

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

September 20, 2013

The Regular Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 7:05 p.m. by Mayor Samuel R. Cooper on Friday, September 20, 2013 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Alderman Renee L. Bennett administered the Oaths of Office to Ms. Mary A (Toni) Sharp (Commissioner) and Mr. Stanley A. Mills, Jr. (Commissioner). (Copies attached.)

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

ROLL CALL

Present: Commissioner Toni Sharp
 Commissioner Patrick Gossett
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Lorraine Zellers

Absent: Commissioner Bill Sargent
 Commissioner Mark Hunker

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

APPROVAL OF AGENDA

Commissioner Stan Mills made a motion, seconded by Commissioner Lorraine Zellers, to approve the Agenda with the deletion of the September 9, 2013 Workshop Meeting minutes. Motion carried unanimously.

ELECTION OF OFFICERS

Mayor Cooper submitted the following list of officers for approval by the Commissioners:

Vice Mayor – Bill Sargent
Secretary – Lorraine Zellers
Assistant Secretary – Ann Womack
Treasurer – Priscilla Smith
Assistant Treasurer – Paula Simpson

Commissioner Mills made a motion, seconded by Commissioner Patrick Gossett, to approve the slate of Officers as presented. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

ADOPT RESOLUTION relating to the opening of bank accounts.

Mayor Cooper called to adopt the Resolution relating to the opening of bank accounts.

City Solicitor Mandalas read the Resolution. (Copy attached.)

Commissioner Mills made a motion, seconded by Commissioner Zellers, to adopt the Resolution relating to the opening of bank accounts. Motion carried unanimously.

CORRESPONDENCE

Correspondence will be read when consideration of adoption of a resolution setting a public hearing on a proposed ordinance amending Chapter 270, Section 270-26, of the City Code that would increase the side yard setbacks for lots with greater than 50 feet of street frontage in the R-1 District and R-1 uses in the R-2 District portion of the meeting is held.

APPROVAL OF MINUTES

Minutes of the August 16, 2013 Regular Meeting were distributed prior to the meeting. Minutes of the September 9, 2013 Workshop Meeting were not available for approval.

Commissioner Mills made a motion, seconded by Commissioner Gossett, to approve the August 16, 2013

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 August 2013. There were 56 criminal, 275 traffic and 53 civil charges made during the month. Thirty-one traffic crashes were investigated. Five seasonal officers will continue to work weekends through October. The Dispatch Center handled 662 police incidents, 276 ambulance incidents, 48 fire incidents, 362 traffic stops, assisted other agencies 11 times during the month, and 9-1-1 calls totaling 631 were received.

REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY

Mr. Walter Brittingham of the Rehoboth Beach Volunteer Fire Company reported that construction will begin in approximately two weeks for the new building at Station Two next to Route 1. The response areas for the Fire Company are south of Indian River Inlet, Routes 24 and 1 and the City.

REPORT OF THE BUILDING AND LICENSING DEPARTMENT

(See attached report.)

Chief Building Inspector Terri Sullivan presented the report of the Building & Licensing Department for August 2013. During the month, 60 permits were issued for a value of work totaling \$2,720,953.00. Fees collected totaled \$65,504.43 for the month. Sixty-five permit processing fees were received in the amount of \$1,300.00. No restaurant applications were received in August. One notice of violation was issued for a contractor not having a building permit. Three notices of violation were issued for overgrowth. The Board of Adjustment heard no cases in August. The NFIP re-certification is due in October 2013. People in the floodplain, real estate agents and lending institutions will be receiving letters in the near future.

Commissioner Gossett suggested working with Ms. Sullivan on a report that would provide tracking the number of inspections, meetings and how the staff spends its time for a three-month period. City Solicitor Mandalas cautioned that as Commissioners, their role is to set policies. The City Manager's role is to worry about what employees are doing day-to-day. The information requested should not be used to direct Ms. Sullivan as to what is done with the staff.

REPORT OF PLANNING COMMISSION

There was nothing to report.

OLD BUSINESS

There was none.

NEW BUSINESS

Mayor Cooper called to consider adoption of a resolution setting a public hearing on a proposed ordinance amending Chapter 270, Section 270-26, of the City Code that would increase the side yard setbacks for lots with greater than 50 feet of street frontage in the R-1 District and R-1 uses in the R-2 District.

Mayor Cooper is currently working on a proposed ordinance. He has a new methodology to try out on this matter. There are certain lots in the City that would not lend themselves to this particular ordinance. He will provide a proposed ordinance in advance of the next Workshop meeting and a presentation at the Workshop Meeting on how it will affect various lots.

Correspondence:

1. Mr. Ken Amey, 332 Laurel Street, was concerned with how the proposed ordinance will affect his property since he has an irregular shaped lot that is 5,102 square feet with 90 feet of frontage on a public street. The recommendation from the Planning Commission would result in a 28% reduction in area of the building envelope.

Commissioner Zellers thought that it would be reasonable for the Commissioners to take the time for unintended circumstances that this ordinance may cause.

Commissioner Mills thought that this topic should be discussed at another full workshop session in order to analyze the impact on various lots. There are many lots in the City that are irregular shaped that will be impacted by the proposed ordinance.

Mr. Peter Abissinio, 2 & 4 Oak Avenue, voiced concerned that he had plans submitted this week for a building permit which may be affected by the proposed ordinance.

Mayor Cooper called to consider adoption of an ordinance that would amend Chapter 92 of the City Code regarding the definitions of reckless, careless and inattentive driving and setting the penalties for these offenses.

Mayor Cooper noted that the Code includes a phrase with regard to careless and inattentive driving which is inconsistent with State law. "Whoever operates a vehicle in a careless or improved manner or without due regard for road weather and traffic conditions then existing shall be guilty of careless driving." The inconsistent phrase "...on a public highway..." will be removed by the proposed ordinance. This will allow the Police Department to use the ordinance to issue a violation on private property such as parking lots, etc. There are two sections in the Code which prohibit reckless driving. The wording in Section 92-126 will be removed, and the wording in Section 92-244 will remain to make the wording consistent with State law and will keep the penalties of \$100.00 to \$300.00 fine for the first offense and \$300.00 to \$500.00 for the second offense. One of the changes that will make it consistent with State law is that the current ordinance reads that a second offense has to be committed within 24 months and the proposed ordinance will take it to three years.

Commissioner Mills made a motion, seconded by Commissioner Gossett, to adopt the ordinance before the Commissioners amending Chapter 92 relating to reckless, careless and inattentive driving. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of an ordinance that would amend Sections 92-21(H) and 92-21(K) of the City Code regarding bicycle safety equipment to make it clearer and add additional requirements.

Mayor Cooper noted that the current Code is convoluted and worded in the negative. This ordinance is worded in the positive and brings it somewhat consistent with State law. A bicycle will be required to have a light on the front and a red reflector attached to the rear. Reflective material or a light visible to both sides for 600 feet, was also added to the proposed ordinance. A provision has been added to the ordinance that a bicycle or bicycle rider may have additional reflectors or lights and not be in violation of law. A requirement was added that the bicycle be equipped with brakes that will enable the driver to stop within 25 feet from a speed of 10 mph on a dry, level, clean pavement. The proposed ordinance will not require a bell, but a bicycle may be equipped with a bell or other signaling device. However, no bicycle should be equipped with a siren or whistle. No person may use a siren or whistle when operating a bicycle.

Mr. Walter Brittingham, 123 Henlopen Avenue, asked why a red light on the rear of a bicycle had not been accepted.

Commissioner Mills said that at the last meeting he had thought a red light facing backwards might be nice to be mandatory. The Commissioners had decided that a mandatory red reflector is satisfactory. Part of the language in the proposed ordinance clarifies that in addition to the red reflector, a light can put on the rear and it would not violate the law. Extra lights or reflectors are acceptable, but if it is a light facing forward, it should be white and one facing the rear should be red.

Mayor Cooper noted that the consensus of the Commissioners was since there are a lot of bicycles which are brought in from out of the area, they encourage lights on the rear; but to put it in the Code when a lot of jurisdictions do not require them would be difficult to enforce.

City Solicitor Mandalas said that the ordinance requires a red reflector on the rear of the bicycle.

Police Chief Banks said that visitors and foreign students are reminded that the Police Department would like a red flashing light on the rear of a bicycle, although it is not mandatory.

Commissioner Mills made a motion, seconded by Commissioner Gossett, to adopt the ordinance before the Commissioners that amends Chapter 92 relating to bicycle equipment. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mayor Cooper called to consider adoption of an ordinance that would amend Section 92-22 of the City Code raising the age under which a person on a bicycle must wear a helmet from 16 to 18, and otherwise aligning this section of the City Code with State Law.

Mayor Cooper noted that the State Code has been modified to raise from 16 years of age to 18 the age under which a person on a bicycle is required to wear a helmet. There was consensus from the Commissioners that it would be good to do this. A bicycle helmet manufactured prior to March 11, 1999 has to meet the American National Standards Institute requirements, and a bicycle helmet manufactured after that time has to

meet the Consumer Products Safety Commission requirements. If a bicycle helmet is purchased and the receipt is brought into the Police Department, the charges for not wearing a helmet can be dismissed. There is a provision in both the State Code and the proposed ordinance that this ordinance cannot be used in a civil lawsuit. The age was changed from 16 to 18. A provision from the State Code was added to the proposed ordinance that it is an affirmative defense to a violation of the helmet requirements of this section that the violator is a member of a recognized church or religious denomination and whose religious convictions, in accordance with the tenets and practices of the violator's church or religious denomination, are against the wearing of a helmet.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to adopt the ordinance before the Commissioners amending Section 92-22 regarding helmets for bicyclists. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mayor Cooper called to consider award of contract for a new self-contained trailer mounted vacuum leaf collector for which bids were received and opened on August 20, 2013.

City Manager Gregory Ferrese noted that sealed bids were opened on August 20, 2013 for the purchase of a new self-contained trailer mounted vacuum leaf collector. The sealed bid results were from Old Dominion Brush in the amount of \$34,971.00 and Mid Atlantic in the amount of \$38,550.00. Mr. Bill Schuyler, City Mechanic, reviewed the bid and recommends the award to Old Dominion Brush. The leaf collector was budgeted in the 2014 Budget in the amount of \$32,000.00. It is anticipated that the leaf collector will be delivered by November 2013.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to award the bid to Old Dominion Brush for the vacuum leaf collector. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Mayor Cooper called to consider award of contract for the Miscellaneous Street Improvements, Surf Avenue & Brooklyn Avenue Project for which bids are to be received and opened on September 18, 2013.

City Manager Ferrese noted that sealed bids were opened on September 18, 2013. This project involves widening Surf Avenue approximately 8 feet wide x 320 feet long and installing two catch basins on the ocean block of Brooklyn Avenue to resolve problems with flooding in that area. The City had budgeted \$80,000.00 for this project. The sealed bid results were from Utilisite Inc. in the amount of \$79,205.00, Larimore Construction in the amount of \$84,711.50, Sam's Construction in the amount of \$86,590.00 and A.P. Croll & Son Inc. in the amount of \$109,762.50. Mr. Bob Palmer, City Engineer, recommended that the low bid from Utilisite be accepted.

Commissioner Mills made a motion, seconded by Commissioner Zellers, to award the bid for the miscellaneous street improvements to Utilisite Inc. (Sharp – aye, Gossett – aye, Cooper – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

CITY MANAGER'S REPORT

City Manager Ferrese reported that the parking meter monies collected this summer season amounted to \$2,792,363.00 which came in under budget by \$22,637.00. There were 168,884 hits on Parkmobile compared to 115,000 hits last summer. The City sold 609 scooter permits. The transfer tax will exceed budget by \$250,000.00. The ADA Ramping Project is complete, and the Surf Avenue/Brooklyn Avenue Projects will begin approximately the second week of October 2013. Painting of the fire hydrants will be advertised in October 2013. Sealed bids will be opened in November 2013. This project will be completed in two phases. The first phase which will take place in November or December 2013 will consist of hydrant inspection and maintenance such as valves, caps, etc. The second phase beginning in April 2014 will be the painting of the hydrants. By the end of April 2014, all hydrants will be painted.

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

09/13/13	537	Delmarva Power	\$ 8,245.35 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Gossett, to approve the Street Aid expenditures as presented. Motion carried unanimously.

COMMITTEE REPORT

There was nothing to report.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Gossett noted that as of September 16, 2013, 64 applications have been received for the position of City Manager. The consultant, Catherine Tuck-Parrish will be attending the International City Managers Association Meeting starting September 22, 2013 in Boston, Massachusetts which is attended by approximately 6,000 individuals. A Silver Lake meeting will be held on October 5, 2013 at 9:00 a.m. at the Rehoboth Elementary School and will be conducted by DNREC. The agenda covers State ownership, the management plan, an update on Silver Lake dredging and the public process for decision making including a timeline for the next steps. Every property owner around the lake in Rehoboth Beach, Dewey Beach and the County has been sent a letter with regard to this meeting.

Commissioner Mills reminded everyone that September 21, 2013 is Coastal Cleanup Day. The Rehoboth Beach Homeowners Association is hosting it. The City is partnering with Delaware Solid Waste Authority (DSWA) for an electronic recycling event and paper shredding on September 28, 2013 from 8:00 a.m. to 2:00 p.m. in the parking lot behind the Fire Company. This will be for residential use, not commercial businesses.

Commissioner Toni Sharp thanked everyone for their support, and she hopes to a really good job on behalf of the City of Rehoboth.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

Items to be included on a future workshop agenda are the Freedom of Information Act (FOIA) and code of conduct. An item to be included in an executive session would be to learn about the lawsuits the City is involved with.

CITIZEN COMMENT

Mr. Francis Markert congratulated Commissioners Sharp and Mills for their appointment to the Board of Commissioners. He also congratulated former Commissioner Pat Coluzzi for her six years of service on the Board of Commissioners.

The next Workshop Meeting will be held on October 7, 2013 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 8:00 p.m.

Respectfully submitted,

(Lorraine Zellers, Secretary)