

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

July 20, 2012

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 7:01 p.m. by Mayor Samuel R. Cooper on Friday, July 20, 2012 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Mayor Cooper requested a moment of silence for Mr. Roger Poole who served the City for a number of years as Commissioner and on the Board of Assessment.

City Solicitor Glenn Mandalas gave the invocation that was followed by the Pledge of Allegiance.

ROLL CALL

Present:	Commissioner	Patrick Gossett
	Commissioner	Bill Sargent
	Commissioner	Pat Coluzzi
	Mayor	Samuel R. Cooper
	Commissioner	Stan Mills
	Commissioner	Lorraine Zellers
	Commissioner	Mark Hunker

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 the deletion of the July 9, 2012 Workshop Meeting minutes. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the May 7, 2012 Workshop Meeting and June 15, 2012 Regular Meeting were distributed prior to the meeting. Minutes of the July 9, 2012 Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the May 7, 2012 Mayor and Commissioners Workshop Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the June 15, 2012 Mayor and Commissioners Regular 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 June 2012. There were 71 criminal, 281 traffic and 101 civil charges made during the month. Thirty-three traffic crashes were investigated. Sixty-three arrests were made, and 240 warnings were issued for bicycle violation during the month. The Dispatch Center handled 749 police incidents, 332 ambulance incidents, 87 fire incidents, 464 traffic stops, assisted other agencies 16 times during the month, and 9-1-1 calls totaling 648 were received. Thirty-three alarm incidents were responded to.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Fire Chief Harry Miller thanked everyone for continued support to the Police Department. The Fire Company has always worked well with it; and if there are any problems, please notify him.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for June 2012. During the month 70 permits were issued for a value of work totaling \$1,568,730.80. Fees collected totaled \$32,396.91 for the month. Sixty-nine permit processing fees were received in the amount of \$1,380.00. One restaurant application was received in June. One stop work order was issued for a contractor working without a license. Two notices of violation were issued for putting trash out too early. Two notices of violation were issued for freestanding signs. One notice of violation was issued for defacing a sidewalk. One notice of violation was issued for a flag too low. Two notices of violation were issued for temporary banners. Four notices of violation were issued for tall grass. Three notices of violation were issued for patio speakers. Two notices of violation were issued for blinking signs. One notice of violation was issued for obstruction of a sidewalk. One notice of violation was issued for live entertainment on a patio. The Board of Adjustment heard two cases in June. In addition, Ms. Sullivan is currently in the process of working on the special flood hazardous area and sending letters out to persons in that affected area.

PERMIT OF COMPLIANCE HEARING

Mayor Cooper opened the Permit of Compliance hearing requested by Michael Rodriguez of KNMAR LLC to operate a new restaurant to be known as "Debackle", pursuant to the City of Rehoboth Beach Municipal Code, Chapter 215. The restaurant is located at 20 Baltimore Avenue. Mayor Cooper noted the Public Hearing procedures for this hearing.

City Solicitor Mandalas identified the exhibits: 1. Notice of Public Hearing posted by the City Secretary on June 27, 2012. Notice of today's Public Hearing was published in the Cape Gazette on July 3, 2012, Coast Press on July 4, 2012 and Delaware State News on July 5, 2012. 2. Building Inspector's Report dated July 6, 2012. 3. Application for a Restaurant Permit of Compliance, notarized and received on June 12, 2012. 4. Menu received on June 12, 2012. 5. Basement Floor Plan dated August 26, 2008 and received on June 12, 2012. 6. Plaza Plan received on June 12, 2012.

City Solicitor Mandalas noted the purpose of the hearing, and he read from Section 215-5 of the Code that in reaching their decision, the Commissioners shall consider the following factors including but not limited to:

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

Building Inspector Sullivan presented a complete report, and her findings were based on the application and her knowledge of the Code. (See attached report.) The Applicant has stated that the approximate percentage of revenue between the sale of alcohol and food is 20% alcohol and 80% food. The Application is for a 4,641 square foot restaurant with a patio of 204 square feet. The proposed bar area will be 329.5 square feet with a proposed ratio of bar to permanent seated dining of 15%. In summary, this is an Application to open a new restaurant at 20 Baltimore Avenue using the same floor plan. The liquor license was unable to be transferred because the previous restaurant moved with it.

Mr. Michael Rodriguez and Ms. Debra Holmes of KNMAR LLC were in attendance at the meeting. Mr. Rodriguez said that they will try to have a more family oriented restaurant. They will have a Happy Hour, but the emphasis will be on food. They are excited to add a high quality level of food to Baltimore Avenue. Mr. Rodriguez hoped to be a positive influence on the community. There will be seating on the stage. There are three entrances to the restaurant which consist of a service area, the main entrance and the front entrance of the theatre. There are ramps and a handicapped entrance with an elevator.

Commissioner Mills noted that defining the patio with a confining barrier may be condition of the Permit of Compliance. Commissioner Mills assumed that the Applicant was advised of the patio use restrictions, and he noted that there is no dance floor shown on the drawings. Changes to the floor plan are spelled out in the Restaurant Code. He voiced concern that some people who live in the area were mindful of the loud music largely coming out of the side door of a previous restaurant and people causing

commotion in the street.

Commissioner Hunker was the owner of a restaurant previously located at this location. As a condition of the Permit of Compliance, he was required to define the patio area to show where service stopped. Planter boxes with tall plants were used to define that area.

There was no correspondence.

Public Comment:

1. Mr. Larry Carroll, 20 Maryland Avenue, asked where the trash from the restaurant will be located. The dumpster from a previous restaurant was located 150 yards across a parking lot which abuts his property. The food which was placed in the dumpster caused him to not be able to use his backyard or open windows to his house.

Mr. Rodriguez has had a dumpster delivered in the parking lot and placed behind Mr. Carroll's garage. He has ordered the trash company to put locks on the dumpster so no one can get in it but his restaurant employees.

Mayor Cooper suggested that if this becomes a problem, then Mr. Carroll should inform the Building & Licensing office.

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

Commissioner Mills found the following to be true:

1. The proper Application has been filed.
2. The proper fee has been paid.
3. The proper notifications have been made.
4. All parties wishing to be heard have been heard.
5. The primary purpose is that of a restaurant.
6. The Application meets the City's applicable zoning and licensing provisions.
7. The restaurant would not be a detriment to the peace, order and quiet of the neighborhood and the City.
8. The restaurant will not have an adverse impact on neighboring properties or on the City of Rehoboth Beach considering the impact of traffic, parking and noise.
9. The Applicant has made no false statements to the City employees or Commissioners.

Commissioner Mills made a motion, seconded by Commissioner Bill Sargent, to issue a Certificate of Compliance to KNMAR LLC for the restaurant Debaule to be located at 20 Baltimore Avenue subject to the condition that the Applicant install a barrier to define the patio to limit the area used by the patrons. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

REPORT OF THE PLANNING COMMISSION

(See attached report.)

Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on July 13, 2012. The Planning Commission granted final approval for a property located at 200 Hickman Street. The Planning Commission reviewed a working draft of its Lakes Report and discussed each of the proposed recommendations. With the incorporation of the Commission's changes, the draft can be updated and the exhibits and references inserted. The Planning Commission decided that rather than proceeding with the preparation of specific ordinances, it would be best to meet with the Board of Commissioners to discuss the report and its recommendations in order to determine the possible next steps. Once the draft is finalized, the Planning Commission will request that a joint meeting be scheduled with the Board of Commissioners. The Commission was informed that a new partitioning application has been received for a property located at 12 Rodney Street. The Preliminary Review will be scheduled for the August 10, 2012 Regular Meeting.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called to consider award of contract for a new Tractor in the Water Department for which bids were received and opened on July 10, 2012.

City Manager Gregory Ferrese noted that sealed bids were open on July 10, 2012 for the purchase of a new tractor in the Water Department. Taylor Messick's base bid was in the amount of \$29,000.00 and trade-in of the 1992 tractor was in the amount of \$23,000.00. A Bid Bond was not submitted as required in the advertisement. Atlantic Tractor's base bid was in the amount of \$30,178.58 with a trade-in in the amount of \$23,176.58. A Bid Bond was submitted. It was recommended by the Mr. Bill Schuyler, City Mechanic, that the bid from Atlantic Tractor in the amount of \$23,176.58 be awarded. The City would trade-in the 1992 John Deere tractor. Monies have been budgeted in the amount of \$32,000.00 towards this purchase.

Commissioner Mark Hunker made a motion, seconded by Commissioner Sargent, to reject the low bid of Taylor Messick because a Bid Bond was not submitted and to accept the bid from Atlantic Tractor in the amount of \$23,176.58 for the purchase of a new tractor. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

Mayor Cooper called to appoint the Inspector of Elections and two Judges to serve as the election officials for the annual municipal election to be held on August 11, 2012.

Mayor Cooper recommended the appointments of Mr. Way Steele as Inspector of Elections, Mrs. Nancy Meadows as Judge and Mr. Steve Elkins as Judge.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to accept the nominations of the people previously mentioned as election officials. Motion carried unanimously.

Mayor Cooper called to consider an ordinance to amend Section 10-1 of the City Code to increase the fee for a returned check.

Mayor Cooper noted that City Code set the fee at \$15.00 for a returned check by the bank as uncollectible or for any reason. The fee is charged to the person who gives the City the check. It has been the policy of the City to charge \$30.00. The City Manager has spoken with the County with regard to this fee, and he is in agreement that \$30.00 is fair.

Commissioner Mills made a motion, seconded by Commission Pat Coluzzi, to adopt the Ordinance amending Chapter 10 of the City Code. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

(See attached report.)

City Manager Ferrese reported that he is looking at funding sources pertaining to the Canal Bank Geotechnical Evaluation which relates to the construction of the wall and walkway to the canal. He is hoping to get approval by October 2012, if not sooner. Today, the draft of the Emergency Operations Plan being prepared by Mr. Clay Stamp was reviewed. The final operations plan will be completed by the end of September 2012 or sooner. The City Hall Complex Master Plan Task Force will be meeting on August 8, 2012 at 9:00 a.m. Rehoboth Beach has been chosen by the Travel Channel for their episode called "Amazing Boardwalks". Filming will take place on August 4 and 5, 2012 in conjunction with the sandcastle contest, beach cleaning operations, beach patrol, etc. The City received \$22,899.04 in restricted Municipal Street Aid funds that will be used towards the ADA Ramping Project. Monies in the amount of \$54,000.00 have been budgeted, and currently the City has \$76,000.00 for this project. Mr. Ferrese is anticipating that Senator Bunting and Representative Schwartzkopf will allocate monies towards this project. The project will begin in late Fall 2012.

Commissioner Hunker noted that NPR did a story on David Rowell, an editor of the Washington Post and his memories of Rehoboth Beach. He would like this story to be included on the City website and forwarded to Main Street and Rehoboth Beach/Dewey Beach Chamber of Commerce.

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

07/11/12	519	Delmarva Power	\$ 66.01 (Street Lights)
06/20/12	520	Delmarva Power	\$ 7,877.27 (Street Lights)
07/18/12	521	Guardian Companies	\$ 22,899.04 (ADA Ramping Project)

Mr. Ferrese explained that every year the City receives Municipal Street Aid monies. Last year, restricted monies in the amount of \$22,899.04 were allocated with the priority being ADA ramping. There are other

items under Municipal Street Aid which the monies can be used for, but this is a priority with the City. Mr. Ferrese received a letter last week allocating monies in the amount of \$22,899.04 for the ADA Ramping Project which will begin in late Fall 2012.

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

Mayor Cooper also noted that Municipal Street Aid is money that is in the bond bill of the State. Municipal Street Aid began in the 1950's or 1960's. There is a broad category of things that the monies can be used for. He was part of the Committee that recommended to DelDOT and the Governor that the funding be increased. The Committee agreed to accept restrictions that would be spent only on paving and actual improvements not on police, etc. Forty percent of the amount is distributed on population in the municipality, and 60% on the mileage of the streets that are not State maintained. The City and other coastal communities count the population at the number of people who can vote in a municipal election.

COMMITTEE REPORT

Commissioner Coluzzi, Chair of Streets & Transportation Committee gave a presentation regarding scooter parking and other parking related matters and discussed recommendations regarding in-road pedestrian/traffic alert devices. The Committee meeting was held on July 13, 2012. One of the items on the agenda was to address scooter parking. It has become evident that there is an issue with the number of scooter in the City and where they can park. The Committee is looking to try to do some short-term fixes this season and a long-term plan. The long-term plan will not be addressed this evening, but it is anticipated the plan will be ready for next year. With regard to short-term fixes, the Committee would like to find two areas in the City for parking scooters. Commissioner Coluzzi provided photographs of areas that were looked at. One area that could be potentially used for scooter parking is located in front of Patrician Towers on Olive Avenue. Commissioner Sargent photographed different areas for potential scooter parking on Olive, Baltimore, Maryland and Virginia Avenues. Commissioner Gossett had photographed of Martin's Lawn as a possible location on the south side of the City. Baltimore Avenue has a high concentration of scooters.

Commissioner Mills was more interested in a long-term plan, not short-term fixes. The Commissioners should not rush into something. He would like to deliberate more on it. The Committee should check with Patrician Towers because of the loading zone and recycling containers in the area. With regard to scooter parking on Baltimore Avenue, there are certain fire zones and restrictions. He thought that places could be found in the residential areas on Sussex Street and Maryland and Olive Avenues. Testing could be done in one to two hours with putting tape down and getting 10 scooters to see if they fit.

Mr. Harry Miller noted that the Fire Marshal's office requires that the area in front of the Sands be left open. The City, Fire Marshal's office and Fire Department agreed to the two areas at the Sands so there would be room to back in the aerial fire apparatus to rescue people or make access to people who are on the upper floors.

Commissioner Hunker said that the issue with scooter parking in the commercial areas. A test is needed on a short-term basis. One or two areas need to be selected in the downtown area in order for the scooters to park safely and get them off the street. Education is needed to get this done. He has seen certain 30-minute metered parking spaces that are often empty and could possibly be used for scooter parking.

Mayor Cooper said that discussion is needed about whether it is permissible for scooters to park on sidewalks. The City needs to provide scooter parking spaces, but there will have to be a limit to what can be accepted. He did not mind trying the test areas if there is a commitment the Commissioners will address this issue in the larger sense. His goal is to get the scooters off the sidewalks. No motorized vehicles should be on the sidewalks.

Commissioner Coluzzi acknowledged that with regard to the functionality of the scooter parking areas, there would be individually marked spaces. Scooters should not be able to park just anywhere such as sidewalks. The Committee's thought is that next year, anything which is motorized should pay for parking by either a meter, permit, etc. These details would need to be worked out.

Commissioner Sargent said that if a short-term test area would be done, he would take an aerial photograph and mark separate scooter parking spaces with the thought that there may be meters in the future. One vehicle parking space could be tested also as a scooter parking space.

Mayor Cooper said that in the choice locations, there should be some effort to create turnover through

paying. Employees who ride scooters should not be parking at the Boardwalk and Rehoboth Avenue all day.

Commissioner Zellers said that the scooters need to be managed on the City's terms. It is reasonable to do a test to see how it will work for scooter parking. Regulations and how the scooters should park, etc. need to be looked at.

Commissioner Gossett agreed that a test needs to be done. In the City Code, there are 39 specific callouts for non-parking in fire lanes. He proposed to use two isolated spaces which are metered on Baltimore Avenue to use as scooter parking. A mid-block location would add safety and offer a better alternative to purely test the feasibility of the spot. Approximately 10 to 12 scooters could be parked in those spaces. Commissioner Gossett suggested that scooter parking could be provided at Martin's Lawn as an option for the south side of the City with the concept of having five to six scooters face each other.

Ms. Megan Gardner of Blue Moon, 35 Baltimore Avenue, noted that approximately half of the doorman's time is devoted to dealing with people who drive and park scooters on the sidewalk, in driveways, etc. It is a hazard.

Mr. Howard Menaker, 16 Dover Street, asked if it is legal for scooters to park on the sidewalk. Mr. Ferrese noted that scooters have been allowed to park at the bike racks and on the bump-outs in the streetscape. Commissioner Zellers said that in Section 92-28 of the City Code, it says that no vehicle shall be parked upon any sidewalk, crosswalk, street intersection, public lawn, curb or drainage course. Vehicle is not defined. Mr. Menaker thought that part of the long-term solution could be available scooter parking and enforcement of the Code.

Commissioner Coluzzi noted that the Committee is committed to develop a long-term plan. This matter will be addressed at future meetings.

Police Chief Banks voiced concern with how to enforce scooters so they do not park on the sidewalks and at or near bike racks because the bike racks are generally located near fire hydrants at the Boardwalk.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that there should be no motorized devices on the sidewalks year-round or in fire lanes. There needs to be a definition for scooters, etc. The electric scooters should not be allowed on the sidewalks.

Commissioner Gossett voiced concern on how motor vehicle and vehicle is defined. This needs to be reviewed by the Committee.

After a lengthy discussion with regard to this topic, the majority of the Commissioners agreed to move forward with test areas for scooter parking as long as there is a long-term commitment. Commissioners Coluzzi, Sargent and Zellers will work with Mr. Ferrese to set up two test spaces on Baltimore Avenue, one angled test space on Wilmington Avenue and a test space on Martin's Lawn along with signs to actively monitor the spaces.

Commissioner Coluzzi called to discuss Committee recommendations regarding in-road pedestrian/traffic alert devices. Recommendations were made by the Committee to have these devices installed and tested at Oak and Surf Avenues, Philadelphia Street and King Charles Avenue, and First Street and Olive Avenue. These devices would be placed at crosswalks and not in the intersections.

Mayor Cooper noted that First Street north of Philadelphia Street is not wide enough for placement of these devices. He suggested placement of a device at Laurel Street and King Charles Avenue. Commissioners Coluzzi and Sargent agreed to that placement.

Commissioner Mills voiced concern with regard to delivery trucks and making sure they are accommodated. He suggested that devices could possibly be placed on the outbound side across from Catchers and in front of City Hall at the crosswalks on Rehoboth Avenue.

Mayor Cooper noted that the devices will narrow the width of the travel lanes on the streets. They are approximately one foot wide.

Commissioner Hunker said that the idea is to make vehicles slow down. Putting the devices on a wide road and not traveled would be missing the point of trying to make the devices work. They need to be installed in a location where there is traffic and parking. The idea is to make people safe.

Mr. Walter Brittingham said that with manpower restrictions in the Police Department, people are not even given tickets when parking over the line on First Street. There are not enough policemen on the street to do it.

To put these devices on First Street is ridiculous. He suggested trying a device at Laurel Street near the Catholic Church.

Mr. Harry Miller agreed that First Street is too narrow. The base of the device is one foot wide, and the arms are approximately six inches on each side of the double yellow line. Engine No. 9 is nine foot wide. The fire engines prefer to straddle the centerline for safety reasons. There are streets in the City which do not meet mandatory lane or parking widths. Mr. Miller suggested using cones and a fire engine in an area to provide a test. He is in favor of the testing the devices, but not doing damage to property or injuring someone because staying close to parked vehicles.

After discussion, the majority of the Commissioners agreed to move forward with test areas for the devices on the south side of the intersection at Laurel Street and King Charles Avenue, and Surf and Oak Avenues. The only caveat would be to make sure the devices are not positioned behind a vehicle that has to back out and would be located in the crosswalks that are close enough to the intersection to avoid any vehicles. The devices would be attached to the street.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that with regard to 2 St. Lawrence Street, he expects to forward a proposed ordinance to the Commissioners at the August 6, 2012 Workshop Meeting. An executive session will most likely need to occur. He will provide a revised bonding ordinance at the Workshop Meeting.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

There were none.

Discuss items to include on future agendas.

There were no items.

CITIZEN COMMENT

Mr. Walter Brittingham asked what the status is of the light that is out at Royal Farms at the crosswalk. The light was supposed to have been installed by July 15, 2012, and the location is one of the darkest spots in the City. There should be a spare for everything that is out on the street. He also wanted to know if DP&L has been requested to clear the trees on Henlopen and Columbia Avenues. Chief will contact Delmarva Power concerning this matter.

Mr. Ferrese said that he would provide the information regarding the light to Mr. Brittingham on July 23, 2012. Police Chief Banks will contact Delmarva Power on July 23, 2012 regarding the trees and lights on Henlopen and Columbia Avenues.

Commissioner Gossett noted that there are approximately 19 lights on Henlopen Avenue, four of which the trees need trimming. He will forward the pole numbers to Police Chief Banks.

Mr. Brittingham said there is a tree between Henlopen and Columbia Avenues at First Street that is growing over the roadway and needs to be trimmed. At 17 Henlopen Avenue, there are bushes growing out beyond the shoulder and onto the roadway. At the end of Sussex Street and Columbia Avenue, the tree is located at a power pole and is growing out onto the roadway. There is a bush on City property at Grove Street and Henlopen Avenue is growing out in front of the stop sign. On the north side of the City, the overgrowth is out beyond the shoulder and over the roadway. There is a flashing speed sign on Columbia Avenue which is not noticeable because of a tree.

The Workshop Meeting will be held on August 6, 2012 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:07 p.m.

Respectfully submitted,

(Pat Coluzzi, Secretary)