

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

April 8, 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, April 8, 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
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Lorraine Zellers
 Commissioner Mark Hunker

Absent: Commissioner Bill Sargent
 Pat Coluzzi

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

CORRESPONDENCE

There was none.

OLD BUSINESS

Mayor Cooper called to discuss a revised Freedom of Information Act Policy for the City, and discuss an ordinance to add a new Chapter 55 to the City Code related to setting the fees for providing copies of City records requested under the Freedom of Information Act.

City Solicitor Mandalas noted that questions were raised at the last meeting about charging for electronic files.

Commissioner Stan Mills referred to a set fee for electronic media under published documents in the General Information sheet. His understanding from a previous meeting was that this was for records printed on labels. This portion needs to be clarified to say records printed on labels or \$.15 per record/label.

Commissioner Patrick Gossett's thought was that whether it is on a label or not, there still needs to be a charge because staff time is developed to cull the labels. There should be an individual charge for each type of published document, and electronic media falls into that. His interpretation is that it is exclusive of a label. It is the record and is not attached to a CD, printed paper or label. This covers the staff time and energy that is involved in going back and retrieving those records. Professional services are done as time and materials. Electronic media references a record within an individual record, not necessarily minutes, charter, etc.

Commissioner Mark Hunker agreed that this would be per record. The bigger the request, the more commensurate the fee is.

Mayor Cooper did not think that the electronic media should be listed in the published documents. He asked to what extent the City is obligated to cull through its records to fulfill a FOIA request.

City Solicitor Mandalas said that FOIA was created and is supposed to be used as a function for the public to observe what its government is doing. It is not meant to be a tool for businesses to get mailing lists for solicitation. If on the face of the request it does not further the intentions of FOIA, a local government can deny the request.

Commissioner Mills was not struggling with whether there should be costs associated with it, but he was struggling with if there is an overlap of fees between the administrative costs and the actual hard copy document costs, and if it is clear about what electronic media means to the potential user compared to the City Secretary's definition.

Ms. Ann Womack, City Secretary, provided an example of a FOIA request on the residents and tax information, in electronic media format, which would require removing some information which cannot be released to the public.

Commissioner Lorraine Zellers thought that examples of electronic media could be provided to better clarify what is meant by electronic media. Electronic media should be a separate category and moved to its own section with clarification. She suggested that under the computer/electrically generated section, charges for copying records maintained in an electronic format will be calculated on a per record fee, by the material costs involved in generating the copies and administrative costs.

Commissioner Hunker will forward a definition for electronic media to the Commissioners within the week.

Commissioner Mills suggested looking into the following:

1. With regard to the fee to produce computer-generated paper copies of computer-stored information shall be based on the amount of machine-operating time, the proposed ordinance and policy refer to computer-generated material as based on materials costs and labor costs. On the Administrative Fees sheet, it only refers to machine-operating time.
2. In the proposed ordinance and policy, clarify the actual labor costs for monitoring file reviews.
3. Only some of the fees are listed in the ordinance.
4. Under Section 4.1 – Types of Access Allowed/Requests for Records, delete “[N]o recordings will be duplicated without authorization from the City Manager.”

Mr. Wes Johnson, Altoona, PA, noted that he currently has a request for information with the City. The City needs to consider what an open record is and what should be available. From the standpoint of uniformity, if the Commissioners could identify what is available, then the staff would have direction as to what is not available. There is very little that the City maintains which is not a public record.

Commissioner Gossett summarized that electronic media needs to be better defined and removed from the published documents category. The \$.15 per record would still be maintained. This would need to be placed in the ordinance and policy as well.

NEW BUSINESS

Mayor Cooper called to discuss a possible charter change that would rewrite Section 21A of the City Charter which creates and regulates the City offices of Alderman and Assistant Alderman to bring this section into conformance with the desires of the State.

Mayor Cooper said that Alderman Courts came to the attention of the State, and it sent out a model code that it would like every municipality to adopt. The City, Dewey Beach, Bethany Beach and Newark are the only municipalities in the State that have Alderman Courts. The Charter change is driven by the Delaware Supreme Court Judges because they do not like the process. They want more autonomy in the sense that Aldermen serve a set term. The Commissioners are to recommend to the Governor a name, and then that name will possibly be confirmed by the Senate. The person must be a City employee. The name must be recorded in the Recorder of Deeds Office. Thirty days before the term expires, the Commissioners are to decide whether to ask for re-appointment of the person holding the position or to submit a new name to the Governor. The Senate cannot take up an appointment confirmation until after the term has expired. The person can serve until their replacement. Removal can only be by the Court of the Judiciary and in compliance with the State Constitution. If the Senate will be recessed for more than six weeks and there is a vacancy, the City could hire a retired Delaware magistrate to fill in until a person is confirmed. Qualifications for an Alderman would be the same as are now. Within 14 days after confirmation, a person must be sworn in by the Mayor before taking office. Compensation is set by the Commissioners and cannot be reduced during the term of office. A docket must be kept. The maximum that an Alderman can fine somebody is set out in the Charter. Fees for costs will be set by ordinances adopted by the Commissioners. This position requires a report to the Commissioners each month. Neither the Commissioners of the City nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court apart from the adoption of the annual City budget. No immediate change would be required regarding the Court facilities. The current Assistant Alderman, Ms. Judith Catterton, will be resigning this position in the near future with May 1, 2013 being the target date. Mayor Cooper asked how the Commissioners as a body will come up with a recommendation because this will be a cumbersome process. With this being a Charter change, it would be up to the Commissioners to vote to authorize the Mayor to submit this to the City's two legislators and ask that it be filed and supported.

City Solicitor Mandalas said that maintaining the process where the Mayor would bring a name(s) to the Commissioners for them would be preferable.

Mayor Cooper acknowledged that the current position is Assistant Alderman. A big question in his mind is whether the Alderman's Court is valid for the community.

Commissioner Gossett asked if it is time to review the action of the Alderman Court and whether it is effective to the operations of the City. He suggested that a subcommittee or group of people could work on this in parallel with the proposed Charter change.

City Solicitor Mandalas said that the act of the State legislature in adopting a Charter change, gives the City authorization to have an Alderman Court or municipal court if it so chooses, but does not obligate the City.

Commissioner Hunker suggested changing the Charter and then decide in June to sunset it.

Mr. Howard Menaker, 16 Dover Street, noted that the State legislature is only in session until the end of June so in order to get the Charter changed, the Commissioners will need to move pretty quickly. He thought that the description for the retired magistrate should be widened because there is no one in the State that would fit that description.

City Solicitor Mandalas said that if there would not be a sitting Alderman or retired magistrate, then everything would go to JP Court.

Mayor Cooper was not contemplating an Assistant Alderman. In the last five years, there has been a full-time clerk in the Alderman Court to do paperwork. In the past, the Judge does most or all of his own paperwork. Currently, the Judge is hearing cases on Mondays, Wednesday and Fridays from 9:00 a.m. to 12:00 p.m. Being an Alderman is not a full-time job. To have an Assistant Alderman, it would be nice to have a backup to the Alderman, but the hours would not be there as long as the City has the full-time clerk to do the paperwork.

Mr. Walter Brittingham, 123 Henlopen Avenue, asked if this is Delaware Code that subjects the City to this, or a policy from JP Court. Mayor Cooper said that it is both.

Mayor Cooper suggested that this matter should be taken to the Regular Meeting for a vote of the Commissioners.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese reported that the Geotechnical Feasibility Study for the Water Taxi Terminus Dock and Pedestrian Access Ramp project has begun. The City's structural engineer, Alan Kercher, has projected that the study will be completed by the end of May or sooner. The Phase IV ADA Ramping Project which starts at Rodney Street and King Charles Avenue has begun. It is expected that this project will be completed no later than the first week of June 2013. The Garden of the Navigators is proceeding on schedule, and landscaping improvements will be seen at the site by the end of April 2013. On March 4, 2013, Commissioner Gossett and Mr. Ferrese had a good meeting with the Employee Committee. On March 13, 2013, Mr. Dave Williams, City's labor lawyer, gave a presentation on harassment in the workplace. It was mandatory that all City employees attend. Local resident, Ms. Cindy Lovett, organized a group of volunteers on March 26, 2013 to clean the dune area starting at the Henlopen Hotel and working south. On May 18, 2013, Delaware Solid Waste Authority (DSWA) will collect household hazardous waste behind the Fire Department from 8:00 a.m. to 2:00 p.m. On September 28, 2013, DSWA will collect electronic equipment and provide shredding behind the Fire Department from 8:00 a.m. to 2:00 p.m. The City Newsletter will be mailed to residents by the beginning of May 2013 or sooner.

Mayor Cooper said that the stormwater outfall project has been started.

COMMITTEE REPORTS

There were none.

CITY SOLICITOR'S REPORT

There was none.

COMMISSIONER ANNOUNCEMENT/COMMENTS

There was none.

DISCUSS ITEMS TO INCUDE ON FUTURE AGENDAS.

There were none.

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 10:29 a.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)