

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

August 17, 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, August 17, 2012 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

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 and August 6, 2012 Workshop Meeting minutes. Motion carried unanimously.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the July 20, 2012 Regular Meeting, August 6, 2012 Special Meeting and August 6, 2012 Executive Session were distributed prior to the meeting. Minutes of the July 9, 2012 Workshop Meeting and August 6, 2012 Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Pat Coluzzi, to approve the July 20, 2012 Mayor and Commissioners Regular Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi, to approve the August 6, 2012 Mayor and Commissioners Special Meeting minutes as written. Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to approve the August 6, 2012 Executive Session 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 July 2012. There were 107 criminal, 361 traffic and 135 civil charges made during the month. Forty-one traffic crashes were investigated. With regard to seasonal officers, the public will begin to see a decrease in the number of foot officers; however the Boardwalk will still be patrolled. Three additional officers will remain after Labor Day Weekend to work the weekends through October 2012. The Dispatch Center handled 904 police incidents, 396 ambulance incidents, 94 fire incidents, 415 traffic stops, and 9-1-1 calls totaling 882 were received. Police Chief Banks will provide specific figures regarding enforcement of laws for scooters, bicycles, helmets and lap belts.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

There was no report.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for July 2012. During the month 78 permits were issued for a value of work totaling \$1,873,082.76. Fees collected totaled \$37,855.00 for the month. Sixty-five permit processing fees were received in the amount of \$1,300.00. One restaurant application was received in July. One stop work order was issued for a contractor working without a building permit. Two notices of violation were issued for trash being put out too early. Two notices of violation were issued for freestanding signs. Two notices of violation were issued for flags too low. One notice of violation was issued for temporary banners. One notice of violation was issued for overgrowth. One notice of violation was issued for a blinking sign. One notice of violation was issued for maximum noise levels. One notice of violation was issued for external speakers. The Board of Adjustment heard no cases in June. In addition, Ms. Sullivan has sent a grant application to the State for tree pruning on Rehoboth Avenue, the first two blocks of Wilmington and Baltimore Avenues, and tree pruning of Phase 2 of the tree inventory. She recently forwarded the floodplain ordinance to DNREC which will then be forwarded to the Commissioners for review.

REPORT OF PLANNING COMMISSION

(See attached report.)

Chairman Preston Littleton presented the report of the Planning Commission. The Regular Meeting was held on August 10, 2012. A Preliminary Review was held for partitioning of a property located at 12 Rodney Street. The Planning Commission voted to schedule the Public Hearing of this application at its September Regular Meeting. The Planning Commission welcomes meeting with the Board of Commissioners at a Joint Meeting on September 10, 2012 relative to the task the Board of Commissioners assigned to it on the lakes. The Board of Commissioners tasked the Planning Commission to do a report, and the Planning Commission will be reporting back with its findings. The report has not been completed and is still in draft form because part of the task was to bring back ordinances for the Board of Commissioners to review. To develop those ordinances requires a lot of time from the City Solicitor. What the Planning Commission has done in the draft which was forwarded to the Board of Commissioners was to propose things it thought warranted changes in the Code. The Planning Commission did not think it was appropriate to spend the money to bring a series of Code changes until it has a chance to talk with the Board of Commissioners. The Planning Commission did not feel it was for the Planning Commission to release the report since it is in draft form. The report is written with the intent that it gets wide public release. The Planning Commission is deferring to the Board of Commissioners as to what it would like to be done. It would be helpful for the citizens to learn what the Planning Commission has learned, and it would like to see that the report gets a lot of visibility. Some of the recommendations are lacking the ordinances to go with them. Chairman Littleton was concerned that the attachments to the report may too large to be placed on the City website.

Commissioner Mills stated that he would prefer to have the lakes report available to the public before the Joint Meeting on September 10, 2012. Mayor Cooper noted that the report is a public document, and he did not know how it could be withheld. Commissioner Gossett supported the availability of the report to the public; but he agreed that in reading and reviewing the document, the attachments are very important in order to give the full perspective of what is going on. Commissioner Mills would like to work with City Manager Gregory Ferrese and Mr. David Henderson, IT Director, to place the draft report on the City website.

OLD BUSINESS

Mayor Cooper called to consider adoption of a proposed ordinance that would amend Chapter 236 of the City Code relating to subdivision improvement performance guaranty and adding sun-setting provisions for major subdivisions that do not proceed timely after approval.

City Solicitor Mandalas noted that the version of the proposed ordinance in the Commissioners' folders is dated August 10, 2012, and he had a newer version dated August 17, 2012. The changes between the two versions are highlighted in bold letters as follows:

1. Section 1. Chapter 236, Section 236-7. Delete "... new subsections **C and D** as follows:"
2. Delete "**D. Prior to subdivision approval, a subdivider may request a deviation from the time periods included in this section. The Planning Commission may approve the deviation upon a determination that the deviation will accommodate the expeditious construction of subdivision improvements or upon a determination of other good cause shown**".

City Solicitor Mandalas read the ordinance title. This ordinance has been developed as a result of the lessons learned by the Planning Commission with the Oak Grove subdivision. There was concern about subdivisions

being approved, the construction improvements being started and the subdivision not being completed if the developer would run out of money, and how the City would exercise on a legal document to be able to clean up the site. The proposed ordinance creates firmer sun-setting provisions as to when the improvements have to be put in place.

Commissioner Pat Coluzzi made a motion, seconded by Commissioner Sargent, to adopt the August 17, 2012 of the ordinance amending Sections 236-15 and 236-17, relating to a subdivision improvement performance guaranty, and Section 236-7, relating to a major subdivision sun-setting provision. (Gossett – aye. He thought it was very astute of the Planning Commission to bring this forward and to the Board of Commissioners attention, and he complimented the Planning Commission on doing this. Sargent – aye. Coluzzi – aye. Cooper – aye. Mills – aye. Zellers – aye. Hunker – aye.) Motion carried unanimously.

NEW BUSINESS

Mayor Cooper called to consider adoption of a proposed ordinance that would accept a quitclaim deed relating to real property extending east of the real property located at 2 St. Lawrence Street and subdivide real property located at 2 St. Lawrence Street into two lots.

City Solicitor Mandalas noted that a partitioning application was filed with the Planning Commission for an oceanfront property. The application was denied predominantly because the Planning Commission did not feel it had the information it needed to describe the ownership of certain land extending from the numbered lots of 2 St. Lawrence Street out to the ocean. An appeal was filed to the Board of Commissioners, and that appeal was put on delay while discussions were going on between the applicant, City Solicitor Mandalas and Mayor Cooper as to potential resolutions to this matter. Based upon those discussions and the documents before the Commissioners, the applicant's attorney, Mr. Chase T. Brockstedt, Esq. sent a letter withdrawing the appeal without prejudice so there is no pending appeal at this point in time. If the documents are not adopted there is an opportunity for the appeal to be re-ignited. For all intensive purposes, the appeal is withdrawn but it is not entirely extinguished. City Solicitor Mandalas read the ordinance. This ordinance deems Lot Nos. 22, 23, Block 33, Rehoboth Heights, as a single lot, and Lot Nos. 24, 25, 26, 27 & 28, Block 33, Rehoboth Heights, as a single lot, forming two separate lots to be assigned two separate tax parcel identification numbers upon the recordation of a quitclaim deed conveying to the City any right, title, or interest the current owner of the real property located at 2 St. Lawrence Street has in certain land extending eastward to the Atlantic Ocean. The quitclaim deed is a filer that says the applicant thinks he owns something or may own something, or he may own nothing in the lands that are described in the deed. Whatever the applicant owns, if anything, will be conveyed to the City. The possibility of a reversion had been discussed where if the applicant owns any of the land extending 150 feet eastward that under certain circumstances where things happen around that land which are currently not permitted to happen based upon the zoning of that land, then there would be a reversion of anything that the applicant owns back to him; but he would still have to prove ownership in a court. A survey titled Final Partitioning Plan, dated August 13, 2012 with Tax Map No. 3-34-20-.06, Parcel 92.00, was also included in the documents to show the new lots to be created and also identifies the land extending 150 feet eastward which would be quitclaimed to the City.

Mayor Cooper said that there is a provision in the proposed ordinance that the land east even at 150 feet will be conveyed. There is a quitclaim deed to that which has no provisions. The applicant would unconditionally give up ownership east of the 150 feet that is in question, and there would be no reversion. Mayor Cooper thought that the instead of the signatures being on four pages, there should be one page for all four signatures. City Solicitor Mandalas said that the applicant preferred to have the signatures on separate pages because not all of the owners are local. Attorney Brockstedt said that realistically it would take approximately three weeks to get all the signatures on one page. He did not think it would be a problem to do a corporate resolution or power of attorney where the members sign a document authorizing Mr. Richard Harris to sign the quitclaim deed. City Solicitor Mandalas will work with Attorney Brockstedt to prepare one signature page for all the owners to sign.

Commissioner Bill Sargent made a motion, seconded by Commissioner Mark Hunker, to adopt the ordinance, version 2 dated August 9, 2012, to accept a quitclaim deed relating to real property extending east of the real property located at 2 St. Lawrence Street and subdividing real property located at 2 St. Lawrence Street into two lots. (Gossett – aye, Sargent – aye, Coluzzi – aye, Cooper – aye, Mills – aye, Zellers – aye, Hunker – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese reported that the City has been notified by Senator Bunting that he will allocate

\$10,000.00 from his Community Transportation Fund towards the City's ADA Ramping Project. The City now has \$136,000.00 allocated toward this project, and it is anticipated that this project will start in mid-November 2012 or sooner. The Board of Commissioners should have a copy of the engineering proposal from Kercher Engineering in the amount of \$44,455.00 for the Geotechnical Feasibility Study for the Water Tax Terminus Dock, Wall Structure and Pedestrian Access Ramp Project. Mr. Ferrese will be sending a letter to the State next week detailing the justification for this study along with requesting 50% reimbursement. He felt that approval will be granted within the next six (6) months or sooner. The next City Hall Complex Master Plan Task Force meeting will be held on September 13, 2012 at 9:00 a.m. in the Commissioners Room.

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

08/15/12	522	Delmarva Power	\$ 8,503.78 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the Street Aid expenditures as presented. Motion carried unanimously.

COMMITTEE REPORT

There were no reports.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that House Bill No. 231 was adopted with regard to new requirements relating to Freedom of Information Act (FOIA). A memo will be forwarded to the Commissioners with regard to this matter. The Bill requires new things for municipalities including a FOIA Coordinator, certain fees that can be charged and how they can be charged, a State form to be used, etc. He will work with Ms. Ann Womack, City Secretary, with regard to this matter. Mayor Cooper noted that there has been a Senate amendment (No. 1) to this bill. According to the amendment, the Commissioners can adopt an ordinance to set fees other than what the State has and develop the City's own request form.

COMMISSIONER ANNOUNCEMENT/COMMENTS

Commissioner Coluzzi, Chair of Streets & Transportation Committee announced that with the current bicycle parking stations, there are leftover planters and racks. The Committee would like the City Manager to place a bicycle parking station on Wilmington Avenue in order to obtain more test information for the rest of the season before the next year. The Committee thought it would make more sense to get more data with having a parking station on Wilmington Avenue. It would be the Committee in doing the long-term plan. The engineer had put the piece together, and the Commissioners approved it.

Mayor Cooper thought that enough has been done for the season and the current parking stations should be analyzed. He did not think the Commissioners could authorize another parking station because it is not an item on the agenda. Mayor Cooper did not know that originally the City was purchasing planters. That was never presented to the Commissioners. Bicycle stations were being created at two spots on Baltimore Avenue. He was under the impression that the Commissioners would be evaluating the entire thing this fall and into the winter.

Commissioner Hunker requested that this item be placed on the agenda. Commissioner Mills agreed.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

Items to be included on future agendas: 1. Parking Station on Wilmington Avenue. 2. Hold Special Meeting on August 27, 2012 to hear the Permit of Compliance Application of Cabo on Wilmington Avenue and Second Street. 3. Resolution from bond counsel in reference to the borrowing for the Schoolvue sewer system.

CITIZEN COMMENT

There was none.

There being no further business, Mayor Cooper adjourned the meeting at 7:54 p.m.

Respectfully submitted,

(Pat Coluzzi, Secretary)