

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

January 10, 2011

The Workshop Meeting of the Mayor and Commissioners of the City of Rehoboth Beach, was called to order at 9:00 a.m. by Mayor Samuel R. Cooper on Monday, January 10, 2011 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 Pat Coluzzi
 Mayor Samuel R. Cooper
 Commissioner Dennis Barbour
 Commissioner Stan Mills

Absent: Commissioner Bill Sargent
 Commissioner Kathy McGuiness
 Commissioner Lorraine Zellers

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

CORRESPONDENCE

There was none.

OLD BUSINESS

Mayor Cooper called to discuss potential changes to Section 270-19(A) of the City Code, which Section relates to the regulation of patios associated with restaurants and Chapter 189 of the City Code, which Chapter relates to the control of noise.

Mayor Cooper noted that Commissioner Sargent has put together a draft noise ordinance, but because of his absence from this meeting, Commissioner Sargent had asked that this item not be placed on the agenda until he has had a chance to be present to explain the draft ordinance. After discussion, the consensus of the Commissioners was to have Mr. David Henderson, IT Director, post the draft ordinance on the City website so it would be available to the public to make them aware of this matter to be discussed at a future meeting.

Mr. Timothy Spies, 53 Columbia Avenue, requested that a copy of the proposed changes to the restaurant ordinance that were discussed at the last meeting be posted on the City website because it would be helpful in regard to discussions. Commissioner Mills said that at the last meeting an outline was presented of the group's guidance on how to approach a review and amendments to Chapter 215. The group has not gone beyond that because consensus of the Commissioners at that time was to put this matter on hold. Commissioner Mills acknowledged that a copy of the outline could be posted to the City website.

Mayor Cooper called to discuss the proposed revision of Chapter 22 (Emergency Operating Plan) of the City Code and the proposed new City Emergency Operations Plan drafted by Sumter Consulting.

Mayor Cooper had distributed a red-line version of the proposed revision of Chapter 22 prior to the meeting. The proposed changes are:

1. Eliminated the definition of "Catastrophic Disaster".
3. The language of the definition "Civil Emergency" was left in the red-line to show how it had changed and for it to be understandable.
4. Deleted the definition of "Qualified Medical Personnel".
5. Deleted the definition of "State of Emergency (State of Delaware)".

Commissioner Coluzzi asked if there is anywhere in the ordinance where the Mayor has certain authorities under the civil state of emergency, and if there is a time where the Delaware state of emergency would take precedence. Mayor Cooper said the City of Lewes' ordinance says that anytime the Governor declares a state of emergency there will exist one in Lewes as well. Mayor Cooper did not particularly like that because there have been times when there have been snowstorms, but it was raining here. If the State would have declared a

state of emergency for snow, it would have been ridiculous to apply here. He thought that it is incumbent upon the City to declare a state of emergency. A couple of times in the past the City has declared a state of emergency or civil emergency, but it has always been after the fact in order to get federal funding. He could not remember the idea of a state of emergency in extreme circumstances. The City Manager handles a snow emergency within the budget. City Manager Gregory Ferrese acknowledged that there was a state of emergency last year of which the City received funding.

6. Deleted the reference to "Vice President" in various areas of the proposed ordinance.
7. Added §22-7. Line of succession. Should the Mayor be unavailable or otherwise unable to assume, during the time of a civil emergency, the duties and authority of this Chapter, these duties and authorities shall pass to another Commissioner who is available in the City according to the following order: A. Vice President of the Commission. B. Resident Commissioner by seniority. C. Non-Resident Commissioner by seniority. Once available and able the Mayor shall assume the duties and authorities of this Chapter.

Commissioner Coluzzi said that an emergency management coordinator and emergency management council need to be appointed. She thought that at the last meeting it was said that the emergency management coordinator and emergency management council would be listed in one of the appendices of the actual plan. Section 22-9 of the ordinance references an emergency management coordinator. Commissioner Coluzzi asked if an individual is appointed as the event happens, and if this is covered in the plan as opposed to the ordinance. Mayor Cooper said that once the ordinance is adopted, then it is incumbent upon the Commissioners to always have a person who is designated the emergency management coordinator. He acknowledged that it is not spelled out in the ordinance but it could be, that the City Manager is the emergency management coordinator. The language could read that the City Manager shall serve as the emergency management coordinator of the City. This gives freedom to appoint somebody else if that person resigns his position with the City, etc. and it would be incumbent upon the Commissioners to appoint someone else. The emergency management coordinator will be the one who will keep the City prepared and probably has a role, but not as big a role in the bigger scheme of things in an actual emergency. Mayor Cooper also acknowledged that the line of succession could be placed in the ordinance.

Commissioner Mills said that at the last meeting the Commissioners talked about turning this into a two-step process: 1. Move forward and codify the ordinance. 2. Finalize the emergency operations plan which has the greater specificity in it. Mayor Cooper said that the ordinance appears in the plan so it is hard to do the plan until the ordinance has been finalized. Commissioner Mills also noted that a policy needs to be developed on how much of the plan is made or not made public. Some municipalities do not have public access to their emergency operations plans, and other municipalities like the City of Lewes have the entire plan available to the public on the website. The Commissioners need to address this matter sooner rather than later because if the plan is made available to the public, certain information may need to be redacted. City Solicitor Glenn Mandalas noted that there are some provisions under the Freedom of Information Act (FOIA) where documents can be maintained confidentially if certain government structures and buildings would be put in jeopardy, but he was not sure what portions if not all of the plan would be subject to confidentiality under FOIA. Commissioner Mills asked if this could be researched because certain information is sensitive and is not to be released to the public unless authorized such as personal information of people. If the Commissioners can determine what needs to be redacted, then he would prefer to have the plan made available to the public online or elsewhere whether it is now or at some future time. Mayor Cooper said that this ordinance will be made public and will be part of the Code. If an emergency management council is established, then it can work on this issue and advise the Commissioners. He has not looked at the plan from the standpoint of what should be made public or not; but he agreed that people's personal contact information should not be out in the public domain. Commissioner Barbour said that apart from this, part of the objective is to have the public informed so they know how to get out of town or whatever the case may be. City Solicitor Mandalas noted that under FOIA, one of the exceptions is response procedures or plans prepared to prevent or respond to emergency situations. Disclosure of these procedures or plans would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures. Depending on the ultimate plan, under FOIA the Commissioners probably could maintain that the plan is confidential, but it is just a matter of what the Commissioners want to do with it as a body.

The consensus of the Commissioners was to move this ordinance forward to a vote at the Regular Meeting to be held on January 21, 2011

NEW BUSINESS

There was none.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese reported that the first Budget Meeting will be held on January 21, 2011 at 1:00 p.m. in the Commissioners Room. In regard to the Competitive Energy Grant that the City received, the City has received the approval of the activity list; and the City is waiting for the contract to sign. Once the City signs the contract with the State, it can proceed with all of the items on the activity list. The City is out to bid for the proposed Stormceptor Project in Country Club Estates. Bids will be opened during the month of January 2011. Bids will be opened on January 11, 2011 to upgrade the storm sewer system next to the Rehoboth Beach/Dewey Beach Chamber of Commerce building. The City is also out for bids for a new boiler for the municipal building. Bids will be opened shortly. The City will be advertising shortly to upgrade the facilities at the Baltimore Avenue restroom. The Budget will be forwarded to the Commissioners this week for their review before the January 21, 2011 meeting.

Commissioner Mills clarified for the audience where the stormceptors are located and their purpose.

COMMITTEE REPORTS

Mayor Cooper introduced Mr. Bryan Hall of the Office of State Planning Coordination who was there to talk about the tree inventory and issues related to it.

Mr. Bryan Hall reported that the tree inventory has been completed and has been provided by Dave Tree Expert Company to City staff in electronic format. An electronic copy was also forwarded to the Commissioners when the inventory report was first received. The majority of the forest within the community is in fair to good health. Only five priority trees were identified for immediate removal. Based on previous discussions regarding canopy density and setting canopy goals, there are substantial locations throughout the City available for planting. The trees inventoried are located on public property. It is estimated that the value of just the publicly owned trees inventoried both within the streets and the parks is more than \$2,000,000.00 in additional value and infrastructure investment in the City. All the public trees totaled 2,871 and were identified as trees, stumps for removable and future planting sites. Of these trees, roughly 2,300 were along City streets and 536 were within parks and public properties. The dominant tree was the pear or a variety of the pear, but there are approximately 60 different species within the street right-of-ways and 67 different species within the parks and public properties. There is a good healthy and diverse mix based upon the assessment. Most of the trees are relatively young in age along the street. Within the parks, the trees represented are a more older and mature stock. Only five trees were recommended for immediate removal due to being hazardous conditions. Throughout the document, a variety of supplemental appendices were received, and Mr. Hall will make sure the Commissioners receive those appendices for the meeting on January 21, 2011. There are two book regarding the tree inventor, and the second binder is actually the workbook binder. The workbook is based on how the company rates the assessment: Priority 1 Removal, Priority 2 Removal, Priority 1 Maintenance, Priority 2 Maintenance, etc. This outlines specifically how to tackle the work, when the work should be done based on a one, three, five and seven year priority list. Some basic estimates of cost have been provided by Davey Tree so the Commissioners can understand that cost estimates do vary based upon a given location of a tree, what is necessary to do the job, etc. Of the five trees to be removed, two are park trees and three are street trees. Of the two park trees, one looked like it was topped out at some point. Other park and street trees are demonstrating substantial crown die-back which can be equated to environmental conditions. One of the trees is on Wilmington Avenue within a block or so of the Boardwalk, and environmental factors may have played a cause to that tree, the age of the tree, past maintenance, etc. Of the three trees within the street right-of-way, one is recommended to be taken out within the first year of the inventory and the other remaining four are at least within the first two years. There are several things Mr. Hall will be working on with staff over the next few weeks in anticipation of the January 21, 2011 meeting at which time a more formal presentation will be made. In regard to the value of the trees, Davey Tree uses a series of estimates based on the plant appraisal guide which is put out by the International Society of Arboriculture. The appraisal guide looks at current health conditions, locations, species, past maintenance activities and an overall of what the tree's role and/or function is within the landscape. If it is a smaller specimen tree i.e. white oak or elm tree, etc., the value may be increased; and if it is an understory tree located at the back corner of a park, the value may be decreased. A standard has been developed. Of the 60 species, the pear or a variety of the pear is at 20% followed by another common street which is zelkova at 15% and the cherry/plum/peach family at 12.42%. Native trees consisting of maples and the maple family are the largest at 10%, with sycamores at 7%, oaks at 6% and pines at 6%. The remaining 29 different species that were identified constitute the remaining 24%. Commonly found were crepe myrtles, etc. There is a recommendation that preaches the right tree for the right place so when applicable, native species are recommended when there is sufficient planting space and proper environmental conditions. In the management plan, Davey Tree does account in further detail the discussion of environmental issues

related to being a beach community, and it provides recommendations for some of the planting species that have not been thought about. Typically crepe myrtle, zelkova or a black pine is recommended because the first half to three quarters of the block is the most environmentally impacted. Davey Tree has provided a list of trees that are non-native but are much more salt tolerant. As part of the inventory, a detailed history of the trees was not done. Mr. Hall had received an email from Davey Tree stating that its role in this process has essentially been completed. The next step in the process is implementation. Aerial photographs showing the GIS layer provided by Davey Tree of all the sites that were inventoried along with a supporting database will be presented at the January 21, 2011 meeting. In the areas to the north, there is extensive crown. The trees are concentrated very heavily within the business district and on Rehoboth Avenue. There is a greater potential along Silver Lake for additional plantings. It is pretty barren, and there is substantial opportunity for plantings in Country Club Estates. Located within the appendices in the workbook are prioritizations and what the estimated costs would be. The plan provides elements broken down by years based on the type of classification of necessary maintenance work that the reviewers identified. Davey Tree tried to use current rates that they were familiar with based on company averages through the Atlantic region, and they have estimated that one tree could cost \$1250.00 to remove as well as to remove the stump and plant. A general average has been provided to give the Commissioners a ballpark quote for potential budgeting purposes. Today, the first initial meeting will be held with the Delaware Forest Service to discuss monies that are available for this year for potential planting of trees. This grant is a separate scenario from their annual urban and communities grant program which provides for tree maintenance as well as tree planting. The grant used in this case to do the tree inventory will also allow for tree planting activities for pollution mitigation. Mr. Hall, Mr. Ferrese, Ms. Sullivan, Commissioner Barbour as well as members of the Delaware Forest Service will be attending the meeting today to outline what is required in moving forward. The only areas that were not done at this point were basically the upper three streets between Henlopen Acres and the small pond to the north. This inventory got the majority of the trees within the community. There is a very dense area of canopy between north Rehoboth and Henlopen Acres. The south part of the City and the commercial districts clearly were the areas where a big push will be made to expand or grow canopy. Under the basic principles of canopy density and setting the canopy goal, that seemed to be the logical place to make investments. The representative from Dave Tree who performed the tree inventory was asked to identify planting locations and make recommendations beyond the scope to fill in those planting areas as well as address the environmental concerns at the various ends of the blocks directly adjacent to the Boardwalk. Mr. Hall will be returning to the Regular Meeting on January 21, 2011 with more information based on the potential grant opportunity with the Delaware Forest Service, and he will ask the Commissioners to rethink the notion of moving forward with setting a canopy goal.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas reported that at the last regular meeting the Commissioners approved a settlement agreement with the Reigles. Mayor Cooper has executed that agreement, and it has now been executed by the Reigles. To date, City Solicitor Mandalas has not received a copy of the executed agreement. The last thing to do is to get the agreement and record the easement agreement. On January 14, 2011, the Planning Commission at its meeting considered the Oak Grove Major Subdivision. The Planning Commission is now at a point where there will likely be a vote taken to grant a conditional preliminary approval. Part of that conditional approval involves an escrow agreement, and he wanted to make the Commissioners aware of that. One of the elements of this plan is that the Planning Commission recognized an opportunity to create something along the western side of Canal Street, a canalside improvement project. What may be agreed to on January 14, 2011 is that the applicant would put \$20,000.00 into an escrow agreement and to the extent the City wanted to engage in a canalside improvement project, that money would be available to the Commissioners. The Commissioners will need to meet certain criteria, and the project would need to start within five years. If for some reason, the Board of Commissioners would not want to enter into an escrow agreement, then the condition which will be placed on the applicant is that sidewalks will be need to be placed on the eastern side of Canal Street. The applicant would like a decision relatively soon if they get approval from the Planning Commission on January 14, 2011 simply because if the City will not enter into an escrow agreement, they will have to do some re-engineering in regard to stormwater management, etc. to accommodate for the sidewalks that would be necessary along the east side of Canal Street. The Planning Commission has made the decision that it would like to see something happen on the canal side of Canal Street. The Commissioners will hear from the Planning Commission that it would prefer the Commissioners enter into this escrow agreement. A copy of the escrow agreement has been forwarded to the Commissioners for their review.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills reported that the beach nourishment has started in South Bethany, DE today. The sequence is that South Bethany will be done, then Bethany and Fenwick Island before moving to Dewey Beach and Rehoboth. It is premature to know when the nourishment will be done. The contract states that nourishment is

supposed to be done by Memorial Day. More will be reported on this matter at a later date. Commissioner Mills reported that in regard to yard waste, Mr. Ferrese is in the process of trying to develop a program. In the meantime, the Commissioners need to let the public know what the change is. The change right now is in the pickup by the Public Works Department. Typically, trash along with yard waste and bundled branches, etc. is put out in the south on Monday and in the north on Tuesday. On those regularly scheduled days, the trash truck will only be picking up the refuse. The yard waste has to be picked up by a different vehicle. A program needs to be developed, and the Commissioners need to reach a conclusion quick so letters can be sent out to educate the public on what is being done regarding pickups.

Mr. Hoyte Decker, Laurel Street, voiced concern regarding the discussion about the restaurant, patio and noise issues and the timing of the meetings and absence of Commissioners.

Discuss items to include on future agendas.

An item to be included on the next agenda for the Workshop Meeting is an introduction of smoking prohibition or limitations and for the Regular Meeting is a proposed parking ordinance with regard to parking tickets.

There being no further business, Mayor Cooper adjourned the meeting at 10:05 a.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)

The Mayor and Commissioners Workshop Meeting was taped by Terri Sullivan in the absence of Ann M. Womack, City Secretary.

The Mayor and Commissioners Workshop Meeting Minutes were prepared by Ann M. Womack.