

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

November 4, 2013

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:02 a.m. by Mayor Samuel R. Cooper on Monday, November 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 Toni Sharp
 Commissioner Patrick Gossett
 Commissioner Bill Sargent
 Mayor Samuel R. Cooper
 Commissioner Stan Mills
 Commissioner Lorraine Zellers

Absent: Commissioner Mark Hunker

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

CORRESPONDENCE

There was none.

OLD BUSINESS

Mayor Cooper called for continued discussion of the recommendation of the Planning Commission that the Commissioners consider amending Section 270-26 of the City Code to increase the side yard setbacks for lots with greater than 50 feet of street frontage in the R-1 District and for R-1 uses in the R-2 District.

Mayor Cooper had brought a proposal before the Commissioners last month. The proposal may have achieved the goal, but it was somewhat hard to understand. Commissioner Bill Sargent had put together a presentation with a different approach. Two weeks ago, Mayor Cooper forwarded another proposal to the Commissioners that would be simpler. Now the concept would be to introduce the lot area as well as the width. The width of the lot would be divided by 50 and divide the area of the lot by 5,000. Whichever is less would be the one that would govern. It would not become effective until a lot exceeds 52.5 feet in width or 5,250 square feet. These numbers are somewhat arbitrary. The idea was not to deal with lots that are marginally over 50 feet and 5,000 square feet. Not until the 52.5 feet in width or 5,250 square feet would be exceeded, then actual divisors would be 50 feet and 5,000 square feet. The idea would be that the width would be measured at the street line between the two side yards where the two side lot lines intersect the street line. This would be a change to the Zoning Code which would require a public hearing. A resolution would need to be adopted at the next Regular Meeting to hold a public hearing before the ordinance could be acted on. Mayor Cooper had also forwarded to the Commissioners examples of six different lot configurations.

Commissioner Lorraine Zellers thought this this proposal was reasonable.

Building Inspector Terri Sullivan noted that clarification is needed for Lines 29 through 34 of the proposed ordinance. She suggested that "..., or in the case of a corner lot, one side lot line and the street line of the intersecting street..." should be removed. "The width of the lot is defined as the length of the street line..." should be changed to the arc length of street.

Mayor Cooper said that the definition of the width of the lot was not intended to be the cord length or the arc length. It was purposely noted in the proposed ordinance "[W]here for the purposes of this section the width of a lot is defined as the length of the street line..." because street line is a line along the street and is defined in the Code. In some cases, there could be an arc and a straight segment of the line.

Commissioner Stan Mills noted that street line is defined as the line of dedication in the case of a dedicated street, avenue, lane or alley in the City and the line 10 feet each side of the centerline in the case of a private road. Mayor Cooper acknowledged that the street line coincides with the property line and is not different from

it. The street line forms the property line.

City Solicitor Mandalas thought that the corner lot should be separated out from a regular lot. Mayor Cooper said that City Solicitor Mandalas may be able to improve on the language with regard to this matter.

Commissioner Mills was concerned that not all of the properties will be captured by the proposed ordinance. Some properties have two side yards, but the street in front goes part of the way and dead-ends or forms a 90 degree angle. Mayor Cooper said that the lot width would be measured to whatever is on the street.

Commissioner Patrick Gossett said that the motivation behind this ordinance is an attempt to control or address bulk. Mayor Cooper agreed. If a block is 1,000 feet long, there would be 20 lots with 320 feet of side yards. If someone would own 500 feet, there would potentially only be 16 feet of side yard in that lot. In the aggregate, there would be the same amount of side yard dedicated to open space as a lot that is developed individually. Commissioner Mills said that bulk was a determining factor.

Ms. Sullivan thought that the proposed ordinance would help to create deeper houses. Commissioner Mills thought that this will narrow the houses. Either the houses will be built deeper or they will be built higher.

Commissioner Mills was concerned with how the definition would apply to irregular shaped lots. The appeal process would be to the Board of Adjustment. He thought that there should be relief from the fees for the Board of Adjustment for the first year. City Solicitor Mandalas said that the odd shaped lots would a perfect scenario for variances.

Mayor Cooper said that bulk presentation to the street may be better perceived, but the actual size of the structure will not be decreased.

Commissioner Mills reiterated that certain structures should be allowed. He had looked at what is allowed/disallowed in the Code from all the setbacks. Currently, all lots have a minimum of six feet on one side with an aggregate of 16 feet. A 100 foot wide lot cannot have a swimming pool, gazebo, etc. Commissioner Mills thought that there should be relief to grandfather existing structures. Things that could possibly be allowed in the setbacks are HVAC systems, showers, decks, patios, garden edging, pergolas, etc. Dimensional height requirements should be set in the proposal. The purpose of this proposal is to address bulk, light and air. Commissioner Mills noted that feedback is needed, and he would prefer to include this as part of the resolution.

Commissioner Sargent was not sure for existing a 50 foot wide lot whether the prohibitions are as good as should be. The same restrictions should apply, and there should be the appearance of open space. Swimming pools should not be close to lot lines.

Commissioner Zellers said that with regard to swimming pools, decks, etc., nothing about noise is addressed. Consideration should be given to the non-entities such as garden edging, and the same restrictions should apply.

Commissioner Gossett noted that there are issues with noise and drainage with regard to swimming pools and decks. HVAC, propane tanks and showers would fit in.

Commissioner Sargent suggested that HVAC should be put next to a house and should be located within the buildable area. It should be excluded from the 16 foot area.

Ms. Sullivan noted that showers that do not have a roof and fences are allowed in the setback area. Patios, decks and swimming pools should be in the same category. Mayor Cooper said that there is plenty of space to put these things without having to put them in a setback.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that this proposal would cause the garage to be located at the back of the lock, and people would be penalized who have a 100 foot wide lot.

City Solicitor Mandalas will draft the resolution for the November 15, 2013 meeting. The public hearing could be held in December 2013.

Mayor Cooper called for an update regarding the status of the City Manager search.

Commissioner Gossett said that as a result of the October 18, 2013 Special Meeting, four candidates have been brought forward. Personal interviews will be held on November 8, 2013 with the department heads and on November 9, 2013 with the Commissioners. He asked that the Commissioners review the draft questions for the interviews, and forward any suggestions back to him. Packets have been presented to the Commissioners on the four candidates.

NEW BUSINESS

There was none.

CITY MANAGER'S REPORT

(See attached report.)

City Manager Gregory Ferrese reported that the transfer tax for October is approximately \$230,000.00. The City Budget process has begun. Contract negotiations with the Police Department will begin in late November 2013. The Brooklyn Avenue Inlets and Surf Avenue Projects are almost complete. Arbor Day will be celebrated at Grove Park on November 8, 2013 at 11:00 a.m. A pre-bid meeting is scheduled for November 1, 2013 at 9:00 a.m. regarding the painting of the fire hydrants. Bid opening will occur on November 21, 2013 at 1:30 p.m.

COMMITTEE REPORTS

Commissioners Mills, Chair of Communications Committee, discussed Committee recommendations for Commissioner agenda language that clarifies whether or not the public can voice comments. A support document dated October 29, 2013 was distributed earlier in the week. Minor edits would be made to the agendas to better reflect the processes in place and would clarify for the public whether or not they are allowed to speak on agenda and non-agenda topics. Sample agendas were provided with the proposed new language for workshop and regular meetings. This information was based on Commissioner feedback. The Chair will have discretion for an individual to be heard after initial discussion among the Commissioners is over. Comments would be limited to three minutes or at the discretion of the Chair. Comments on non-agenda items would be heard under Citizen Comment. The Committee recommended that essential business should be conducted first before comments from the public are heard.

City Solicitor Mandalas said that under FOIA, nowhere is it stated that the Commissioners have to allow public comment. There is no legal requirement other than a public hearing on zoning. At workshop meeting, there is a presumption of no public comment.

Commissioner Mills said that he is receptive to having the public speak at workshop meetings.

Mayor Cooper said that a workshop meeting is for the Commissioners to discuss business at hand, and it is not the same as a voting meeting.

CITY SOLICITOR'S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills commented that updated information such as mission statements, etc. is needed for the committees listed on the City website. He will be contacting individuals to provide this information. Commissioner Mills announced that with regard to beach nourishment, Great Lakes Dredging pulled out all the pipes last night and will be demobilizing today.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

There were none.

The next Regular Meeting will be held on November 15, 2013 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 10:13 a.m.

Respectfully submitted,

(Lorraine Zellers, Secretary)