

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

March 5, 2010

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 Friday, March 5, 2010 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	Bill Sargent
	Commissioner	Pat Coluzzi
	Commissioner	Kathy McGuiness
	Mayor	Samuel R. Cooper
	Commissioner	Dennis Barbour.
	Commissioner	Stan Mills
	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 and finalize the 2010-2011 City Budget.

City Manager Gregory Ferrese presented a proposed balanced budget of \$13,571,067.00; and of that amount, \$980,522.00 would be allocated towards the capital improvement program. In regard to revenue, the Commissioners had discussed at their last Budget Session, increasing the wastewater rates an additional 10% which would be put in a separate account. The additional 10% in addition to last year's amount would be used towards the permitting process for the ocean outfall project. Seasonal transferable parking permits would be increased from \$150.00 to \$200.00, and seasonal non-transferable parking permits would be increased from \$125.00 to \$175.00. All other parking permits will remain the same as last year. Delinquent parking meter and permit fines that are 30 days past due would be increased from \$85.00 to \$110.00. Delinquent parking meter and permit fines that are 60 days past due would be increased from \$85.00 to \$150.00. Disturbing the peace would be the only civil citation increased from \$25.00 to \$100.00. The Permit of Compliance fee would be increased from \$500.00 to \$1,000.00. Plumbing permit fees would be increased from \$10.00 to \$25.00 per permit and from \$2.50 to \$5.00 per fixture. Residential and commercial refuse rates would be increased by 15% due to the fact that starting July 1, 2010, Delaware Solid Waste Authority (DSWA) will be charging \$80.00 per ton for the tonnage for refuse, up from \$62.50 per ton. Water rates, last increased in 2006, would be increased by 15%. These revenue increases are reflected in the proposed Budget. For the Phase II Amenities at Program. The City originally allocated \$37,500.00 for the project. A Parks & Recreation grant was received in the amount of \$37,500.00. The amount remaining from the City's share is \$28,000.00, and \$28,000.00 from the State's Parks & Recreation share. Mr. Ferrese recommended that the City encumbers the balance of \$28,000.00. Monies available for this project are in the amount of \$176,000.00, and the low bid was in the amount of \$164,000.00. In regard to expenses, the contingency would be increased from \$138,000.00 to \$165,509.00. which is money to be used for any emergency items. There has been discussion about purchasing a Bobcat which may be approximately \$40,000.00 because the City may be possibly taking over the crossovers to the beach and removing sand. The purchase of the Bobcat is eligible under the Municipal Street Aid Program if the monies become available after July 1, 2010. Capital improvement monies in the amount of \$6,000.00 would be allocated for banners. Estimated transfer tax revenue would be decreased to \$900,000.00, and estimated parking meter revenue would be decreased to \$2,275,000.00. Two projects which will be occurring in April 2010: 1. Sanitary sewer line replacement on St. Lawrence Street near the City's pump station and in Lake Gerar behind the homes on Olive Avenue. 2. Phase II Amenities for the Museum. In regard to the stormceptor in Country Club Estates, Mr. Ferrese has received notification from Senator Bunting that he will allocate an additional \$15,000.00 towards that project.

Mayor Cooper would like to be involved in any discussion about taking over the crossovers to the beach. He was afraid the State might give the City the responsibility but not the authority to do what needs to be done.

Commissioner Kathy McGuinness said that the Commissioners also talked about trash, rentals and fees or fines, etc. She and Mr. Ferrese met with key people who do the majority of the rentals in the City, and their suggestion was to have a Saturday pickup of trash which would boost revenue. The fee could be added on to the rental license fee. Commissioner Stan Mills said that after the budget discussions have been finished, the Commissioners' intention is to put the discussion of additional revenue sources on a future Workshop Meeting agenda. He was not sure that the idea of Saturday trash pickup would solve the problem and suggested that this idea be discussed at the Workshop Meeting. Commissioner Dennis Barbour thought that this is a public health issue with trash laying around from Saturday to Tuesday.

The topic of trash will be placed on the next Workshop Meeting agenda.

Mayor Cooper noted that extending the parking meter season is not part of the budget at this point. Commissioner Bill Sargent said that this should be done next year, and the revenue should be added to the contingency. Mayor Cooper had expressed last time that he was not interested in doing anything further other than the permits. Commissioners Pat Coluzzi, Dennis Barbour and Lorraine Zellers thought that an extension is a good idea and will generate revenue.

Commissioner Sargent said that the City needs revenue sources with respect to paying for the wastewater alternative and the municipal complex in the long run. He did not think that the income problem has been solved. If the season is not extended, it is an inducement for the employees who work downtown to take the parking places that the merchants would like to have for the shoppers. Commissioner Mills did not agree with the reason for extending the season for two weeks. He would like to have more money in the budget for capital improvements. Monies have more than doubled in the capital improvements budget from the first draft. Commissioner Mills was somewhat satisfied with the capital improvements budget right now. As a citizen, he is willing to pay more property tax for his share in reconstructing the Boardwalk, etc.

Commissioner Barbour has been an advocate for increasing property taxes. If this is done, the Commissioners will need to figure out how much is needed for certain projects and have a clear idea of what the monies will be used for.

Commissioner McGuinness said that the property taxes are low, and increasing them \$100.00 would not be harmful to the property owners.

Commissioner Sargent's feeling was that there is a balance between how much the Commissioners want the residents to pay and how much the Commissioners want the visitors to pay. The residents pay a great deal towards the tourists, and the visitors do not pay a lot to enjoy the facilities. Parking is the one area where the Commissioners can ask the visitors to contribute. He would rather extend the meter season than increase the property taxes. Mayor Cooper disagreed. He thought that in order to free up some of the parking, there is room to put reduced parking fees on some of the downtown streets. The idea of keeping all the 2,200 meters on longer into the season is wrongheaded. A lot of residents and property owners will be impacted who basically cannot park on their own streets because of the meters. The City Manager has overestimated revenue based on this past summer's take. Commissioner Sargent's original proposal was to extend the meters on Rehoboth Avenue, and then there was a suggestion to include Wilmington and Baltimore Avenues. He thought that this is a cautious step in a direction where the Commissioners know in the long run that additional funding resources are needed. Mayor Cooper agreed to a limited amount of meters deeper into the season; but the rates also need to be looked at and what the people are willing to pay.

Commissioner McGuinness said that extending the commercial area for two weeks would be reasonable. As a parking management source, the merchants would be amenable to a reduced rate after that. She suggested that this idea should be looked at.

Mr. Ferrese will provide a list of streets in the commercial zoned area and a projection of the meter revenue for the Commissioners to review.

Mayor Cooper called to discuss the proposed revision to the City tree ordinance, Chapter 253 of the City Code.

Commissioner Barbour noted that concerns were addressed up to Line 434 of the February 18, 2010 version.

The suggested revisions are as follows:

1. Line 449. Section 253.3(H)(4)(a). Delete "...for a certificate of occupancy".
2. Line 451. Section 253.3(H)(4)(b). Delete "...in a dune or windy area,..." The use of stakes or guy wires can be universal anywhere in the City.
3. Lines 454-455. Section 253.3(H)(4)(c). "Trees of species who roots are known to cause damage to public roadways or other public works..." A list of the trees will be provided in this subsection.
4. Line 459. Section 253.3(H)(4)(c). "...[p]roduct approved by the City Arborist" should be changed to "...product approved by the City".
5. Line 466. Section 253.3(I). "Trees planted to meet the requirements of this article shall be of species..." should be changed to "Trees planted to meet the requirements of this section shall adhere to the following guidelines with respect to species".
6. Line 471. Section 253.3(I). This should be subsection (1). Unacceptable Tree Species.
7. Line 472. Section 253-3(I)(1). "...City of Rehoboth" should be changed to "...City of Rehoboth. The source of the tree list is the State of Delaware".
8. Line 484. Section 253.3(I). This should be subsection (2). Acceptable trees to be planted in MODERATION.
9. Line 484. Section 253.3(I)(2). "No more than 20% of the required..." should be changed to "No more than 33% of the required..."
10. Line 493. Section 253.3(I). This should be subsection (3). Acceptable Trees.
11. Line 493. Section 253.3(I)(3). Acceptable Trees. A list of preferred trees will be obtained from Mr. Hall and should be inserted in this section.
12. Line 500. Section 253.3(I). This should be subsection (4). Salt Tolerant Tree Species.

Commissioner Barbour will change the order of the unacceptable, acceptable and salt tolerant trees in these sub-sections.

Mayor Cooper requested a compilation of how many trees the City has given permits to take down, how many trees the City has given permits to plant, and what the species are.

13. Line 500. Section 253.3(I)(4). "Salt Tolerant Tree Species – The following species are considered to be salt tolerant..." should be changed to "Salt Tolerant Tree Species – The following species are considered to be salt tolerant and do well often one block off the boardwalk..." "Salt Tolerant Tree Species – The following species are considered to be salt tolerant and are particularly recommended for those locations which are impacted by the affects of the Atlantic Ocean."

Mayor Cooper suggested that "[T]he City recognizes these trees as salt tolerant trees and if planting within one block of the ocean should be considered preferred".

14. Line 511. Section 253.3(J)(1). "Prior to removal or grubbing of protected trees..." should be changed to "[P]rior to removal of protected trees..."
15. Line 523. Section 253.3(J)(3). Commissioner Mills was concerned with the timeframe, and he asked why the replacement trees subject to mitigation need to be planted, relocated or preserved before final inspection. Mayor Cooper said that there could be a way to have an agreement and post a bond. Commissioner Barbour said that Ms. Sullivan exercises discretion when there are problems.
16. Lines 526-527. Section 253.3(J)(3). Commissioner Barbour and Ms. Sullivan will work on the language to replace "...[b]efore issuance of the final development approval or certificate of approval". Ms. Sullivan said that in some case the final inspection is done, and the certificate of occupancy is issued with a contingency that i.e. the trees will be planted within three months. The trees being planted are usually a requirement of the building permit. Mayor Cooper said that what is being done should be memorialized in the Ordinance.

This item will be placed on the agenda for the March 19, 2010 Regular Meeting.

NEW BUSINESS

Mayor Cooper called to discuss the proposed ordinance amending Chapter 215 of the City Code which would require the application for a Permit of Compliance for a restaurant or dinner theater where an existing restaurant's or dinner theater's liquor license is being transferred to a new owner at the existing site or where an existing restaurant's or dinner theater's liquor license is being moved to a new location in the City.

Commissioner Coluzzi said that it is time to look at all restaurants whether or not they change location of if

it is a new restaurant in an existing location where there is a transfer of the liquor license. Owners of restaurants should come before the Commissioners for a certificate of compliance. The proposed changes to the Ordinance are under Section 215-7 – Applicability, Section 215-10 – Appeals from determination of revocation or suspension, and Section 215-13 - Application fee. Commissioner Coluzzi proposed to delete Section 215-7 as it exists and replace it with new language. In Section 215-10, the processing fee for an appeal would be increased to \$500.00. In Section 215-13, the application fee would be increased to \$1,000.00.

City Solicitor Mandalas said that under Section 215-7(A)(1), a certificate of compliance is required from the local municipality before a liquor license is issued. He suggested this language: (1) All new restaurants or dinner theaters that intend to acquire a liquor license. If the owner of a restaurant is planning to serve or dispense alcohol, the owner will need to come to the Board of Commissioners for a review. (2). The transfer of a liquor license from any restaurant or dinner theater presently operating in the City of Rehoboth Beach to a new owner. (3). The movement of any restaurant or dinner theater presently operating in the City of Rehoboth Beach with a valid liquor license to a new location in the City of Rehoboth Beach.

Commissioner Mills said the intent is that a permit of compliance review is needed for a new restaurant, transfer of ownership and a relocation of a restaurant. The language from lines 162-164 which was removed, should be included as (4) Any extensions and/or modifications of the premises of an existing restaurant or dinner theater, regardless of the date that said restaurant's or dinner theater's liquor license was approved or issued. Commissioners Zellers and Sargent and Mayor Cooper agreed.

Commissioner Zellers asked if there is any significance to the issuance "by the Delaware Alcoholic Beverage Control Commission on or after June 14, 1991". Commissioner Mills thought that June 14, 1991 is the date that the permit of compliance came into being. Mayor Cooper said that the provisions which are being struck were fought over hard by persons within the restaurant community. He was wondering what the reaction would be by establishment owners to these changes. The date is very important because everything was grandfathered prior to June 14, 1991. If an establishment that is grandfathered now, were to change hands, it would lose the grandfathering and would have to comply. Mayor Cooper questioned what the standard will be if a restaurant is going to be transferred. Commissioner Coluzzi said that there would be no grandfathering, and the owner of the restaurant would need to come before the Board of Commissioners for a review. Commissioner McGuinness thought that it would be good for both sides to have an exchange of information and awareness. Discussion ensued.

Commissioner Barbour asked if the issue is whether or not the Commissioners require the restaurant owners to come in for compliance or if the issue is whether or not the Commissioner will allow the restaurant to be grandfathered forever. Mayor Cooper said that as proposed, everyone that has a change of ownership has to get a certificate of compliance. There is no provision for grandfathering or variances. The only thing the Commissioners can approve is a complying application. Anyone who owns a restaurant that is grandfathered, can never transfer it. Mayor Cooper questioned what the standard would be in regard to whether a restaurant can or cannot be sold to another person when an owner is brought in and the restaurant complies.

Building Inspector Terri Sullivan noted that in regard to no changes in a restaurant, if an owner comes in to get a license for a new restaurant serving alcohol and it is a transfer of ownership, Mr. Ferrese has to issue a letter to the owner agreeing to the transfer of ownership. The Building & Licensing Department then inspects the restaurant to make sure it meets the Code and the plan that is on file. Mayor Cooper suggested that when Mr. Ferrese issues the letter to the owner, a copy should be forwarded to the Commissioners.

Commissioner Mills said that in terms of transferring location, the owner should come before the Commissioners because when there is a permit of compliance hearing, specific notices are sent out to people within 200 feet of the property and those citizens are given the opportunity to speak. When a relocation is done automatically, that opportunity is omitted. In regard to a transfer of ownership, it brings the new owner in and puts them on notice that the Commissioners have the opportunity to reiterate some rules and talk with them about them. In regard to grandfathering, there are establishments that are grandfathered, and perhaps they could operate under a different set of standards which may be more lax than the new permit of compliance conditions are. The Commissioners need to decide if the restaurants are allowed to operate perpetually under those relaxed rules; or at some point in the future, the owners should come into conformance so there is a fair playing field across the board. Commissioner Coluzzi suggested that the amount for a transfer could be lowered.

Commissioner McGuinness said that proposed (1) would remain the same. Commissioner Sargent suggested that under proposed (2), an exception should be included for those restaurants and dinner theaters with liquor licenses that were issued prior to June 14, 1991. Commissioner Sargent would like the owner to go

through the hearing if there is a change of ownership, and he saw the grounds for excluding those restaurants that have been in existence since 1991. Mayor Cooper said that where there is a straight change of ownership that owner should not have to come in for a review.

City Solicitor Mandalas said that with a straight change of ownership, Ms. Sullivan will report to the Commissioners or copies of the letters will be forwarded to the Commissioners.

Commissioner McGuinness said that the triggers are a new location, major or extensive modification of a floor plan, coming in for the first time for a liquor license.

Commissioner Zellers asked if the restaurants are inspected annually. She thought that spot checks would be good. Ms. Sullivan said that there are no systematic inspections done. Typically if there are complaints or issues with the business, an inspection is done.

Mayor Cooper called to discuss the possible video recording and or live broadcasting of City meetings over the internet.

Commissioner Barbour noted that this topic was brought up in the last budget session. He had suggested that the Commissioners hear from the citizens about what their views are, and to get more information on the technical aspects of it.

Commissioner Coluzzi said that a good system can range from \$3,000.00 to \$20,000.00. Commissioner Coluzzi will provide options and quotes at the next meeting, and she will check into the possibility of doing a live test. Commissioner Coluzzi knows of a vendor who will record for a period of time or on an annual basis to see if the Commissioners like it, and she will provide a quote on that also.

Commissioner Zellers like the idea of a test period because it will give the Commissioners an idea of the quality it will be and whether it will be worthwhile for people to look at.

Mayor Cooper objected that the Commissioners will change their ways of doing business to suit the camera. Commissioner Sargent said that several of the Commissioners have expressed a concern that recording the meetings would modify their behavior. He would like to see the live test and then continue this discussion.

Commissioner Mills would like a presentation to be done with more information, and he would like the IT Department's evaluation of this.

Commissioner McGuinness said that the recordings would be done for the Commissioners' Regular, Board of Adjustment and Planning Commission Meetings.

This item will be placed on the agenda for the March 19, 2010 Regular Meeting.

CITY MANAGER'S REPORT

Mr. Ferrese was notified on March 3, 2010 that Senator Bunting will allocate \$15,000.00 from the Community Transportation Fund towards the purchase and installation of the Stormceptor in Country Club Estates. The monies allocated for this project are as follows: Representative Schwartzkopf - \$50,000.00, Senator Bunting - \$30,000.00, 21st Century Funds - \$22,000.00, and City of Rehoboth Beach 2010/2011 Budget - \$70,000.00. A total of \$172,000.00 will be available towards the Stormceptor Project. Without the financial support from Representative Schwartzkopf and Senator Bunting, this project would not have become a reality. Bids were opened on February 25, 2010 for the Phase II Amenities Project at the Museum. The apparent low bid is \$164,320.90. Funding for this project is as follows: State of Delaware/Transportation Enhancement Program - \$120,000.00, State of Delaware/Parks and Recreation - \$28,000.00, and City of Rehoboth Beach 2010/2011 Budget - \$28,000.00. A total of \$176,000.00 will be available for this project. Sealed bids will be opened on March 9, 2010 for the Air-Conditioning Unit Project at the Convention Center. An application was submitted to the State Energy Department on February 1, 2010 requesting \$35,000.00 which has been allocated to the City. Mr. Ferrese has not received authorization from the State to proceed. In the 2010/2011 Budget, monies in the amount of \$40,000.00 have been allocated for solar panels at 306 Rehoboth Avenue. Monies in the amount of \$75,000.00 will be available for this project. Representative Schwartzkopf has allocated from the Community Transportation Fund \$10,000.00 towards the stabilization of shoreline along East Lake Drive. A grant has been received in the amount of \$5,000.00 from Sussex County Conservation District, and the City has allocated \$10,800.00 in its 2010/2011 Budget. Monies in the amount of \$25,800.00 are available for this project.

COMMITTEE REPORTS

Commissioner Mills, Boardwalk Committee, provided an update on the Committee activity and Phase 2 of the Board Reconstruction Project. The next meeting will be held on March 24, 2010 at 1:00 p.m., and items to be discussed are refuse, signage and maintenance program recommendations for the Boardwalk. The lights have been delivered for the south portion of the Boardwalk. It is anticipated that the lights will be installed in the next three weeks, and the Boardwalk would be walkable by the end of March 2010. Part of the end of Rehoboth Avenue will be opened for the Polar Bear Plunge next weekend. Everything is on schedule for the north section of the Boardwalk, and it is anticipated to be walkable for Memorial Day 2010. Sections will be opened up as the contractor completes them and inspections are made. At the end of Rehoboth Avenue, pavers need to be put in place between the end of the street and the new Boardwalk, and new foot showers are being constructed.

CITY SOLICITOR'S REPORT

City Solicitor Mandalas met with Mr. Tim Willard, Esq. of Cape Henlopen School District to discuss the new Educational/Residential District. Attorney Willard is in agreement that the Ordinance as it is currently drafted is reflective of what Cape Henlopen School District and the City have come to agreement on. Attorney Willard will request to have this item placed on the School Board agenda. City Solicitor Mandalas will forward the proposed Ordinance to the Commissioners.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills commented that the City belongs to National League of Cities (NLC), Delaware League of Local Governments (DLLG) and Sussex County Association of Towns (SCAT). The Commissioners need to be more active in SCAT. Because some of the Workshop Meetings are held the same Friday mornings as the SCAT meetings, Commissioners would only be able to attend half of the SCAT meetings. Commissioner Mills suggested that the Commissioners should facilitate being able to attend those meetings. Any comments should be forwarded to Commissioner Mills. If there is an interest, this item would be placed on the agenda.

Mayor Cooper announced that the Clean Water Advisory Council (CWAC) has scheduled a meeting for March 10, 2010, and it should have the rankings for the upcoming year.

DISCUSS ITEMS TO INCLUDE ON FUTURE AGENDAS.

Topics to be included on future agendas: Changes and clarifications to the Sign Ordinance and Trash (April Workshop Meeting).

The Mayor and Commissioners Regular Meeting will be held on Friday, March 19, 2010.

There being no further business, Mayor Cooper declared the meeting adjourned at 11:10 a.m.

Respectfully submitted,

(Kathy McGuinness, Secretary)