate signs located around the City that do not conform to the Code. A fee of \$50.00 for a sign permit is located in the fee schedule in the Code.

A final review of the sign ordinance changes will be done at the June 7, 2010 Workshop Meeting. The draft of the proposed Sign Ordinance will be presented and a Resolution to set the Public Hearing will be considered at the June 18, 2010 Regular Meeting.

Mayor Cooper called to consider changing the Commissioners' normal Workshop Meeting date/time for reasons including but not limited to scheduling conflict(s).

Commissioner Mills said that the City belongs to the Delaware League of Local Governments (DLLG) and Sussex County Association of Towns (SCAT). Discussions have occurred with regard to changing the Workshop Meeting dates to allow the Commissioners to attend the majority of SCAT breakfast meetings which are typically held on the first Friday after the first Wednesday of the month. At the last meeting, the Commissioners basically came to a consensus of holding the Workshop Meetings on the first Monday after the first Friday of the month which is generally 11 days before the Regular Meeting.

Commissioner Mills made a motion, seconded by Commissioner McGuiness, to move the Commissioners' Workshop Meeting dates/times to the second Monday preceding the third Friday of the month at 9:00 a.m.

Commissioner Sargent said that the Commissioners have agreed that Mondays seem better than

Fridays for the Workshop Meetings. He asked if there is any chance that the Regular Meetings could be held on Mondays during the day. It seems that more people are in attendance at the morning meetings. He would prefer the first and third Mondays of each month for the meetings. Commissioner Barbour said that this issue regarding the meetings dates was raised 1½ to 2 years ago, and 50-60 people had sent in emails wanting the Regular Meetings to be held on Friday nights. This issue would have some validation if data is presented to indicate that the citizens would like the meetings on Mondays. Discussion ensued as to this matter. Mayor Cooper was not unhappy with having the meetings on the first and third Monday nights.

(Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – no, Mills – aye.) Motion carried.

Commissioner Mills made a motion, seconded by Commissioner McGuinness, to hold the first Workshop Meeting on June 7, 2010. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – no, Mills – aye.) Motion carried.

Commissioner Sargent asked if the issue of possibly moving the Regular Meetings on Monday mornings could be placed on the next agenda. Mayor Cooper and Commissioner Coluzzi were against this. Commissioner Coluzzi said there is no indication by the public that a change should happen, and data would be needed.

NEW BUSINESS

There was none.

CITY MANAGER'S REPORT

(See attached report.)

Mr. Ferrese reported that FEMA has approved reimbursement to the City in the amount of \$34,000.00 regarding the February snow event. The City will receive the check in July or August 2010. The improvements to the erosion problem on East Lake Drive will be completed by the first week of June 2010. The Museum Project will be completed by July 1, 2010. A second progress meeting will be held on May 26, 2010 at 9:00 a.m. Mr. Ferrese will be attending an Energy Grant Workshop in Dover, DE on June 8, 2010. The State will discuss the Competitive Grant Program. The City intends to submit a grant.

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

05/19/10	677	Delmarva Power	\$ 7,581.15 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to approve the Street Aid expenditures as presented. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – absent, Mills – aye.) Motion carried.

COMMITTEE REPORTS

Commissioner Mills, Boardwalk Committee, gave an update of Phase 2 of the Boardwalk Reconstruction Project to the Commissioners. The Boardwalk Committee has had no recent activity. The status of Phase 2 is that the final three blocks of the Boardwalk have been opened. There are still some small amenities to be completed such as adjusting lights, sand fencing and split rail fencing to be installed, etc. The ribbon-cutting ceremony has been scheduled for June 11, 2010 at 2:00 p.m. at Rehoboth Avenue and the Boardwalk.

Commissioner Coluzzi, Communications Committee, provided a preliminary report from the Committee concerning policies for the possible video recording and/or live broadcasting of City meetings over the internet. Of the members, there was a 50/50 split on live vs. delayed broadcasting. All members thought it should be archived, and the archival policy would follow the policy for retention of audio recordings. Questions and comments from non-attendees would not be entertained. The majority of members agreed that multiple cameras would be needed to provide live streaming for viewers, with desired views of the Commissioners, podium, audience and screen. The current audio setup is not sufficient for the needs of live streaming, and it should be upgraded. The current microphone will not be sufficient. Some folks on the Committee recommended that members spend some time researching live streaming in other municipalities. If a system is looked at which would require technology above and beyond the current proposal, it will most likely need to wait until the budget. The Committee will be meeting again in two weeks, and it will have a policy and report regarding recommendations that would be useful in terms of a system. If four cameras would be used, the screen would be split into quadrants. This is the type of system Sussex County uses. Using this type of system would increase the costs and would require more band width. The initial proposal is for a scalable system. Commissioner Coluzzi said that moving slower and going with a scalable system

with one camera makes more sense than purchasing four cameras from the beginning. All the members of the Committee agreed to have a button that would be pressed for the video cameras, but the meeting would not be stopped for the cameras to work. It would have to be addressed after the meeting..

Commissioner Barbour said that the Commissioners need to decide whether they want to do this and take a vote on it, then have all the people do this work, and then come back and make a decision about what options the Commissioners want.

Commissioner Coluzzi said that the Committee can come back and make a recommendation on what the policy should be. Then the Commissioners can decide as a group, whether it likes or does not like the policy.

Commissioner McGuiness said that the Commissioners should know whether or not to move forward before a policy is done. The policy can resemble the current meeting policy. Citizen comment could be provided through live broadcasting; and if there is a public hearing, then someone could text a Commissioner. She did not think that a few cameras are needed.

Commissioner Sargent said that the current audio system is not adequate, and technology for a very low cost could be married with the cameras to give high quality. If to get something that is significant will require too much money, then the policy does not help now. He would like a demonstration to be done. Commissioner Sargent thought that at least two cameras would be required. Mayor Cooper said that staff would be required to switch between the two cameras. Commissioner Sargent thought that there is software that would do that. Discussion ensued as to whether or not to move forward.

Commissioner McGuiness made a motion, seconded by Commissioner Barbour, to move forward with the video recording and/or live broadcasting of the City meetings over the internet; have the Communications Committee meet again with the company Futureworks and iron out some of the questions that the Commissioners have; and do a presentation at the Commissioners' next meeting. (Sargent – aye. Coluzzi – aye. McGuiness – aye. Cooper – abstain, because he did not have enough information to make a judgment at this point. Barbour – aye. Mills - aye.) Motion carried.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that in regard to the ER – Education/Residential zoning, Mr. Tim Willard, Esq. for the Cape Henlopen School District provided a draft. Mayor Cooper and City Solicitor Mandalas had minimal adjustments to it. Mayor Cooper said that he had suggested the easement to the school board. No matter what would happen in the future with the school property, the area immediately adjacent to Silver Lake would be protected. City Solicitor Mandalas will talk with Attorney Willard as to whether the suggestions are agreeable to the school board. If they are agreeable, then the Resolution to set the Public Hearing could possibly be placed on the June 18, 2010 agenda, and the Public Hearing could possibly be held in July 2010 at the earliest.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Mayor Cooper announced that the State PLUS Committee will be reviewing the City's Comprehensive Development Plan (CDP) on May 26, 2010 at 1:00 p.m. in Dover, DE. Mr. Timothy Spies and Mr. David Mellen will represent the Planning Commission. Mayor Cooper will also be in attendance.

Discuss items to include on future agendas.

Topic to be included on the agenda for the June 7, 2020 Workshop Meeting is the continuation of the discussion of revenue sources with input from the Chamber of Commerce and Main Street.

CITIZEN COMMENTS

There were none.

The Workshop Meeting will be held on June 7, 2010 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:18 p.m.

Respectfully submitted,

(Kathy McGuiness, Secretary)