

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

**March 4, 2013**

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:03 a.m. by Mayor Samuel R. Cooper on Monday, March 4, 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

Absent:     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 and formulate all aspects of a parking plan for motorized scooters and mopeds, including fees.

Commissioner Pat Coluzzi noted that the final recommendation for the parking areas is not much different from what the Streets & Transportation Committee had proposed at the last Commissioners' meeting. The consensus was to work with the City Manager to finalize spots based on his and Mr. Mike Peterman's recommendations, specifically on the streets which had been mentioned at a previous meeting. The parking registration form was created by the Parking Division. This will be used only if the moped or scooter is not tagged. Language for the parking areas is "Scooter/Moped Parking Only". A tracking procedure has not been finalized to date.

Commissioner Lorraine Zellers gave her presentation. Concerns were raised at the February Workshop Meeting about implementation of a new scooter policy without all the pieces in place such as regulations, enforcement and the impact on City staff. The Streets & Transportation Committee researched the City Code and found definitions/ordinances currently in place restricting vehicles from driving and parking on the sidewalks and Boardwalk. Framework was provided for the creation of a policy/brochure for implementation. At the February Commissioners' Regular Meeting, the Committee was tasked to provide a draft policy for discussion at today's meeting. Commissioner Zellers worked with Mayor Cooper and researched policies from other municipalities as well as from the City Code. Currently there are separate articles in the Code for bicycles, motorized skateboards/scooters and the parking permit system. There were subsequent discussions with Mayor Cooper, and the consensus was to put all relevant information about mopeds/motor scooters in one place. There were too many unanswered questions in order to provide draft language, but the City Code was used as framework for a possible new ordinance. The proposed ordinance was presented at the Streets & Transportation Committee meeting which was held on March 1, 2013. The purpose of the ordinance is to safely accommodate the increased number of mopeds/scooters and reduce conflict with pedestrians and other vehicular traffic. The Committee hopes to establish a policy for safe use, permitting and parking of mopeds/scooters in the City. The policy would be administered by the City Manager. It was undecided whether the permits would be annual or seasonal. The Committee decided to include moped in the definitions. A definition should also be added for motor scooter possibly by adding it to the moped definition. Excluded in the proposed section would be motorcycles, motorized skateboards/scooters, motorized wheelchairs and tripeds. Proposed parking restrictions would include: 1. Enforce prohibition of vehicles (moped/motor scooters) from parking on sidewalks, crosswalks, street intersections, public lawns, curbs or drainage course per Section 92-28.

2. Enforce prohibition of vehicles (moped/motor scooters) from parking on the median strip per Section 92-35.  
3. Prohibit moped/motor scooters from parking at or near bicycle racks or in bicycle parking stations. 4. Prohibit moped/motor scooters from parking at or being locked to trees, bollards, railings, sign posts or fences. Parking allowances would be: 1. Allow mopeds/motor scooters, with a permit, to park in specially designated parking areas that would be lined with parking paint and signage. A maximum width limit would need to be considered. 2. Allow mopeds/motor scooters with a permit to park in any parking space in the City's parking permit area. 3. Mopeds/motor scooters may park in a metered space, but must pay the fees. 4. More than one scooter may park in a metered space, but all scooters will be ticketed if the meter expires. 5. Mopeds/scooters must have a parking permit to park in designated scooter parking spaces and in the City's parking permit areas. The permits would be sold at the same locations as car permits, but mopeds/motor scooters without tags would need to go to the parking permit office to complete a registration form. Moped/motor scooter permits would need to be permanently affixed to the front fork within six inches of the headlight. Moped/scooter permits would not be valid in metered parking spaces or in any other restricted areas defined in the Code. The permits would be non-transferrable, either seasonally or annually and would be readily identifiable with numbers and be reflective. The fee for the permit would be \$40.00. Mayor Cooper recommended that there should be a reduction in the fee as an incentive if paid before a certain date such as May 1<sup>st</sup>. Violations and penalties should be the same as in the current Codes: 1. Fines are not less than \$30.00 and no more than \$200.00. 2. May remove or cause to be removed from any street, any motor vehicle which has accumulated three parking citations. The Commissioners would determine the start date for the scooter policy. Commissioner Zellers referred to the scooter parking, fees and policy that are used in Key West, FL.

Commissioner Coluzzi suggested that the definition for a motor scooter should be that it has a two-wheel step-through chassis because the step-through chassis seems to be the thing that differentiates a scooter vs. motorcycle, unless there is a moped tag. Discussion ensued.

Mayor Cooper said that motor scooter should be defined with the inclusion of mopeds.

City Solicitor Glenn Mandalas will craft the language for the definition of motor scooter to say that it has a two-wheeled step-through chassis. The exceptions will be important for the definition.

Commissioner Zellers asked, with regard to enforcement of vehicles, if the police will assume that a vehicle will include a motor scooter. Mayor Cooper thought it would be good to reiterate in the scooter ordinance and refer to the appropriate section. All restrictions of Section 92-121 shall apply to motor scooters. Commissioner Zellers said that with regard to prohibitions of vehicles, this article would be referenced the same as the previous one.

Commissioner Coluzzi suggested that the last proposed restriction to prohibit moped/motor scooters from parking at or being locked to trees, bollards, railings, sign posts or fences will be excluded from the ordinance. Mayor Cooper said that a list of things where a motor scooter cannot be parked such as sidewalks, gutters, public parks and park lands should be added to the ordinance. The wording could be as such, "The restrictions contained in the following other sections of this Code are applicable", and then they should be listed. Commissioners Mills suggested that there be clear language to prohibit motor scooters from parking on the Boardwalk.

Commissioner Zellers said that a list can be provided of all the parking in specially designated areas. Commissioner Sargent noted the areas that were added since the last presentation are Oak and Park Avenues, Deauville Beach and the possibility of Fourth Street. Parking behind the VIA is sand, and a scooter corral could be used there.

Mayor Cooper thought that the perimeter of the parking areas needs to be delineated. The spaces should be specifically listed in the Code. City Manager Gregory Ferrese agreed.

Ms. Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce said that the two biggest complaints are scooter parking on sidewalks and more parking for scooters needs to be addressed in specified areas or at meters.

Discussion ensued as to scooter parking in designated permitted areas.

Commissioner Zellers noted that there should be one scooter permit for residents and non-residents. Mayor Cooper agreed. Commissioner Zellers said that a consideration for the beach block area where there are designated areas is that permits could be eliminated or the scooters must go to the permit area outside of the beach block.

Commissioner Zellers said that the tracking piece had not been discussed by the Committee. With the current camera that the Parking Meter Department has, a picture cannot be taken of the whole space. A metric has been provided from the bicycle tracking that Mr. Jeff Greene had given the Committee in hopes of using for the scooters. The Committee would need to talk with Ms. June Embert of the Parking Meter Department about this. As the parking officials make their rounds, they could mark the time, the street and the number of scooters in a particular spot. A suggestion was made to purchase a camera that someone could use to take pictures in actual timeframes. This would give the Committee a tracking mechanism over the season to see how the scooter parking is working. The Committee is currently working on that piece. Commissioner Gossett said that a consistent measurement is needed.

Commissioner Coluzzi said that designated areas are needed. She agreed that everyone should be required to have a scooter parking permit.

City Manager Ferrese said that during the first year, a warning would be given out instead of a fine.

Mayor Cooper suggested giving a small discount for the permit if it is purchased before a certain date well before the season. This year it may not be effective. Getting the paperwork out of the way before the season would be an incentive. He assumed that information will be collected that goes with the permit, at least the tag number of the scooter, etc. There should be record of at least a tag number associated with the permit and the scooter. Commissioner Zellers said that everyone should fill out a form for a permit and sticker. Commissioner Sargent suggested that all of the permits should be handled at the Parking Meter Department. Commissioner Coluzzi agreed.

Mr. Walter Brittingham, 123 Henlopen Avenue, suggested that permits for scooter rentals should be done at a reduced rate. Commissioner Sargent did not think that an incentive should be provided to the rental people just to have them register the scooters. Mayor Cooper thought that a reduced rate for the rental shops would be good.

Discussion ensued as to parallel vs. perpendicular scooter parking.

Commissioner Zellers said that mopeds/scooters must have a parking permit to park in designated scooter parking spaces and in the City's parking permit areas.

Commissioner Mills recapped that there would be one permit that everybody pays and allows parking in specially designated parking spaces or in any non-metered parking space. Mr. Ferrese said that the permit would cost \$40.00 with no discounts. Commissioner Coluzzi added that everyone will go to the Parking Meter Department to complete a registration form in order to buy their sticker. The scooter permits should be issued seasonally, not annually. Parking permits from date to date is applicable to cars, scooters, etc.

Mr. Ferrese suggested that the parking permits for scooters should adhere to the same time period as the car permits, Memorial Day to Labor Day, 10:00 a.m. to 5:00 p.m. Ms. Everhart agreed. The scooter ordinance should be made as simple as possible, especially the first year.

Commissioner Coluzzi summarized that everyone who has a scooter must have a permit to park in the City in designated scooter parking areas (corrals) and permitted areas. The season would be the same as cars, but the hours would be 24 hours per day, seven days per week. Scooter parking in the metered zones would be enforced from 10:00 a.m. to midnight. The perimeters of the designated parking areas in the commercial areas will be lined, and the designated parking spaces will be lined within the perimeter. All other spaces in the residential areas will not be lined.

Commissioner Gossett recapped that the permit will be seasonal, the specific spaces will need to be codified within the Code, the definition of moped/motor scooter will be added and the fines will be added.

Commissioner Coluzzi will work with Mr. Ferrese to determine the exact location of designated areas and scooter parking spaces.

This item will be placed on the agenda for the next Regular Meeting on March 15, 2013.

## **NEW BUSINESS**

Mayor Cooper called to discuss a draft Freedom of Information Act Policy for the City and a proposed new Chapter 55 to the City Code that would set the fees for providing copies of City records.

City Solicitor Mandalas said that changes have been made to the Freedom of Information Act over the past two sessions of General Assembly. The City's policy had some inconsistencies. The new requirement is that

the State fees need to be tracked unless a municipality codifies its own set of fees. A FOIA Coordinator has to be designated who tracks the FOIA requests in a document log. A copy of the proposed ordinance, policy and general information sheet were forwarded to the Commissioners prior to the meeting. The Commissioners would adopt the ordinance and the policy.

Discussion ensued as to paper sizes, costs and electronic media. It was determined that the cost for duplication for black and white copies up to 11" x 17" would be \$.50. The cost for duplication for color copies up to 11" x 17" would be \$1.00. Section 55-2(A)(2) and (a) could be eliminated. Section 55-2(A)(2)(b) could become Section 55(A)(1)(e). Copying records maintained in electronic format would be based on staff time. Other items considered regarded wordsmithing and setting fees for published documents.

This item will be placed on the agenda for the next Regular Meeting on March 15, 2013.

Mayor Cooper called to discuss a draft ordinance that would change the day that in certain circumstances is observed as a holiday as it relates to the compensation for the City's 911 Center personnel.

Mayor Cooper and Mr. Ferrese met with the dispatchers of the 911 Center and the Police Chief. One request was that they be compensated the way the police officers are for holidays. Currently under the City Code, employees are compensated on the date the City observes the holiday. If the holiday falls on a Sunday, the City employees have Monday off. In the case of the dispatchers, if they work on a holiday, they will get holiday pay or they can take another day off and the dispatchers are paid time and one half for working the actual time of the holiday. The dispatchers who would work on Monday would get holiday pay. The one who work on the holiday get straight time. Mayor Cooper set the holidays and changed the language that the City observes the holiday on the date unless it falls on a weekend, if on Saturday it is observed on Friday and if on Sunday it is observed on Monday except for the dispatchers who would observe the actual day unless it is the 4<sup>th</sup> of July in which case they would celebrate the same day as all the other City employees.

This item will be placed on the agenda for the next Regular Meeting on March 15, 2013.

Mayor Cooper called to discuss individual recommendations to protect the health of the lakes as cited in the "Lakes Report" and next steps forward.

Commissioner Mills provided a broad platform in keeping this topic going. He distributed a supporting document to the Commissioners. This document was his interpretation of the condensed outline of the Lake's recommendations. The Commissioners need to come forward at a meeting where the individual items are on the agenda. Commissioner Mills is particularly interested in the use of silt fencing on lots under 5,000 square feet to control construction site erosion. He welcomed any of the Commissioners working with him. Increasing efforts to remove dirt and debris from the streets before they enter the stormwater system, e.g. additional street sweeping measures could be discussed with Mr. Mel Craig of Public Works. Commissioner Mills has worked with DSWA on providing a convenient in-City means for residents to dispose of environmentally hazardous waste. He would like to give that presentation at the next Regular Meeting. Commissioner Mills, Mayor Cooper and Mr. Ferrese have been working on updating and maintaining a computer based mapping system. They may be able to give a report in the next two months. Mayor Cooper and/or Commissioner Mills can provide an update on how the City should commit to a long-term goal of upgrading the storm drain system. Commissioners Sargent or Gossett could provide a status report on increasing the urban forest within the City. The topic of establishing a "No-Build Buffer" is an ongoing topic. The public hearing for this topic will be held on May 15, 2013. Prohibiting the installation of any yard watering system on private property within 10 feet of the lake's water edge integrates with the no-build buffer. Commissioner Gossett will bring the topic of requiring a site plan review for any residential structure that is built or substantially renovated whose foundation is within 25 feet inland of the lake's water edge back to the Commissioners at a later date. At some point, Mayor Cooper and Commissioner Mills can have DNREC here to discuss the State making a determination on the ownership of Silver Lake. The State/DNREC to include Silver Lake in its periodic routine monitoring system was done at the PLUS meeting Commissioner Gossett had attended. The PLUS review has not been completed. A comment has been issued about the specific issue with DNREC. The State has not issued a complete report to date. If Commissioner Gossett brings up site plan review, defining the ordinary high water mark of Silver Lake and Lake Gerar may be moot.

Commissioner Coluzzi would like to see the Commissioners address the idea of larger setbacks and building certain things within the setback such as decks, patios, etc. She did not feel that 10 feet enough of a setback.

Commissioner Gossett said that the Planning Commission is currently working on the charge from the

Commissioners with regard to increasing the urban forest within the City.

Commissioner Sargent and Mr. Bryan Hall have been talking for approximately one year about getting a complete inventory of trees in the City. Commissioner Gossett said that this is part of what the Planning Commissioner is investigating, and he did not see that a parallel process should be done with the Planning Commission in their review.

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

There was no report.

#### **COMMITTEE REPORTS**

Commissioner Mills, Chair of Communications Committee, presented and discussed a program to enhance communications by providing for accessibility to support documents online. A support document was distributed to the Commissioners prior to the meeting. Supporting documents are the background materials which support an agenda item or data that is brought to the decision making process. Examples are Report of Police Department, Report of Building & Licensing, City Manager's Report, committee reports, exhibits, bid awards, powerpoint presentations, current and proposed ordinances and resolutions. Certain records would not be considered support documents such as records with confidential material that may be protected by legal, personnel or other policy decisions. Concerns were identified about the lack of accessibility of supporting documents for the public. Support documents are either not provided to the public or are not available except as a handout during the meeting. Commissioners appear, often times, to not have received supporting documents in a sufficient time before a meeting. The purpose of this program is that it would be a best practice for the Board of Commissioners meetings based on providing the general public as well as Commissioners timely access to records with support agenda items. Enhanced communications can be achieved by providing an informative, flexible, easy to use, easy to administer online support document program. Commissioner Mills referred to the Bethany Beach and Sussex County Councils and how they deal with the support document programs. How a supporting document program would work in Rehoboth Beach: 1. Supporting documents are developed by the person(s) sponsoring an agenda topic. 2. The agenda sponsor distributes supporting document(s) to the designated gatekeeper seven days or more in advance, or as soon as possible. Optimally, support documents would be disseminated at the same time the meeting agenda is published. 3. The electronic supporting material is posted online. The recommended policy for implementation includes: 1. Commissioners are encouraged to develop and provide relevant support documents whenever possible. 2. Some agenda sponsors or presenters may desire to have a "first shot" at making the presentation before disseminating their presentation to the public. Introductory documents may/may not be provided in advance as support documents are at the discretion of the presenter. 3. Some supporting documents may not be ready in advance of a meeting in which case the documents would be posted as available or not posted at the discretion of the submitter. 4. After a trial period, written policy for this practice would be developed. The City website is capable of this program. A program would need to be chosen such as with a briefing book or packet. The input of the IT Department, City Secretary and City Manager might be valuable to analyze the pros and cons of these two particular programs. The cost for implementing a program would be minimal. The Committee believes that implementing such a program would give more time for studying, preparing for meetings, consulting with each other as allowed by FOIA or consulting with the public before meetings. This should allow for more efficient meetings and greater opportunity for informed public involvement in discussing matters and an overall greater transparency. The Committee's recommendation is to implement a supporting document program as a best practice. Commissioner Mills would be able to set up a live demonstration at the next meeting. Commissioners Coluzzi, Zellers and Sargent thought it was a good idea to implement a supporting document program. Commissioner Gossett had hoped if staff members are involved that they are brought into the process before the program is decided upon. No staff time and staff capabilities have been mentioned. These are important factors in determining whether this is something to move forward on. Commissioner Mills did not agree 100%. His and part of the Committee's feeling is that there needs to be a consensus from the Commissioners because if there is consensus to not implement the program, then it has not wasted or invested any time in talking with City staff. The Committee knows that the program is capable of being done, there are other successful models, and knows the City is capable of implementing it. Commissioner Mills' personal opinion was that the Committee was worried about time constraints. He had talked with Ms. Ann Womack, City Secretary, and Mr. Max Hamby, IT Director, who said that the logistics of putting these items on the City website are minimal if everything is organized with proper headers, etc. Commissioner Mills said that if there are too many problems with the logistics, the Committee will come back to the Commissioners for review, and the trial period will help to analyze the time constraints. The Committee will be proceeding with the support documents program.

Commissioner Mills presented and discussed potential agenda format changes to enhance communications.

The Communications Committee believes that the experience of the public can be enhanced by looking at format changes of the meeting agendas such as sequencing of agenda items, language and noticing opportunities and providing for the public to speak. Optimizing sequencing of agenda items to better suit the public in attendance at a meeting can be done by looking at the reports. There are two types of reports: 1. Standard which follows a pattern. 2. Topical reports. The Committee's recommendation was to group the standard reports towards the beginning of the agenda. The benefits would be predictability, convenience of the public to hear reports without having to stay the duration of the meeting and would be public friendly overall. The Committee also looked at executive sessions which have been positioned on the agendas before, after and during meetings without rationale for positioning. The public should have the opportunity to hear anything that happens at the meeting; but asking the public to wait out an executive session just to return to the ongoing meeting is a disservice. Consideration should be given to the convenience of the public to hear all agenda items without having to wait out an executive session. Having an executive session mid-meeting forces the public to hang around for an undetermined amount of time in order to hear business conducted after the executive session. The Committee recommended that executive sessions should be conducted in a special meeting prior to the start of the regular meeting or have an agenda position at the beginning or end of the meeting whenever possible. The need for language sufficient to describe the intent of an agenda item should be highlighted including the use of pre-prepared synopses as needed for clarity of an agenda topic. The Committee recommended adding a clarifying synopsis to the agenda for new and proposed ordinance changes and other items as appropriate. Otherwise, note the need to use language to sufficiently describe the intent of the agenda item. Opportunities for citizen comment should be noticed during workshop and regular meetings, specifically citizen comment. The Committee recommended inserting a notice in the agenda: "Agenda Public Discussion – Public comment regarding agenda items will be heard during each agenda topic after initial discussion by the Commissioners at the discretion of the Chair and prior to any vote being taken" or an abbreviated version. "Citizen Comment" should be added to workshop agendas. Examples were provided of sample agendas.

Mayor Cooper noted that with the executive session meetings he has always been sensitive to try to put them in a place where they do no inconvenience the public as much. There have been times when there was a need for people to attend an executive session, the Commissioners needed to get a decision to someone, and they needed to do it on time. Mayor Cooper said that an agenda item is a synopsis of what will be talked about. What Commissioner Mills is proposing, limits the agenda item. Mayor Cooper has tried to make an agenda item as informative as possible but leave it as broad as possible to talk about things within that realm that the Commissioners may want to explore. With regard to public comment, the Workshop Meetings are for the benefit of the Commissioners. There is one opportunity per month at the Regular Meeting to offer comments. "Off-topic" comments are of limited value because they are not on the agenda and may bring up something that other people have had no notice about them. With regard to rearranging the agenda, Mayor Cooper thought that to make efficient use of it the Police Chief and Building Inspector would not need to be in attendance at the meetings unless there is a Certificate of Compliance. Their reports could be published on the City website. Before Mayor Cooper and with him, it has been purview of the Mayor to put together the agenda. If the Commissioners want to take that away, it is fine; but otherwise, that is the way it will be.

Ms. Toni Sharp, 1002 Scarborough Avenue Extended, had referred to an executive session which was held by the Planning Commission during the middle of its meeting. She had waited one and one half hours for the regular meeting to resume.

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

There was nothing to report.

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

Commissioner Gossett commented that the Ethics Committee in the City of Lewes has invited the City Commissioners to attend an Ethics and FOIA Workshop on March 28, 2013 from 9:00 a.m. to 12:00 p.m. This workshop will be conducted by Ms. Janet Wright of the PIC Commission to give insight into ethics, conflicts and violations, etc. An invitation will be forwarded to the Commissioners, Planning Commission, Board of Adjustment and committees.

#### **DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.**

Items to be included on the next agenda for the Regular Meeting are: 1. Public Hearing regarding proposed motor scooter ordinance and policy. 2. Budget to be adopted.

The next Regular Meeting will be held on April 19, 2013 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 1:04 p.m.

**Respectfully submitted,**

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**(Patricia Coluzzi, Secretary)**