

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

July 16, 2010

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 7:04 p.m. by Mayor Samuel R. Cooper on Friday, July 16, 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
 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 Lorraine Zellers, to approve the Agenda with deletion of approval of minutes. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

There were none.

REPORT OF THE POLICE DEPARTMENT

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of June 2010. There were 97 criminal, 276 traffic and 40 civil charges made during the month. Twenty-five traffic crashes were investigated. The Dispatch Center handled 585 police incidents, 279 ambulance incidents, 75 fire incidents, 466 traffic stops, assisted other agencies 15 times during the month, and 9-1-1 calls totaling 849 were received. Thirty-nine alarm incidents were responded to. Police Chief Banks reported that since the inception of the traffic circle in 2006, there have been a total of 10 accidents reported there. Before the traffic circle was put in, there were an average of 50 accidents per year in that area. The traffic circle has been beneficial in slowing down motorists entering the City. Changes are recommended to give better visibility to approaching vehicles in the traffic circles. The westbound view should appear more like the view from the eastbound side where there is not a lot of growth until right at the circle. This would include lower shrubs and plantings. The yield markings are starting to get faded and will be relined.

Commissioner Barbour said that pedestrians apparently avoid the circle because it is dangerous.

Commissioner Sargent noted it is not clear that motorists should yield to pedestrians when they are at the circle.

REPORT OF THE FIRE COMPANY

Mr. Chuck Snyder presented the report of the Rehoboth Beach Volunteer Fire Company. He reported that there were 75 fire calls and 279 EMS calls in June 2010. There have been 42 fire calls and 193 EMS calls to date in July for the month of June 2010. There are still some problems with delivery trucks blocking the streets and the EMS units having trouble accessing the calls. This issue has been brought to Mr. Snyder's attention by the EMS supervisor. During the fireworks on July 4, 2010, EMS calls were increased; and there were six ambulances in the City which were kept busy during the fireworks. After the fireworks, the Fire Company dispatched its trucks to a fire in Dewey Beach. The fire trucks were delayed in responding because of the gridlock in traffic from the fireworks. The Fire Company has concerns for future fireworks, and these concerns will be discussed with

Main Street. On July 5, 2010, the Fire Company responded to the first working fire in a condominium that completely burnt the unit out. The Fund Drive mailers have been sent out, and the Fire Company has been receiving donations. Currently, fundraising efforts are being worked. A bikini car wash will be held on July 21, 2010 from 12:00 p.m. to 4:00 p.m. at the firehouse. The Fire Company is holding a fundraiser at Aqua Grill on Baltimore Avenue, on July 17, 2010 from 5:00 p.m. to 7:00 p.m. During this weekend, training will be done on the new engine, and it is anticipated that the new engine will be in full service at the end of next week. The Fire Company has been finding rental units without working smoke detectors, and Mr. Snyder suggested to the realtors in the audience that they notify the landlords that working smoke detectors are required in the units. The Fire Company has free smoke detectors and batteries available at the firehouse.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for June 2010. During the month, 93 permits were issued for a value of work totaling \$972,346.98. Fees collected totaled \$24,026.36 for the month. Seventy-nine permit processing fees were received in the amount of \$1,580.00. One restaurant application was received in June. One stop work order was issued for a contractor working without a permit. Two stop work orders were issued for contractors working without permits and licenses. Five stop work orders were issued for contractors working without licenses. Three signs were confiscated from City property. One notice of violation was issued for tall grass. One notice of violation was issued for a temporary structure. One notice of violation was issued for conducting business on City property. Three notices of violation were issued for sidewalks in disrepair. The Board of Adjustment heard two cases in June.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Matthew Scheller of Atlantic Jazz Yard L.L.C., to operate a new restaurant with dining on two (2) patios to be known as "Atlantic Jazz Yard", to serve food and alcohol pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215 – Restaurants and Section 270-19 – Use Restrictions. The restaurant will be located at 37 Wilmington Avenue.

Mayor Cooper questioned whether this restaurant falls under the need to have a new Certificate of Compliance. This has not been done in the past, but there was a change to the ordinance on April 30, 2010. If the Commissioners changed the Code to require a new Certificate of Compliance such as in this case, then that was counter to what Mayor Cooper thought was done. This should be resolved before moving forward.

Commissioner Mills said that this situation reflects a change in business ownership, a transfer of a liquor license and the floor plans remain the same as the previous restaurant. He was not sure if this restaurant falls under the applicability criteria in the amendment to Section 215-7 of the Code that was adopted on April 30, 2010. Commissioner Mills has listened to the tapes April 9, 2010 Workshop Meeting and the April 30, 2010 Regular Meeting and reviewed the minutes of the March 5, 2010 and April 9, 2010 Workshop Meetings and the April 30, 2010 Regular Meeting to try to understand the intent of the changes the Commissioners made in April 2010. During the March 5, 2010 Workshop Meeting, it is clear that some of the Commissioners liked the thought of a restaurant with a transfer of name or ownership to come for a new Certificate of Compliance. At the conclusion of that discussion, City Solicitor Mandalas had said that with a straight change of ownership, Ms. Sullivan will report to the Commissioners or copies of the letters will be forwarded to the Commissioners. Commissioner McGuinness had said the triggers to bring them back for a Permit of Compliance are a new location, relocating, major or extensive modification of a floor plan or coming in for the first time for a liquor license. Commissioner Mills said that all new restaurants which intend to acquire a license from the Delaware Alcohol Beverage Control Commissioner means in a new space and applying for the first time for a license. It was Commissioner Mills' recollection that Mayor Cooper had a powerful enough argument with a change in ownership and the question was what the criteria is going to be for the Commissioners to evaluate a Permit of Compliance when it only a change in ownership and no change in floor plan. Commissioner Mills believed that the Commissioners had dropped this with the intent of a new restaurant or moving a restaurant from one location to another location.

City Solicitor Glenn Mandalas said the issue with this particular application is that the restaurant is legally non-conforming right now. If the new ordinance is interpreted to require the owners to come for a Permit of Compliance, they will need to come into compliance with all the zoning regulations which will be a significant change to the way they currently exist. If the provision, in the new ordinance where it says that all new restaurants or dinner theaters that intend to acquire a license from the Delaware Alcoholic Beverage Control Commissioner have to come for a Permit of Compliance, is interpreted to mean that a change in ownership

where nothing is changing about the restaurant is required to come in for a Permit of Compliance then the only way the Board of Commissioners can issue a Certificate of Compliance is if the restaurant is in compliance with all the zoning regulations. This restaurant is legally non-conforming, and presently it is not in conformance with all the zoning regulations. This applicant would have to make significant alterations to the restaurant to become compliant and to obtain a Certificate of Compliance.

Commissioner McGuiness thought that this restaurant is for a transfer of ownership.

Commissioner Zellers thought that if the restaurant is going to be transferred and the floor plan remains the same, it will go to the City Manager or to the Building Inspector to confirm that the floor plan is essentially the same; and this would not require the owner to come back for a Certificate of Compliance.

Commissioner Coluzzi did not see much difference between transferring a liquor license and getting a new one. City Solicitor Mandalas said that it is a more difficult process to get a new liquor license from ABCC than just a transfer.

Mayor Cooper did not think it should be up to the Commissioners to interpret the Code. If the City staff is given an interpretation by someone and the Commissioners are not happy with it, he did not think that it should be up to the Commissioners to change the Code or clarify it. This is a dangerous territory to be in, for the Commissioners to start interpreting the Code.

City Manager Gregory Ferrese thought that it would help City staff if the Commissioners would amend the ordinance. There would be clarification so this confusion would not occur again.

The consensus of the Commissioners was to clarify the language in this ordinance. The Applicant would not be subject to paying an additional fee. Mayor Cooper noted that the Applicants would need to come back to the Board of Commissioners if the ordinance is rewritten such that the interpretation which City staff has made is correct. Attorney Hal Dukes, representative of the Applicant, agreed to table the Application until after a decision has been reached by the Commissioners on this matter.

Mr. Matthew Scheller said that if the Commissioners reconvene next month and decide to clarify the intent, the Applicants would not need to comply with matter which concern the Zoning Code. Basically, the restaurant would be grandfathered in. City Solicitor Mandalas said that the restaurant could be operated as is currently operated.

Commissioner Mills made a motion, seconded by Commissioner McGuiness to table the Permit of Compliance Application before the Commissioners until they have a chance to review the Code and possibly make modifications. Motion carried unanimously.

City Solicitor Mandalas will prepare a draft ordinance for the August 9, 2010 Workshop Meeting.

REPORT OF THE PLANNING COMMISSION

Mr. Timothy Spies presented the report of the Planning Commission. On July 9, 2010, the Planning Commission conducted a Workshop Meeting. Mr. Ralph Reeb, Director of Planning, Delaware Department of Transportation, presented/discussed DelDOT's plans relative to improvements of the Rehoboth Park and Ride facility and roadways, and the possible future development of a "Destination Station" at this location by the Rehoboth Beach/Dewey Beach Chamber of Commerce under terms of a signed memorandum of agreement with the State. Mr. Reeb provided the Planning Commission with a copy of the MOU in advance of the Workshop Meeting. At the Regular Meeting held on July 9, 2010, the Planning Commission conducted the Preliminary Review of an application requesting the partitioning of a property located at 73 Park Avenue. The Planning Commission voted to move the application to Public Hearing. The Planning Commission conducted the Public Hearing of a major subdivision application for a property located at 43 Canal Street and 512 Rehoboth Avenue (Oak Grove property). The Planning Commission continued its review of the application as submitted March 19, 2010 and reviewed a report prepared by Mr. Kyle Gulbranson and Ms. Sullivan regarding on-street parking with the current subdivision design. The Planning Commission's discussion focused primarily on the right-of-way design, adequacy of on-street parking and pathways/sidewalks. A new partitioning application has been submitted for a property located at 2 St. Lawrence Street. The Planning Commission will conduct the Preliminary Review of this application at its August 13, 2010 Regular Meeting.

PUBLIC HEARING on a proposed ordinance amending Chapter 270, Article VII of the City Code that would make changes to the Zoning Code related to signs, with consideration of the ordinance after the close of the hearing.

City Solicitor Mandalas noted that the Commissioners had adopted the Resolution at the June 18, 2010

Regular Meeting setting a Public Hearing for this evening. All proper notification had been made. This is an ordinance to amend Chapter 270 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001 relating to sign regulations applicable in commercial zoning districts and enforcement of sign regulations. City Solicitor Mandalas read the "Whereas" clauses relating to the Ordinance.

Mayor Cooper opened the Public Hearing.

Public Comment:

1. Ms. Camilla Conlin, licensed realtor in the City of Rehoboth Beach, asked if this Ordinance will only apply to commercial districts or if this is going to apply to real estate for sale signs in the residential areas. Commissioner Coluzzi read the title of the ordinance. City Solicitor Mandalas said that in Section 270-68 – Enforcement, all real estate signs (rental and for sale) shall be required to have a sticker. However, the real estate signs may be transferrable from property to property. Section 270-68 – Enforcement applies to both commercial and residential districts. Mayor Cooper said that the section most touched in this Ordinance is Section 270-66 – Regulations applicable in a commercial district. Ms. Conlin voiced concern that once the sticker is put on the sign, it can only be used in Rehoboth. The realtors work in good faith with the aesthetics of the City. To bring the realtors into the sticker system will be logistically oppressive in this industry in general.
2. Mr. Bob Reed, Rehoboth and Olive Avenues, said that the Commissioners are essentially talking about a tax on real estate for sale signs. In principle, he has been opposed to any tax increases or new taxes during this time of economic duress. This is across the board on the City, County, State and Federal levels. Currently the City taxes all properties with an annual property tax. The City charges for its water and sewer services, trash service, building permits every time somebody improves a property, transfer tax every time a property is transferred and Mr. Reed encouraged the City to solve some fiscal problems by looking at ways to do what its doing more cost effectively and resist the urge to try to pull more money from the taxpayers. This tax would not be directly assessed to property owners, it would be directly assessed to realtors. Realtors pay a license tax in the City, plus the agents pay a license tax. Real estate signs are not permitted, and Mr. Reed did not see how putting stickers on them would be applicable.
3. Mr. Andrew Radner, business owner licensed in the City, asked why real estate are being singled out or it applies to all signs such as contractor signs, etc. Commissioner Mills noted that this ordinance applies to all signs. Mayor Cooper said that in regard to signs in a business, a permit is required to put up a sign. If the sign has a sticker on it, then Building & Licensing knows it has been permitted. If the sign does not have a sticker on it, there are reasons to question whether if it was permitted.
4. Mr. Allen Jarmin of Back to Business Center, voiced concern with the logistics of trying to keep track of which signs are stickered or not stickered, and where they can go. An entire set of signs will need to be just for Rehoboth. He asked if the City is going to hire an employee to check the real estate signs every week. It becomes what the City is making off of this vs. what it will cost the City to have someone enforce this. Mayor Cooper said that it would be up to the staff how it would be enforced.

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

Commissioner McGuiness commented that this Ordinance hopefully addresses the Building & Licensing Department's concerns and helps to clarify specific issues.

Commissioner McGuiness made a motion, seconded by Commissioner Barbour, to adopt the Ordinance amending Chapter 270 of the City Code relating to signs with the deletion of Lines 164-166 which are the two full sentences, "[A]ll real estate signs (rental and for sale) shall be required to have a sticker. However, the real estate signs may be transferrable from property to property."

Commissioner McGuiness saw requiring stickers for real estate signs (rental and for sale) as an unrealistic venue at this point for Building & Licensing to police.

Commissioner Barbour said that since it will be virtually impossible to do stickers, Building & Licensing should start implementing the \$10.00 permitting fee for real estate signs. Ms. Sullivan said that the stickers would help with the enforcement of that because the realtors would have to come in to get the stickers. Currently, she has no idea of what sign has been permitted.

Mayor Cooper believed that the realtors have cooperated to a certain level; but if the City is going to take on the real estate signs, this topic would need to be a discussion separate from the other signs.

Commissioner Mills agreed with removing the real estate signs. The sticker would really be a

management tool, and he was not sure that the City needs to manage the small frame-stake signs.

Commissioner Mills made a motion, seconded by Commissioner McGuiness to amend the original motion by changing the depth from 2.5 inches to 6 inches in Section 270-66(E)(2)(c) referencing ground or pole signs. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

(Sargent – aye, because he thought the real estate signs should be handled in a different portion of the Code; and if the Commissioners were going to put a restriction like this on, it should really apply to the Ordinance. Coluzzi – aye, because she agreed with what Commissioners Zellers, Barbour and Mills had said. McGuiness – aye, for the reasons she stated during the discussion. Cooper – aye, because these are changes that are warranted to allow some flexibility and ease of apportion. Barbour – aye, for the reasons that the previous ordinance was confusing and difficult to enforce. Mills – aye, for the reasons he articulated during the discussion. Zellers – aye, because it helps Building & Licensing, and it clarifies some issues that the Commissioners had with verbage and placement, etc.) Motion carried unanimously.

PUBLIC HEARING on a proposed ordinance amending Chapter 270 of the City Code that would create the zoning district ER – Educational/Residential and rezone the parcel of land occupied by the Rehoboth Elementary School from R-1 – Single Family Residence District to the new ER – Educational/Residential District.

City Solicitor Mandalas said that this is an Ordinance to amend Chapter 270 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001 relating to the creation of a new ER – Educational/Residential Zoning District and placing the Rehoboth Elementary School in this district. All proper notifications had been made. City Solicitor Mandalas read the “Whereas” clauses relating to the ordinance.

Mayor Cooper opened the Public Hearing.

Public Comment:

1. Mr. Tim Willard, Esq., representative of the Cape Henlopen School Board, said the School Board thinks this is a reasonable compromise that gives the City a nice park ultimately and gives the School District some option to have a little bounce from this. There is no intention of developing this property now or in the future. As part of the agreement, the Board of Commissioners has asked for an easement to preserve the land between the school and Silver Lake. This would be an environmental easement that the School Board would give to the City. The language is that this land could not be changed and must be preserved. In 2008, a survey was done with Kercher Engineering Inc. Apparently, the School Board was had conversations about safety and having to reopen a door for students and making it more of a main entrance. The School Board is asking if the Board of Commissioners will give it an additional 25 feet for flexibility. Mayor Cooper suggested as part of the negotiation, that the first 25 feet has some uses which the rest of it does not have. It could not be built on per se but could have walkways. Attorney Willard said that the school may need this for transportation and safety. Mayor Cooper said that in looking to the day when the school property might be sold, the further such things can be pushed away from the lake, the better. City Solicitor Mandalas recommended to leave the easement area as it is, but it would be written into the easement document, those sorts of uses that would be wanted or the type of structure that could be constructed in the first 25 feet. Attorney Willard said that the 25 feet would primarily be for transportation or security, so vehicles can get in there. There is no intention to build a structure because there is no room. The easement is not written in the Ordinance Commissioner Mills added that Commissioner Zellers, Mayor Cooper, Mr. Ferrese and he worked with the safe routes to school program and the conservation easement seems to disallow even sidewalks. It allows a boardwalk, nature trails, viewing platforms, and piers. Commissioner Mills hoped that this would allow those type of amenities to be put in, in the future.
2. Ms. Mable Granke, Scarborough Avenue Extended, said that because this Ordinance represents now as well as the future, she had questions which could be important. 1. The second “Whereas” clause is specific as to the fact that it would be educational/recreational/open space uses. She wanted to know if the purpose of this clause gives the ability and legality, in terms of the recreational use, of this land now. Mayor Cooper said that the school still retains the land so it controls the uses of it within the Zoning Code. It would be a School Board matter whether it would be open to the public for recreation. Ms. Granke noted: 2. Detailed discussion was held by the Planning Commission with regard to the matter of the 60/40 split. She asked if it would be appropriate for the “Whereas” clause to say that the City recognizes the Cape Henlopen School District’s and the State’s interests. Ms. Granke said that this needs to be thought about because she still does not know the precise matter in terms of how the land would be used. 3. In Section 270-15.1(D)(2)(f), the park parcel shall comprise one parcel that is

- no less than 75 feet in width at any point. Ms. Granke thought that the division was going to be 75% for the park aspect of the land and 25% for the residential. Mayor Cooper said the intent in that language, of which the figure came from the Planning Commission, was that the single piece which the City retains and becomes the park is no less than 75 feet in width at any point. Ms. Granke noted: 4. In Section 260-22(B), the ER (Educational facilities) will be a minimum lot are of 24 acres and will have a minimum lot width of 500 feet. She asked what was meant in terms of the park situation for the future. Mayor Cooper said that as long as it is used as an educational facility, the parcel has to be at least 24 acres. The conservation easement is not being adopted this evening because it has not been prepared.
3. Ms. Camilla Conlin of the Cape Henlopen School Board, said that the School District would be agreeable to have the language for a driveway so parents can drop off children and have security at the main entrance. The school is not interested in putting a structure or anything there. The Board of Education has a fiduciary responsibility to all the citizens of the Cape Henlopen School District. In cooperation with the City, it has an Ordinance which protects some of the value for the District in the event it would ever need another parcel of property.
 4. Mr. Bob Reed said that it would be nice if the functions and facilities on this site (City Hall) be moved to the land which the School Board has. He encouraged the Commissioners to consider what might be possible to free this site for uses that have to be in the center of the City, such as a theater facility, parking and parking garage, etc. A lot of the space that is currently required by the City to use on this parcel, can be moved out to the school site. This could go a long way towards making Rehoboth a nicer place to visit and would free up space for the arts.
 5. Mr. Richard Kirchhoff of Sixth Street, thought that it is great the Commissioners worked out a mutually acceptable arrangement with the School Board. He wished that the Commissioners had used the same amount of caring, interest and diligence in the Canal neighborhood rezoning.

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

Commissioner Mills had a conversation with Ms. Camilla Conlin about what happens if the property is going to sell and the right of first refusal. Ms. Conline said that the Cape Henlopen School District owns that property, and it participates with the State hand in hand. Whenever an asset of the District changes hands, if it is sold outright, the purchase is a 60% equity partner and the District is a 40% equity partner. When a school district abandons property, it is treated much the same way as when the State abandons property. First, the School District tells the State that it intends to abandon a piece of property that is owned by the School District, then the State has the first right to come in and take the property and cash out the School District's 40%. If the State does not have any interest in the property and it is in a municipality, the second place the School District goes is to the municipality. With the 25% which would be allowed to be developed under the ER zoning, the City will have the first option to buy it.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to adopt the Ordinance amending Chapter 270 of the City Code creating a new ER – Educational/Residential Zoning District and placing the Rehoboth Elementary School in this district.

City Solicitor Mandalas said that the easement is not part of the Ordinance. Mayor Cooper said that the School Board has negotiated in good faith, and he had no qualms about the easement being worked out.

(Sargent – aye, because he agreed with Commissioners Mills and Barbour; and this is an important way of preserving land so that it should always be open and free, and in large part for the residents of the town. Coluzzi – aye, for all the reasons stated by Commissioners Barbour and Mills. McGuinness – aye, for the reasons stated by Commissioners Mills and Barbour. Cooper – aye, because the Ordinance and the rezoning of the School property recognizes historical use of this property and the significant public interests that are interrelated between the School and the City, and their respective places in this society. Barbour – aye, because it preserves the future use of the property. Mills – aye, because it maintain land use for educational use, preserves recreational land and establishes through the use of the conservation easement, a protective buffer zone around the lake. Zellers – aye, for the reasons previously stated by her other colleagues on the Board; and it is time that this has happened; and it is a way of taking care of that land and making it available to future generations.) Motion carried unanimously.

Mayor Cooper said that his interest is to keep it a school; and to that extent, he will cooperate with the School Board in any way. The point is to preserve the land as open space and an enjoyable area for people, and it is not to see what other uses it can be put to.

PUBLIC HEARING on a proposed ordinance amending Chapter 270, Section 270-2 of the City Code that would adopt a new zoning map for the City, such map reflecting the rezoning of the Rehoboth Elementary School property and correcting the inadvertent omission of the lot at 807 Scarborough Avenue from the current zoning map.

City Solicitor Mandalas said that this is an Ordinance to amend Chapter 270 of the Municipal Code of the City of Rehoboth Beach by amending Section 270-2 relating to the official zoning map. All proper notifications had been made. The map does exist in its presence in full-size form for the public and the Commissioners to inspect if they care to. City Solicitor Mandalas read the Ordinance.

Mayor Cooper opened the Public Hearing.

There was no public comment.

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

City Solicitor Mandalas said that June 18, 2010 was the date the map was prepared in anticipation of the rezoning. Mayor Cooper said that July 16, 2010 is the adoption date, and June 18, 2010 will be the version of the map.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to adopt the Ordinance before the Commissioners which effectively adopts a new zoning map of the City. (Sargent – aye, for the reasons stated by Commissioner Barbour. Coluzzi – aye, for the reasons stated by Commissioner Barbour. McGuiness – aye, for the reasons stated by Commissioner Barbour. Cooper – aye, for the reasons stated. Barbour – aye, because an up-to-date and accurate zoning map is good for the future of the City; and it also reflects the zoning districts that are in the best interest of the City. Mills – aye, for the reasons previously stated. Zellers – aye. For the reasons previously stated.) Motion carried unanimously.

OLD BUSINESS

PRESENTATION by Bryan Hall of the State Planning Office on the status of the Tree Inventory Grant from DNREC, including a summary of the grant status, a report on the contractors who provided bids for the work, a discussion of the steps necessary to engage the contractor and modifications to the project's scope of work, with a possible vote by the Commissioners to hire the selected contractor. Bryan will also present findings on the City's current Tree Canopy Density with the possible discussion at an upcoming workshop meeting of setting future canopy goals.

Mr. Bryan Hall, Office of State Planning Coordination, distributed information regarding the contractors and bids for this project and a discussion about canopy density. In January 2010, the Office of State Planning Coordination in cooperation with City staff engaged in a grant process with Delaware Department of Natural Resources Environmental Control. Staff was successful in developing a grant application which was considered favorable by DNREC; and as a result, was awarded \$15,000.00 which is the allowable amount of monies available for this area of Sussex County. The City Manager has received a contract from the Secretary of DNREC as well as a copy of a purchase order dated June 21, 2010 which has identified that monies are available for the City to begin to draw down to set forth and engage a contractor to begin the process of assessing the various forest resources within the City. Mr. Hall presented the findings of the two bids which were received from the four contractors who were solicited. In January 2010, the discussions were to look at two basic projects. 1. Publicly owned tree inventory and assessment which would evaluate the current health and condition of those trees that are considered to be City property as well as identifying future planting locations throughout the City. 2. Assessment of forest canopy would be a holistic approach of evaluating the individual street trees and how all of this interacts, comes together and impacts the overall health and quality of life within the City. Davey Resource Group of Ohio provided a complete bid and estimate of \$4.49 per tree, and that would allow approximately 5,000 trees to be inventoried. The \$550.00 was the cost to implement or install a permanent plot throughout the City. Another bid summary was provided by Bartland Tree Experts. A bid quote was only provided for the individual City owned trees at a cost of \$6.50 per tree. A bid for a forest project was not submitted. Within the past six months, the Delaware Forest Service under the direction of the US Forest Service was required to develop a strategic plan, and that plan has been adopted by the US Forest Service. As part of that initiative, the State was required in conjunction with the federal government to do comprehensive urban forest assessments for all 57 local jurisdictions. The City would receive from either vendor an urban forestry management plan, summary of the status of various trees that are looked at, prioritization of maintenance activities and planting locations. Each tree will be identifiable. Both vendors use

GIS technology. Mr. Hall would like to have the opportunity to talk with the Commissioners at the August Workshop Meeting about the canopy study which factors in public and private trees. The street tree inventory

would be \$20,500.00; the urban canopy assessment would be approximately \$36,500.00; and the follow-up and maintenance assessment to the urban canopy would be approximately \$40,000.00. Mr. Hall recommended Davey Resource Group of Ohio with work to be performed by staff out of the Philadelphia office.

Commissioner Barbour made a motion, seconded by Commissioner Mills, to award the contract to Davey Resource Group at the bid price. (Sargent – aye, Coluzzi- aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mr. Hall will coordinate with Mayor Cooper and Mr. Ferrese regarding the canopy study and the August Workshop Meeting. He plans to follow-up with Mr. Ferrese and City staff to start moving forward with the process of scheduling the contractor and beginning discussion.

Mayor Cooper called to discuss and possibly act upon the recommendations from the State’s Preliminary Land Use Service (PLUS) review of the City’s adopted 2010 Comprehensive Development Plan.

Mayor Cooper noted that Mr. Timothy Spies, Mr. Dave Mellen and he went to Dover and met with Mr. Hall and other representatives. The City has everything necessary for certification. The State has made recommendations, and a copy of the recommendations was to Chairman Littleton of the Planning Commission. His feeling along with Mayor Cooper’s is get the CDP certified and add the recommendations to the CDP as an appendix. A letter will be sent to Ms. Connie Holland noting that the comments and recommendations have been received.

Mr. Hall said that the PLUS report does not identify any certification issues. Based upon the review, the Plan is warranted for certification. The last missing piece is a response to the PLUS report. As outlined in the PLUS report, all are recommendations. Some of the short-term recommendations can be considered either as part of the five-year update which would occur in 2015 and could occur as the Plan is revisited and utilized within the 5-year period. The Office of State Planning Coordination needs a letter of acknowledgement summarizing that the City has received the information and that City will be considering the information as part of the implementation of the Plan. Once that letter is received, it will be placed in Mr. Hall’s report to Governor Markell recommending certification of this Plan.

Commissioner Mills made a motion, seconded by Commissioner Sargent, that the City acknowledge to the Office of State Planning Coordination receipt of the comments and insert them in the Plan as Appendix B. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

NEW BUSINESS

Mayor Cooper called to consider an ordinance to amend Chapter 92 of the Municipal Code of the City of Rehoboth Beach by amending Section 92-65, codifying recent changes in the number and location of handicapped parking spaces.

Mayor Cooper drafted changes to the proposed Ordinance and made a field visit to the sites. Copies of the proposed Ordinance were distributed to the Commissioners. The proposed changes are:

1. Section 92-65(E). Delete this sub-section in its entirety and insert “[O]ne space located on Baltimore Avenue, first block, south side, Meter No. B33A.
2. Section 92-65(F). Delete this sub-section in its entirety and insert “[T]wo spaces located on the south side of Wilmington Avenue, first block, at the eastern end, Meter Nos. W70 and W71.
3. Section 92-65(P). Delete this sub-section in its entirety and insert “[T]wo spaces located on Rehoboth Avenue, third block, south side, just west of Second Street, Meter No. R-200, spaces 1 and 3.
4. Section 92-65(Q). Delete this sub-section in its entirety and insert “[T]wo spaces located on Rehoboth Avenue, first block, north side, just east of First Street, Meter No. R-15, spaces 2 and 3.
5. Section 92-65(R). Delete this sub-section in its entirety and insert “[T]wo spaces located on Baltimore Avenue, first block, north side, near the Boardwalk, Meter Nos. B76A and B77.
6. Section 92-65(S). Delete this sub-section in its entirety and insert “[F]our spaces located on Maryland Avenue, first block, south side, near the Boardwalk, Meter Nos. M48, M49, M50 and M51.
7. Section 92-65(T). Delete this sub-section in its entirety and insert “[O]ne space located on Grenoble, first block, south side, Meter No. G3, space 4.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to adopt the Ordinance as presented regarding Chapter 92 – Handicapped parking. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mayor Cooper called discuss recent developments and potential impacts on the City of the proposed construction of Destination Station near the intersection of Route 1 and 1A.

Commissioner Barbour provided context for this discussion. From his perspective, there are two sets of issues: 1. Process. 2. Issues relating to the merits of the project and its actual impact on the City itself. Commissioner Barbour's principle concern remains to be the process which has been followed by the parties involved which are DelDOT and Rehoboth Beach/Dewey Beach Chamber of Commerce. A meeting was held in April 2008 in the Convention Center; and at that point, people were concerned about the land swap which was going to occur and the idea of the Destination Station Project. He recalled that at the conclusion of this meeting, people were told that they would be involved in the process. Recently, the Commissioners were informed of a Memorandum of Understanding (MOU) that had been arranged between DelDOT and the Chamber of Commerce on a Thursday evening, and the public announcement was made on the following Friday. The MOU provides the basis for DelDOT working with the Chamber of Commerce in not only developing Destination Station, but also making improvements to Park & Ride. Monies in the amount of \$1,000,000.00 has been set aside for improvements to Park & Ride. Park & Ride is not going to suspend those until 30 months after Destination Station is looking for funding. The City and the Board of Commissioners were not involved in any significant way. The City was not sought out for its input. It was presented in a Workshop Meeting of the Planning Commission on July 9, 2010. The issue of the process was discussed. Commissioner Barbour had the distinct impression that this project is on a fast track and is moving forward; and the Chamber of Commerce had already put out Requests for Proposals (RFP) to get contractors to work with them in putting together the design. The City has been left out of the process on the merits. There is a significant impact on traffic flow in and out of the City. DelDOT has not yet done a traffic flow study. DelDOT is partnering with the Chamber of Commerce to go ahead with this on a fast track without even knowing the impact it may have on the City. A presentation was made by Mr. Reeb on July 9, 2010 that went into a number of details about the project. The entrance and exit for the buses coming in and out of that area are planned for the same location which is across from the island which was built to either come into Rehoboth or go south to Dewey Beach. That is one example of the issues of planning and the impact of this project on the City and people coming here that basically has not been considered. Personally, Commissioner Barbour is not necessarily opposed to this project, but the City has been left out of the planning. If the City would be involved, it could potentially make this a better project. Elements to this project are being overlooked which are critical, i.e. improving the transportation from outside of the City, inside the City, jitneys, etc., and this may give the Commissioners an opportunity to look at those options. This may be looked at in a more holistic way so that it is meeting the needs of the City, Chamber of Commerce and DelDOT. If the City does not get involved in this now, it will have lost a really important opportunity to make this project work for everybody.

Commissioner Coluzzi said that it is unfortunate there was not a working relationship with the Chamber of Commerce, DelDOT and the City. It would nice to move forward together on something like this to see how it would affect the City.

Ms. Carol Everhart of the Rehoboth Beach/Dewey Beach Chamber of Commerce noted that Destination Station was founded by the Chamber, and it is its own private 501C3 entity and has its own board. Commissioner McGuinness suggested that the Destination Station board should come and give a power point presentation and answer some questions.

Commissioner Barbour read his proposed motion that the Commissioners send a letter to DelDOT, Sussex County, State of Delaware Office of Planning and Rehoboth Beach/Dewey Beach Chamber of Commerce indicating their belief that the process to date concerning plans for the Destination Station site could have been more inclusive, in particular in obtaining the views of the citizens of Rehoboth Beach and its elected officials; that the City requires more information regarding the project from the Federal and State governments to better understand the impact of it and authorizes the co-chairs of the Streets and Transportation Committee to request such information; that the City Commission expeditiously invite the Chamber, DelDOT and the County to a meeting of the City Commissioners for the purpose of briefing the Commission on the project and discussing its potential impact on the City; and based on information obtained from the above, that the City Commission make whatever recommendations necessary to protect the interests of the citizens of Rehoboth Beach.

Commissioner Mills was in attendance for a portion of the July 9, 2010 Planning Commission Workshop Meeting. The MOU is a notice that the City is potential going to buy a piece of property, but it does not mean this will happen. At this point, some of this is premature. The chances of Destination Station raising the money are 50/50. There is a long way to go before the monies will likely appear. At that time, would be the time to announce it is eminent to start paying attention. There would presentations to County Council for permitting, site plan review, traffic impacts, etc. That is the time to be aggressive and follow this. Commissioner Mills

could not support Commissioner Barbour's proposed motion. At the July 9, 2010 Planning Commission Workshop Meeting, concern was expressed about the change in the traffic flow patterns. His recollection was that regardless of whether Destination Station goes forward or not, the traffic management plan and traffic routing will be changing at some point. DeIDOT is waiting to see if Destination Station is moving forward so the two projects could be concurrent and overlap each other.

Mr. Timothy Spies did not think this is too soon at all. The last that was heard about Destination Station was during the April 2008 land swap meeting, and it was noticed just for a land swap meeting and never mentioned as Destination Station. Then there was the surprise announcement by the Chamber of Commerce in May 2010. DeIDOT will not call a meeting. Mr. Spies suspects that the Chamber of Commerce is not going to call a meeting. It is not too soon to start talking about this project. Mr. Spies noted that Mr. Reeb was insistent that no traffic impact studies will be carried out before he has a proposal. A traffic impact study needs to be done now. One of the strong points of the past two CDP has been intergovernmental coordination; and it just has not been happening with the City and the County for whatever reasons. This would be a good step in the right direction.

Mayor Cooper said that DeIDOT has a desire to change the way it routes the buses, regardless of whether Destination Station goes forward or not.

Commissioner Mills recalled Mr. Reeb saying that at the time Destination Station goes forward and applications are made to the County, traffic studies would be implemented at that time.

Ms. Mable Granke said that this does not just involve the City of Rehoboth, but it involves all of the community east of Park & Ride in terms of the impact of them and the impact of Route 1 itself. This is a critical intersection which is not operating properly right now. Purchase of the Wright automobile site for Park & Ride will also impact this and is connected to this in terms of the kind of planning that is taking place. The City needs to know what is going to happen because all of this impacts not only the City but everyone who has to traverse Route 1. Ms. Granke is a member of the Citizens' Coalition, and it believes that this impact along Route 1 is devastating from the standpoint of any potential of regional planning. The City needs to be a part of regional planning if coastal Sussex County and the coastal towns are going to survive. This is not premature and information is needed.

Ms. Carol Everhart was sure that there are going to be many presentations. She has read the CDP and is having a hard time understanding why this does not match it. It clearly says that the City's main role in traffic and parking is to invite more people into the City whether they are walking or biking. People should be encouraged to leave their vehicles outside of the City. These projects were developed to encourage people to leave their vehicles elsewhere, take transit into the City and walk around the City just for that reason. Destination Station is mentioned on Page 63 of the CDP. The Chamber and the City have the same goal to encourage use of mass transit and encourage people to walk and bike around the City.

Ms. Kate Wheatley of the Rehoboth Beach/Dewey Beach Chamber of Commerce Board and Destination Station Board, clarified that DeIDOT will begin construction in Fall 2010 on the changes to the traffic flow whether Destination Station is there or not. The ingress and egress from the City of Rehoboth is not to change. The only change in the traffic flow is to and from the Park & Ride property, and how buses would be re-routed on the property, and exiting and entering the property. The 500,000 visitors to Destination Station would be from the visitors who already come to this entire area. The City has all the information that the Chamber has right now. The main purpose of the MOU was to give Destination Station the legal standing to go to corporations to raise funds from; and they needed to know that there is a long-term site which they are investing in and a place for the project to built. There are no drawings, and there is not design to be shown. If the Commissioners have questions, those questions can be presented in a letter to the Destination Station Board, and it will try to answer those questions. The main purpose of Destination Station is to being year-round attraction to the area, to help better move traffic, and to provide an education outlet for energy and technology to the visitor, resident and students.

Commissioner Barbour made a motion, seconded by Commissioner Coluzzi, that the City Commissioners send a letter to DeIDOT, Sussex County, State of Delaware Office of Planning and Rehoboth Beach/Dewey Beach Chamber of Commerce indicating their belief that the process to date concerning plans for the Destination Station site could have been more inclusive, in particular in obtaining the views of the citizens of Rehoboth Beach and its elected officials; that the City requires more information regarding the project from the Federal and State governments to better understand the impact of it and authorizes the co-chairs of the Streets and Transportation Committee to request such information; that the City Commission expeditiously invite the Chamber, DeIDOT and the County to a meeting of the City Commissioners for the purpose of briefing the

Commission on the project and discussing its potential impact on the City; and based on information obtained from the above, that the City Commission make whatever recommendations necessary to protect the interests of the citizens of Rehoboth Beach.

Mayor Cooper said that it would be very good to have a meeting at this point to get the information out there. He was concerned that it going to be poisoned by what has happened to date. Mayor Cooper did not understand the value of the first paragraph and he did not support the fourth paragraph. He suggested that the City has a lot of questions and concerns in this area, and it would like to be informed of what is going on and what has gone on.

Commissioner Barbour suggested that the co-chairs of the Transportation Committee should try to coordinate the meeting.

Commissioner Mills did not support the way this motion is worded. More information is needed, and he thought the Mayor should give the formal invite.

Mr. Ferrese suggested that the Mayor should send a letter and have the meeting.

Mr. Bob Reed agreed that the City needs to be involved with this project.

Commissioner Coluzzi said that it would make more sense for Mayor Cooper to write the letter as soon as possible to hold a scheduled meeting. The parties to be invited would be DelDOT, Destination Station Board, Chamber Board, County, etc.

Commissioner Barbour withdrew his motion.

Commissioner Coluzzi made a motion, seconded by Commissioner McGuiness that Mayor Cooper write the letter expressing the Commissioners' interest to meet with DelDOT, Destination Station Board and Chamber of Commerce Board, County and Office of State Planning Coordination on August 9, 2010 to discuss what is known as Destination Station and related traffic. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

There were no Street Aid expenditures.

(See attached report.)

Mr. Ferrese reported that the City received authorization from the State to advertise for solar panels at 306 Rehoboth Avenue. Plans and specifications are being prepared, and it is anticipated that bidding this project will occur in late August 2010 or sooner. The City also submitted two grant applications to the State Energy Department to install energy conservation measures at the Municipal Building Complex, Senior Citizens' Center, Public Works Building and Wastewater Treatment Plant Administrative Building. The grant awards will be announced during the first week of September 2010. The Museum Project will be completed by July 30, 2010. Mr. Ferrese was notified by the City's Workman's Compensation carrier that the City will realize a savings of \$40,441.00 from July 1, 2010 to July 1, 2011. Mr. Ferrese was also notified by the City's liability insurance carrier that the premium from July 1, 2010 to July 1, 2011 will be \$194,228.00. The City budgeted \$209,317.00. In the Parks & Recreation Department, participation numbers are higher than in previous years. Children's activities are scheduled on Monday, Tuesday, Wednesday and Friday throughout the summer.

COMMITTEE REPORTS

Mayor Cooper called for the report of the Communications Committee to consider adoption of a policy to promote the submission of supporting documents to the Chair of a Commission, Board or Committee, where possible, at the same time an item is requested for inclusion on the agenda.

Mayor Cooper acknowledged receiving a letter dated July 14, 2010 from the Chair of Planning Commission, asking the Commissioners to defer action on this item until the Planning Commission has had a chance to evaluate and weigh in as to how this would affect it.

Commissioner Coluzzi, Chair of the Communications Committee, said there was consensus within the Committee that it would be useful to have a policy for submission of supporting documents. This would be considered a housekeeping type of thing and would promote getting information out. Commissioner Coluzzi read the summary. The policy itself is the individual who requests that an item be included on the agenda, shall email all available supporting electronic materials to the Chair of the appropriate Commission, Board or

Committee and/or shall deliver non-electronic materials to the Commission, Board or Committee members and to the City Secretary. The Chair or his/her designee shall post online any supporting materials in electronic form at the same time and date the agenda is posted. If supporting documents are only available in hard-copy at the office of the City Secretary, the Chair shall indicate same online when posting the meeting agenda.

Commissioner Barbour said that an incredible burden is placed on the volunteers in this City, the people who serve on Committees. What the Commissioners are asking them for is another step in administration that they have to take on themselves. If the City wants to hire some administrative support help, that would be fine. These Committees are their own secretaries and they do all their own work. To impose this is a burden without any benefit. Discussion ensued as to people not having access to information.

Commissioner Mills thought this policy would provide a benefit to the citizenry and this Board. It provides an extra opportunity for the public and the City officials to see the documents at a sufficient time before a meeting to be able to provide comments.

Mayor Cooper said that typically ideas are brought to the Workshop, and he did not think that there needs to be huge public exposure. He did not think that one Commissioner's work product or thoughts should be put out there as the City's product. Mayor Cooper said that a website policy is needed.

Commissioner McGuiness said that it has to be official and go through the City. There needs to be some gates for it to go through.

Commissioner Barbour requested that the Committee should have an informal discussion with other Chairs to get feedback from them. Coluzzi will return to the Committee for further discussion on this topic.

Commissioner Barbour, co-chair of Streets and Transportation Committee, noted that the Committee held its first meeting this morning. All members took assignments, and the Committee will be meeting next month.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

There was nothing to report.

Discuss items to include on future agendas.

There were none.

CITIZEN COMMENTS

There were none.

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

There being no further business, Mayor Cooper declared the meeting adjourned at 10:49 p.m.

Respectfully submitted,

(Kathy McGuiness, Secretary)