

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

November 25, 2014

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 Tuesday, November 25, 2014 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
	Commissioner	Kathy McGuinness

Also in attendance was: City Manager Sharon Lynn
 City Solicitor Glenn Mandalas

CORRESPONDENCE

There was none.

OLD BUSINESS

Mayor Cooper called for the presentation by and discussion with Kyle Gulbranson of URS Corporation the City's planning consultant, regarding the management of the impact on residential neighborhoods as related to size of houses currently being constructed, swimming pools, rental licenses and noise issues.

Mr. Kyle Gulbranson noted that since the last meeting, the working group has been developing a draft noise ordinance and a draft vacation rental ordinance. At the last meeting, it was reported that the City of Newark is a good mix of residential vs. commercial standards. It also uses plainly audible noises as one of the standards for determining noise violations. It spells out the types of violations and has time of day differences. A noise violation that happens in the middle of the night is handled more severely than a noise violation which is handled during the day. The ordinance gives the representative enforcing the ordinance some leeway as to whether a warning is issued or a penalty or fine is issued. Penalties were established for vocal warnings, and fines were based on the noise offense and the number of violations. The fines range from \$100.00 to \$1,000.00. The highest fine the City of Rehoboth can charge someone is \$500.00.

Mayor Cooper interpreted that the plainly audible only relates to reproduced sound on record players, etc.

Mr. Gulbranson said that one section of the Newark ordinance related to human voices, shouting, etc. and plainly audible. Decibel levels are used to calculate noise levels in the commercial districts. The Newark ordinance is enforceable. A draft ordinance was created based on the Newark ordinance and will be available for the Commissioners to review. The draft ordinance proposes that there will be different decibel readings within the different districts.

City Solicitor Mandalas said that if there is a civil citation, it would be his preference that there would not be an escalating civil assessment for additional violations. Mayor Cooper said that if the Commissioners would want the citation to be variable where the second offense is higher than the first, then it would need to be a criminal offense. The \$500.00 could be on the books for next summer, but the police will have to charge a person under the noise code, not disturbing the peace. It could not go higher than \$500.00 because of the way the Charter is written. Mayor Cooper was not interested in changing the Charter.

Mr. Gulbranson noted that in the Newark ordinance, the maximum penalty is \$1,000.00 or imprisonment of not more than one year or by fine and imprisonment. It seems to be effective.

Police Chief Keith Banks thought that the fines are effective the way they are because there have not been a lot of citations issues for noise.

Mayor Cooper said that it is more important to get something that is enforceable and works than it is to worry about the fine at this point. Currently, the noise ordinance does not work. Having too large a fine, if it is graduated, is a deterrent for the police to enforce it. The higher the fine, the more likely a person will fight it. Any fine of \$100.00 or more, the person has the right to transfer to Court of Common Pleas. Mayor Cooper thought that the fine should be \$99.00.

City Solicitor Mandalas noted that generally civil assessments are supposed to cover the costs associated with each civil offense. The civil assessment should relate to the effect of the costs of the City and administratively controlling whatever it is. In a criminal matter, the City tries to deter other people from doing the same crime, punish a person for what they have done, so the City can gradually increase the amounts. Civil assessment is more about the relationship between the activity that happened that the City has governmental interest in not happening and recovering the costs to make sure it does not happen. A civil assessment should include administrative costs. The civil assessment chapter within the Code lays out appeals and court costs. The substance of the proposed ordinance is the bigger, and the fines and the structure of them is less the issue. While City Solicitor Mandalas reviews this matters, the working group will continue refining the ordinance.

Commissioner Stan Mills noted that the definition of plainly audible says the unambiguous noise level communicated to a listener as well as understandable spoken speech. In the sections for exclusions, there is an exception that says the unamplified human voice is not included in creating a violation unless it is within a certain section. That certain section says that two things relate to voice such as street hawking and yelling, shouting, hooting, whistling or generally creating a racket on public streets. This discussion has been about private property. He suggested that the Commissioners should look at this more carefully. Commissioner Lorraine Zellers agreed. Mr. Gulbranson will provide a red-lined version of the draft noise ordinance and will return with clarifications and a resolution to the fine situation.

Mr. Gulbranson referred to the vacation rental ordinance discussion. At the last meeting, a lot of time was spent on the Palm Springs ordinance. The working group used that ordinance as a template and developed a scenario that would work for the City. It went through the process and fine-tuned things by using a less aggressive penalty process. The group came up with a scenario which it feels will work well for the City. The draft ordinance covers all vacation rentals. Vacation rentals are classified as any rental of less than 120 days in order to capture the seasonal rentals. There would be an annual fee involved, application process for a vacation rental to go through, certificate application to be filled out which would list all the pertinent information such as number of bedrooms in the house. It will establish a local contact so that if there are any issues associated with the property, someone will be available immediately to take of that situation. This will need to be applied for every year. If there are any changing in ownership within 14 days the applicant needs to contact the City with the information. This will be in tandem with the residential rental license. A rental license would be needed along with a vacation rental certificate. It is believed that annual inspections should be part of the equation. The draft ordinance initiates that. There would be an initial inspection when applying for the vacation rental certificate, and then there is an annual inspection thereafter. This is for all rentals in the City so show that all health, safety and welfare issues are met, building code issues are met and the inspection will assess or rate the occupancy of what the structure should be.

Mayor Cooper said he would like to see a list of the things that will be inspected by the next meeting. Building Inspector Terri Sullivan will forward a list she currently uses to the Commissioners. He did not think there would be a difference with the list for new and grandfathering certain things.

Mr. Gulbranson acknowledged that the certificate would need to be displayed on the property. There will be a chart that will rate the occupancy level for the structure, basically it is two persons per bedroom with an additional two persons to account for a loft area or sofa, etc. based on the number of bedrooms. The draft ordinance does not talk about daytime guests in a structure. The working group is proposing 70 square feet for a bedroom which is defined in the International Building Code. This is the standard the City has always used. Mr. Gulbranson was not sure how an efficiency would be handled in this case since it would not have any bedrooms.

Ms. Donna Mabry, 221 Hickman Street, said limiting two people per bedroom works against the older homes in the City. Some of the older homes are Cape Cod styles, etc. where the upper floor is all one bedroom. Those rooms can easily accommodate numerous beds. She thought the occupancy should be limited per lot which would control density, traffic, etc.

Ms. Sullivan said that occupancy could be based on the square footage of a house.

Mr. Gulbranson said that the intent and how most communities deal with occupancy is that everyone is

treated equally. He has not seen any ordinances that grandfather older rentals as opposed to new people coming into the pipeline. – what is being done with the information. Brand new going forward.

Commissioner Patrick Gossett thought that a way to manage this is if an individual has an existing license, that information could be used to establish occupancy.

Commissioner Bill Sargent thought the Commissioners should consider a fixed number of occupants being set as the maximum for a rental property.

Mr. Gulbranson thought that there should be some type of appeal process to demonstrate that the rental house is safe, etc. The existence of overnight occupancy maximums solves overcrowding, noise issues, parking issues, etc.

City Solicitor Mandalas said that the City will not be able to kick people out if occupancy exceeds the maximum allowed. There would be processes to notify the owner and issue fines. This will not immediately solve overcrowding.

Mr. Gulbranson said that inspections and rating properties would be phased in so that in 2016 everything would be inspected. There are approximately 2,400 rental homes, apartments and condos in the City. The idea is that all rentals will have to go through the rating and occupancy process.

Mayor Cooper thought that maximum occupancy limits would be impossible to enforce.

Commissioner Sargent thought that occupancy should have a maximum cap not to be exceeded.

Commissioner Kathy McGuinness that the work group should go through the proposed ordinance with one or two rental managers.

Commissioner Gossett said that expectations should be set for renters and owners.

Commissioner Zellers thought that more language is needed in the rental agreements as to expectations for noise, trash, etc. Mr. Gulbranson noted that this will be part of the brochure, and a rental listing will be placed in the rental unit itself.

Commissioner Mills thought that it would be worthwhile to explore maximum occupancy based on lot size. Mr. Gulbranson noted that when first meeting regarding this process, it was thought that there would be a suite of things that would solve this problem, some of them being a more stringent regulation of rentals, noise issues, drafting pool regulations which would address some of the noise issues, etc., and looking at zoning issues. The work group will revisit the occupancy issues and come back with ideas and suggestions for the Commissioners.

Mr. Gulbranson noted that the process for violations was drafted based on the last meeting. The Commissioners thought at the last meeting that it would be too harsh where the City Manager has the ultimate authority to revoke a license. The work group came up with the idea that every vacation rental has to have a designated contact person who is accessible 24 hours per day. The process is set up that the police department will receive an initial complaint, whether it be for noise or disorderly conduct. Building & Licensing will handle violations of the ordinance, if paperwork is not filed correctly, occupancy is off, etc. A good neighbor brochure would be in effect when a renter go to rent a house, and it will be posted at the property. The property itself will be posted as a vacation rental with a number that is easily accessible if there is a problem.

Ms. Judy Griffin, 71 Lake Avenue, voiced concern that if the number is posted outside as a vacation rental, this may invite burglars.

Mr. John Gauger, 304 Laurel Street, said that he has a neighbor who rents his house as a long-term rental property. Mr. Gulbranson noted that this concept would not apply to long-term rentals.

Mr. Gulbranson said that the police will determine if it is a minor or major situation. If it is a minor violation, a warning may be issued. The City would be notified the next day that there is an issue at the site. An email with a follow-up of a written letter is sent out to the representative the next day. After the notification is made, the City Manager has the discretion to contact that property, if deemed appropriate. If there are three or more violations in a 12 month period, the property is placed on a watch list. If all of the issues are resolved and there are no further issues after the three, the property would be removed from the watch list once the 12 month period has passed. Additional complaints could lead to a possible suspension of the certificate. The work group thought that if there is no one of authority to suspend the license, there is no reason for someone to curb behavior. If there are meetings going on with a problem property, most people will want to resolve the problem. Occupancy issues would be handled through Building & Licensing. The worst thing that could

happen is a suspension of the license. Suspension of the license would be defined. Public list. Any warning is put into a file. No time periods were given. An appeal would be made to the Commissioners. The process is basically the same for more serious offenses.

City Manager Sharon Lynn suggested that when an appeal needs to be heard, the Commissioners may want to consider an appeal board.

Commissioner McGuiness suggested that the person who is making noise should be punished vs. the owner. Commissioner Sargent said that the Commissioners do not want to hold the offender completely responsible nor the owner completely responsible because the owner can have an effect. Mayor Cooper said that ultimately owners need to be held responsible.

Mr. Eugene Lawson, Esq. of 12 Hickman Street, said that this process totally exempts property owners so there is no cause of action for the worst violations. Mr. Gulbranson said that the noise ordinance will pertain to everyone.

Ms. Donna Mabry, Hickman Street, said that warnings should count in the file. She was concerned about due process for potential victims because it is subjective whether the police decide to issue a warning or a violation. Landlords can protect themselves in the leases. Mr. Gulbranson said that warnings and violations should be included in the file so there is a history of the property.

Ms. Judy Griffin said that no land owner, landlord or owner wants to have disruptive tenants. The tenant should be held accountable.

Commissioner Zellers said that landlords should not be punitively held responsible, but they need to know when they have disruptive tenants. Tenants should be subject to a fine and eviction.

Ms. Cindy Lovett, 4 Canal Street, said that on the VRBO, there is a place where the property owner can review the renter, and they can easily state that a person is unruly, etc. That will follow the renter over the VRBO.

Mr. Gulbranson said that the work group will contact realtors to get insight from them, and it will work on occupancy levels. He will report back to the Commissioners prior to the December 8, 2014 Workshop Meeting.

NEW BUSINESS

There was none.

CITY MANAGER'S REPORT

There was none.

COMMITTEE REPORTS

Commissioner Sargent, Chair of Streets & Transportation Committee, discussed the following issues:

1. Proposal from the City Manager, Chief of Police and Committee to further limit the use of bicycles on the Boardwalk.

Police Chief Banks said that he received a lot of complaints last summer and this summer about bicyclists driving recklessly and moving too fast. Two people were injured this summer involving bicycles. More and more people are saying that the Boardwalk is too crowded with runners, walkers and bicyclists in general during the summer months. This matter was discussed at the Committee meeting, and it suggested that this item be brought to the Board of Commissioners.

Commissioner McGuiness was more in favor slowing down the offenders and providing more of an educational approach this season. She suggested that there should be a speed limit on the Boardwalk.

Commission Sharp said that she would like to see the tradition of riding bicycles on the Boardwalk continue and find solutions and approaches.

Commissioner Mills said that this discussion is about the timeframe from May 15th to September 15th. Bike lanes are only somewhat successful and do not work all the time. He suggested that monies should be put in the budget for an additional officer assigned to the Boardwalk.

Commissioner Zellers said that she would like to see the tradition preserved, if possible. She suggested that there should be bicycle officers patrolling on the Boardwalk seasonally. Chief Banks noted

that there is one bicycle officer per shift with a total of four shifts.

Commissioner Sargent said he would like to maintain tradition but enhance safety by changing the hours from 10:00 a.m. to 8:00 a.m. Commissioner Mills said that by reducing the number of hours, the density of bicycles would increase.

Mr. Frank Cole of Atlantic Cycles distributed copies of a proposed ordinance that would provide a mechanism for enforcement to address all issues. No bicycle shall be operated in the City faster than is reasonable or proper, and every bicycle shall be operated with reasonable regard to the safety of the rider and other persons and property on the public way and on the sidewalks adjoining the same. Every person operating a bicycle shall observe strictly all traffic signs and signals and all other traffic rules and regulations applicable thereto and shall obey the orders and directions of every officer of the City authorized to regulate traffic. He compiled a list of ordinances from other municipalities for the Commissioners to review. A target speed limit should be 8 mph.

This item will be taken back to the Streets & Transportation Committee to discuss on December 29, 2014 and come forward with a comprehensive program.

Mr. Walter Brittingham, 123 Henlopen Avenue, suggested that a bicycle officer should be on the Boardwalk this time of year. He also suggested that a DVR should be used with the camera on the Boardwalk to record high speed or possibly use a high speed radar gun.

Ms. Donna Mabry suggested that the Boardwalk should be expanded.

2. Proposal from the Committee that the City Manager prepare a budget item to fund a traffic study of the City.

Commissioner Zellers said that the Committee has been looking at several ways to improve safety for pedestrians, bikes and scooters. Several areas have been identified: 1. Additional crosswalks and where to put them, how many and what is effective. 2. Parking options and the scope of parking. 3. Traffic flow in, out and around the City. 4. Possibility of one-way streets in areas. 5. Surf Avenue improvements. 6. Delivery trucks. The consensus of the Committee was that it would need professional consulting help in looking at a traffic management study. The Committee would like to know whether or not it should invest time and effort into working with the City Manager to develop cost estimates in going forward.

Commissioner Mills said that he would like to see something in writing identifying what the problem is, what the study objectives area and a clear purpose.

Commissioner Gossett suggested that an RFQ should be designed by the Commissioners, City Manager, Committee or a collection of all these which would lay out what is expected so the proper people and talent can address the issues.

Mayor Cooper said that he was not in favor of anything like this until the Commissioners have had at a minimum a discussion and resolution as to what they want this town to be. The Comprehensive Development Plan (CDP) is the document when it comes to those sorts of things. He thought that possibly the guidance to the Committee is for it to not proceed with a budgeted item and let the CDP begin to articulate the vision. Then if it appears that a traffic study would make sense as part of the vision in the CDP, the Committee would move forward at some point in the future. Mayor Cooper acknowledged that it is reasonable to ask or guide the Planning Commission, that in the construction of the newest CDP, this question from their perspective should be answered clearly. A joint meeting could be held with the Planning Commission and the Commissioners at some point, or a position paper could be drafted from the Commissioners.

Commissioner McGuinness said that she would like to have the various items such as parking, commercialization into residential areas, etc. addressed by the Committee.

4. Efforts by the Committee members to review issues and possibly propose changes related to parking in the City's commercial district.

Commissioner Sharp said that the Committee has been discussing what might be parking challenges in only the commercial areas. They were relevant to whether it is a problem for the businesses if cars are parked in front of their establishments all day long. Two focus groups were done with business owners in the first, second and third blocks, and the consensus was that this is not an issue for them. The second issue was the business owners thoughts on 30 minute meters and whether or not they are useful to them. The

results of the survey showed that the businesses were split, half and half. There is no consensus from the business owners that the 30 minute meters are a top priority issue. The actual issues were more education on parking options for people who come into the City.

3. Proposal from the Committee that in the downtown area owners of all properties be required to provide for snow removal from the sidewalks in front of their properties.

Ms. Cindy Lovett, member of the Committee, said that it reached a consensus to have a discussion with the Board of Commissioners on snow clearing of the sidewalks in the commercial district. The objective was to find a way to clear snow from sidewalks without causing a burden to the City in expense or liability and without penalizes businesses that are clearing sidewalks. The businesses that are closed in the wintertime are creating the problem. The Committee is trying to solve pedestrian navigability, pedestrian safety and to remove any possibility for liability for the City. Ms. Lovett spoke with seven representatives of 12 seasonal municipalities she had contacted. Cape May, NJ has a working model, and it removes any liability for the city. Owners are required to clear the snow, and Cape May has an enforcement policy. Main Street did a survey of the businesses to see if the sidewalks should be cleared and who is responsible. Fifty percent said that the property owner or tenant is responsible, 37% said the City should be responsible but there would be a fee, and 5% said that the closed business should contract with a vendor. No one said the City should be responsible for clearing the sidewalks. The businesses understand that the City is understaffed in the winter months. The City Manager has said that there have been complaints from pedestrians and open businesses. Currently, the City does not have a policy or ordinance requiring clearing of the sidewalks. In Cape May, when the sidewalk is not cleared of snow, a certified letter is sent to the commercial district property owner giving them a warning. For the second offense, a mandatory court appearance is scheduled, and the owner is required to appear.

Mayor Cooper said that the City does not have the staff to clear the snow. He would approach it more from the idea of the City contracting it out and bill the business owners a fee. The streets would have to be first priority. A standard would need to be established for removing snow, icy sidewalks, etc.

Commissioner Mills did not think the Cape May program would fill the immediacy that the Commissioners would want to get the snow cleared within a certain amount of hours. He thought the entire commercial district should be included in this program. Standards would need to be established for removal of snow. Another area that would need to be considered are the businesses on the Boardwalk.

City Manager Sharon Lynn said that unless there is a requirement for the snow removal and it is made consistent, then the absent property owner needs to hire a property manager in the commercial district.

Ms. Carol Everhart of Rehoboth Beach/Dewey Beach Chamber of Commerce, said that there are mixed feelings from the business owners of who would have to pay to clear the snow.

Ms. Lovett will take this matter back to the Committee for further discussion.

CITY SOLICITOR'S REPORT

There was no report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

There were none.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

There were none.

CITIZEN COMMENT

There was none.

The next Workshop Meeting will be held on December 8, 2014 at 9:00 a.m.

There being no further business, Mayor Cooper adjourned the meeting at 11:43 a.m.

Respectfully submitted,

(Lorraine Zellers, Secretary)