

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

**January 7, 2013**

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:07 a.m. by Mayor Samuel R. Cooper on Monday, January 7, 2013 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	Patrick Gossett
	Commissioner	Bill Sargent
	Commissioner	Pat Coluzzi
	Mayor	Samuel R. Cooper
	Commissioner	Stan Mills
	Commissioner	Lorraine Zellers
	Commissioner	Mark Hunker

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

**CORRESPONDENCE**

There was none.

**OLD BUSINESS**

Mayor Cooper called to discuss the two proposals in response to the City's Request for Proposals regarding city-wide reassessment and the process for selecting the preferred item.

Commissioner Patrick Gossett distributed evaluations of the two proposals from Tyler and PTA to the Commissioners. He has been working with Mr. Burt Dukes in developing these evaluations. The initial contract cost for Tyler is \$245, 150.00 and PTA's initial contract cost is \$162,130.00 In spreading this out over five years with additional costs would result in an approximate \$21,000.00 difference between the two firms and the initial year investment difference is approximately \$83,000.00. It is not all about the dollars and cents in his opinion and with talking to three other municipalities that have used Tyler in the past. Those municipalities were Smyrna, Milford and Dover. Tyler is a larger firm that has more resources to provide. Its software package can be expanded to other functions such as utility and tax billings, permit insurance, etc. The package is not stand-alone as it is with PTA. None of the tree municipalities use the extended packages. Tyler's database is more dynamic and has the ability to provide online access. Tyler has a standard canned communication plan. The disadvantage of Tyler is that it is a large firm that may be equated to cities bigger than Rehoboth. Most of the assessors are from out-of-state. The advantages with PTA are that it is a locally based firm, and the assessors are all based in Delaware based. PTA currently performs the City's commercial assessments and has done some of the residential assessments in the past six to eight months. PTA is a smaller company that allows for personal service and interaction with City staff. Ocean View, Seaford, Delmar and Milton currently use PTA, and they are pleased with its service. The disadvantages with PTA are that the re-assessment software is stand-alone and cannot be expanded into tax and utility billing, etc., and it has a minimal communication plan. The City could control the communications with respect to the citywide re-assessment.

Commissioner Stan Mills said that there is nothing in Tyler's proposal that PTA cannot do. PTA has more comparables, and the cards list a history. He thought it would be important to archive old information from the cards. It would be most helpful for the most recent re-assessment in case there is an appeal. All of the fields of data would be needed to justify the new re-assessment, and to do that it would need to be compared to the previous assessment. Commissioner Gossett noted that City staff is currently scanning the tax cards so there will be a database in electronic form.

City Manager Gregory Ferrese recommended hiring the firm that is local, is familiar with all the City's records and working with Ms. Donna Moore, and is familiar with the area and has done the assessments for the City. Discussion ensued as to the advantages/disadvantages of each firm and the approach to be taken with regard to choosing a firm.

Mayor Cooper suggested that a motion be made by the Commissioners at the Regular Meeting that the City Manager be authorized to enter into contract with PTA after having gone over various issues with it. A formal contract will be needed. The communication plan would be a cooperative effort between PTA and the City with the understanding that the City would have absolute control over the communication plan.

This item will be placed on the agenda for the Regular Meeting.

Mayor Cooper called to discuss draft ordinance(s) that would adopt the 2012 versions of various codes as written by the International Code Council in lieu of the 2006 versions which are currently contained in the City Code.

City Solicitor Mandalas said that the draft ordinance(s) would be updating the 2006 versions to the 2012 versions of the International Code. The City Code has opted out of certain areas of the International Code such as certain hours of construction, sprinkling for residential construction, etc. Incomplete areas within the ordinance will be filled with the date of adoption and millimeter changes. A final version will be presented at the next meeting.

This item will be placed on the agenda for the Regular Meeting.

Mayor Cooper called to discuss a proposed Memorandum of Understanding between the City and the Rehoboth Beach Sister Cities Association regarding the construction, maintenance and other items related to the garden to be constructed in Cranberry Park by the Association.

Commissioner Gossett had provided an update to comments from the Commissioners which he received. The version being used for discussion was Draft #3 dated December 19, 2012. Commissioner Coluzzi and Mayor Cooper had provided input to be included in the Memorandum of Understanding (MOU).

Suggested changes to be made to the MOU were:

1. Line 33. "...will work with the City Manager **and Mayor** with regard to the provisions contained in..."
2. Line 36. "...decisions for their respective parties."
3. Line 41. "...documents, **budget** and schedules that have been mutually agreed upon by the parties..."
4. Line 43. Delete "[A] two-phase plan will be presented to the City Manager for approval. Any minor changes to the plan or phasing shall be approved by the City Manager."
5. Line 48. Insert "[A] **plaque shall be installed commemorating the park and shall be no larger than 18 inches by 24 inches.**"
6. Line 53. Delete "[C]onstruction of the Garden may not begin before funding of the project is secured by Sister Cities."
7. Lines 61-64. Insert "[C]**onstruction of the Garden may not begin before full funding of the project is committed or secured by Sister Cities Association. Such funding shall be demonstrated.**"

Discussion ensued as to whether it would be required to that the funding shall be demonstrated by bank account statements showing the full amount of funds necessary for construction in accounts held by the Sister Cities Association. Commissioner Coluzzi noted that the commitment is to have the garden in place for the Mayor of Greve's visit. Flexibility is needed, and the intent is to take this project through to the final design. Letters of commitment or intent can be provided in order to proceed and have guidelines for protection of both parties.

Mr. Ferrese noted that a commitment has been made for the contractor to be from Delaware. He recommended having one contractor who can do all the phases of the project. Commitments have been made of who will donate benches, etc. He has notified Bryan Hall for possible State funding for the trees. Fundraisers will be possibly begin at the end January and the entire month of February 2013 for this project, and people in the community will be donating towards the garden. A letter from a granting agency will suffice as to the requirement of not starting the project beforehand. Sister Cities Association will not commit to a garden that does not have funding for construction. Mayor Cooper and Mr. Ferrese will be involved through the whole process with this project.

8. Lines 96-98. Insert "...agreed upon format, **and according to a mutually agreed upon schedule. The City Manager shall include such reports as a part of his regular report to the Mayor and**

**Commissioners.”**

9. Lines 116-117. Insert “... authorized official of the City and Sister Cities. **This agreement shall be in force from its effective date until Sister Cities or its successors cease to exist.**”

Commissioner Gossett read the Maintenance and Ownership sections of the MOU. The City will provide routine maintenance to include mowing, trimming and edging of grass, weeding of beds, mulching, fertilization of beds and grass, trimming and pruning of trees and bushes, and routine maintenance of hardscape as is provided in other City parks. It is agreed that the garden is a gift to the City and upon completion, all elements of the garden shall become property of the City and hereafter, the City shall provide maintenance and exercise control over any improvements. The City will retain ownership of the park, and is responsible for rules and regulations for its use. All rights, easements, privileges and controls currently in effect shall continue to be in effect.

Mayor Cooper said that the City should not take ownership of the garden before the project is completed.

Commissioner Gossett will revise the MOU and forward it to the Commissioners prior to the next meeting.

This item will be placed on the agenda for the Regular Meeting to be held on January 18, 2013.

## **NEW BUSINESS**

Mayor Cooper called to discuss a proposed ordinance, forwarded to the Commissioners by the Planning Commission, which would amend Chapter 236 of the City Code requiring that building permits for a structure supporting a residential or commercial use which is within 25 feet of Lake Gerar or Silver Lake be subject to the City site plan review process.

Commissioner Zellers commented that the Commissioners are committed to the sustainability and long-term protection of water bodies within the municipal limits of the City. The Commissioners deem it to be in the interest of the City to strengthen the requirements for site plan review and projects located within close proximity to the City's lakes. The Commissioners charged the Planning Commission to research such issue because of the controversy that arose around a residential project that was being constructed at Silver Lane in close proximity to the lake's edge. Along with the charge to the Planning Commission, the Commissioners instituted a moratorium on the issuance of any permit or other approval for any construction within 15 feet of the ordinary high water mark of any freshwater body located or partially located within the municipal limits of the City. Commissioner Zellers asked how it is possible that someone is currently building a pier in Silver Lake with what looks like a platform on East Lake Drive. The Commissioners need to look at the site plan and see what is included and what constitutes that. The Commissioners need to know how this happened.

City Solicitor Mandalas noted that a request was made at Building & Licensing as to whether it would issue a permit or what was required for this particular dock to be constructed. The property owner had contacted the State which said that it does not have jurisdiction over the lake and does not issue permits for construction in the lake. Building & Licensing has traditionally taken the view that the City does not own the lake. Jurisdictionally, there is a question as to whether the City would issue building permits for anything constructed in the lake. The moratorium talks about approvals for permits for construction within 15 feet of the edge of the lake. The way the determination was made is that the moratorium applies to things under which the City has jurisdiction over. Fifteen feet within the lake's edge is fifteen feet to the landside of the lake's edge. Since the time of the initial discussions, the State has said that it is taking ownership of the lake. Even at the State level, there is disagreement as to what ownership means and jurisdictionally what statutes will apply. City Solicitor Mandalas clarified that no permit has been issued by the City for the construction. The Board of Commissioners has been very clear with regard to its desires and concerns about Silver Lake. Building Inspector Terri Sullivan informed the property owner to halt construction until the owner talks with the State before going further with the project. A formal stop work order was not issued because the City does not have jurisdiction.

Mayor Cooper said that the argument is that the dock is not within City limits so the City has no jurisdiction.

Commissioner Mills would have appreciated that the Mayor and Commissioners received a memo on this topic. Commissioner Mills said that during the moratorium hearing, he had asked which side of the mean high water mark does it go to, and his response was that it is both on the landward side and on the water side. He said that the Commissioners had been misinformed. Mayor Cooper said that this is still correct if it is in the City. The map was referred to determine the City's jurisdiction.

Mr. Walter Brittingham, 123 Henlopen Avenue asked it is going to be adequate to go out into the water to protect beyond the high water mark. City Solicitor Mandalas said that once the State does what it is going to do with regard to ownership of the lake will clarify a lot. Work is still being done at the State Attorney General's level to figure out who might own the property into the lake and who does not own the shoreline, etc.

City Solicitor Mandalas said that point out this particular property does have relevance to the ordinance being proposed today. It is an unintended consequence of the moratorium that something can be constructed in the water when everyone was talking about protection of the lake. There is a connection between what has been raised today and the proposed ordinance. City Solicitor Mandalas did not want there to be a perception that the City has acquiesced that it has no jurisdiction over the lake by the discussion today because there may be actions that the Commissioners may want to take against this property owner or future property owner for something that is done in the lake.

Commissioner Mills asked whether the moratorium should be extended or entertaining the no-build zone now.

Commissioner Zellers had concerns with the distance of 25 feet requiring a site plan review. Most of the properties in Country Club Estates will be impacted by a site plan review. This will not stop the building of gazebos, etc. Mayor Cooper said that the purpose has been stated by the Planning Commission. Anything within the 25 feet to the 10 feet line, the Planning Commission thought it would be advisable to have it do a site plan review on it to see how it impacts the lake and if there would be any compromises or whatever could be made. Mayor Cooper did not think the site plan review would be done for ordinary repairs.

Commissioner Gossett said that the protection is there for the property to be reviewed by the Planning Commission. This is an important process for one more step to be taken or due process to be taken when a property has an impact on Silver Lake or Lake Gerar. He was supportive of this ordinance, and the Commissioners should move forward with it. If DNREC or the State decides to own the lake, then the current code should be amended to reflect that. If the State does not come down with an answer, then the Board of Commissioners should give itself a deadline of 30 or 60 days with a decision of the lake. The Commissioners should also move forward on the no-build area.

Commissioner Mills said that discussion of the no-build zone should be placed on the agenda for the next workshop meeting. He mentioned that site plan review will be required for any structure supporting residential or commercial use within a distance of 25 feet from the ordinary high water mark of Lake Gerar and Silver Lake. No properties that abut Lake Gerar will be impacted by the site plan review ordinance. None of the properties that claim to own or have riparian rights at Lake Drive are impacted. Properties in the finger portion of Silver Lake down to the City corporate line which are located in Country Club Estates, Schoolvue, Newbold Square and Silver Lane would be impacted.

Mayor Cooper said that in Lines 65-69 of the proposed ordinance, the intent is that a property owner will have to pay \$500.00 except for those referred by the Building Inspector and those that are required only because a proposed structure supporting a residential or commercial use is located within 25 feet from the ordinary high water mark of Lake Gerar or Silver Lake. He thought a structure supporting a residential or commercial use located within a distance of 25 feet from the ordinary high watermark of the lakes, referred to in Line 25 would need to be a habitable structure, not a shed, pier, swimming pool, etc. Mayor Cooper was not sure that this was the intent for structure. Commissioner Gossett noted that a structure is defined not just as a building, but as a fence, wall, etc. Mayor Cooper thought that a fence, etc. would be excluded under the language in the proposed ordinance. Discussion ensued as to what a structure consists of.

Commissioner Sargent said that if it is a house, fence, shed, anything that someone would build, the intent is to make certain that the visual purity is not detracted from to the extent possible of the lake.

Commissioner Gossett said that the Planning Commission has no ability to make any changes outside of the Code. The Planning Commission can suggest alternatives with regard to streetscape, etc.

Commissioner Mills said that as a result of the site plan review process, the Planning Commission will develop a set of recommendations that are voluntary and are not binding.

Mayor Cooper suggested that the structure should be in support of a residential or commercial use would be a sidewalk, etc. A structure that supports a residential or commercial use has to be one in which people habitate. Suggested changes to the proposed ordinance are:

1. Section 1. Move to definitions. "Ordinary high water mark".

2. Section 1. Move to definitions. "ordinary high water mark".
3. Section 1. List all of the items as opposed to having them in a sentence.
4. Section 3. Item D. Change the language to site plans required are in accordance with Section 236-30(A)(5) as opposed to 25 feet. It also appears in the fee section of the proposed ordinance.

City Solicitor Mandalas said there is section in the current site plan review that allows the Building Inspector to exempt minor structures which are not a part of a conditional use or special exception, etc.

This item will be placed on the agenda for a public hearing in February 2013.

#### **CITY MANAGER'S REPORT**

City Manager Gregory Ferrese noted that the Budget will be forwarded to the Commissioners on January 10 or 11, 2013 for their review. He requested that the first Budget Session be held on January 18, 2013 at 9:00 a.m.

#### **COMMITTEE REPORTS**

Commissioner Mills, Chair of Communications Committee, reported on utilizing a new feature for the City website, a home page bulletin board for News & Calendar items. A copy of the supporting document was distributed to the Commissioners prior to the meeting. This document provides background and illustrates some of the ideas that the Committee is putting forward on facilitating the use of a news section on the City website. The objectives are to use the City website home page as a bulletin board to inform the public, primarily the residential community, of important items including but not limited to official public notices. The benefits would be that the home page news would serve as a community bulletin board. Residents and other can come to the home page as a first step in seeking information rather than contacting City Hall for information. Messages would be timely and easy to find on the home page. City departments can post messages. With regard to costs, there would be no cash outlay to set up the mechanics on the current site or future revised site. Labor costs would be the time to manage, and it is suggested that it would be minimal. Samples of other municipalities' websites were provided. The mechanics and implementation were also presented. A draft form for authorizing news was presented. It was suggested to develop a master list of potential news items based on the calendar. Samples of the implementation process was provided. The recommendation from the Committee is to facilitate the use of a news section on the City website.

Mr. Howard Menaker, 16 Dover Street, thought that this is a great idea, and he asked who would authorize what goes on the City website. Commissioner Mills said the Committee proposes that the gatekeeper is the City Manager. Mr. Menaker said that no more than four headlines should be put on the home page. This program should be tested.

Mr. Max Hamby, IT Director was also in attendance at the meeting.

#### **CITY SOLICITOR'S REPORT**

There was nothing to report.

#### **COMMISSIONER ANNOUNCEMENTS/COMMENTS**

There were no announcements/comments.

#### **Discuss items to be included on future agendas.**

Items to be included on future agendas would be a presentation regarding scooter parking map and permits at the February Workshop Meeting, update on the issue of smoking, burying power lines in the future.

The next Regular Meeting will be held on January 18, 2013 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 11:54 a.m.

**Respectfully submitted,**

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**(Patricia Coluzzi, Secretary)**