

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

November 9, 2012

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 6:30 p.m. by Chairman Preston Littleton on Friday, November 9, 2012 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Mr. Francis Markert called the roll:

Present: Mr. David Mellen
 Chairman Preston Littleton
 Mr. Francis Markert, Jr.
 Ms. Lynn Wilson
 Mr. Michael Strange

Absent: Mr. Brian Patterson
 Mr. Harvey Shulman
 Mr. John Gauger
 Mrs. Jan Konesey

Also Absent: Mr. Glenn Mandalas, City Solicitor
 Ms. Terri Sullivan, Chief Building Inspector

A quorum was present.

Mr. Michael Strange was welcomed as a new member to the Planning Commission. Mrs. Jan Konesey and Mr. Brian Patterson were reappointed to the Commission.

APPROVAL OF MINUTES

Minutes of the June 8, 2012 and July 13, 2012 Planning Commission Regular Meetings and July 13, 2012 Planning Commission Executive Session were distributed prior to the meeting. The September 14, 2012 Planning Commission Regular Meeting Minutes were not available for approval.

Ms. Lynn Wilson made a motion, seconded by Mr. Markert, to approve the June 8, 2012 and July 13, 2012 Planning Commission Regular Meetings and July 13, 2012 Planning Commission Executive Session minutes as written. Motion carried unanimously.

CORRESPONDENCE

Correspondence will be read when the discussion regarding the City's lakes portion of the meeting is held.

NEW BUSINESS

There was none.

OLD BUSINESS

There was none.

OTHER BUSINESS

Chairman Littleton called for the election of officers. Chairman Littleton noted that he has agreed to continue as Chairman of the Planning Commission, Mr. Mellen as Vice Chair and Mr. Markert as Secretary for the 2012/2013 year. No other nominations were received.

Ms. Lynn Wilson made a motion, seconded by Mr. Michael Strange to approve the election of Preston Littleton as Chairman, David Mellen as Vice Chair and Francis Markert as Secretary. Motion carried unanimously.

Chairman Littleton called for the report and possible action from October 24, 2012 Office of State Planning Coordination's PLUS review of the Planning Commission's draft report on the City lakes.

Ms. Violet Chilcoat, 11 Queen Street, has been providing input to the City, DNREC, etc. over the years

about the issues at the eastern end of Silver Lake. She provided photographs to the Planning Commission that clearly illustrate the need to keep Silver Lake below the inflow drainage pipes. Queen's Cove has approximately four major storm sewers that run into Silver Lake. She has watched the bank of Silver Lake substantially erode year after year in addition to loss of vegetation and trees. Ms. Chilcoat wanted to make sure that people are aware of the issues with the eastern end of Silver Lake. Silver Lake is a major repository for water. There is no process for filtration or sediment collection so the sediment goes to the bottom of the lake. Ms. Chilcoat voiced concern that a larger outfall is needed. There were also trees at the lake's edge which fell into the lake. Some people in her neighborhood have experienced major flooding in their basements because the water level of Silver Lake seems to be higher. No boards have been placed at the outfall since the manmade flood in 2009. The most recent storm came up to approximately the same height as in 2009. Currently, the water in Silver Lake is low but it is high in Queen's Cove so the relationship has changed because the sediment at the bottom in Queen's Cove has come up so the water is higher.

Chairman Littleton noted that Mr. David Mellen and Mr. Markert had gone to the PLUS review meeting. He had emailed Mr. Bryan Hall of the Office of State Planning Coordination, Mayor Samuel Cooper and City Manager Gregory Ferrese with regard to receiving any written comments, but no comments had been received. Ms. Ann Womack, City Secretary, was also not aware of any comments being received.

Mr. Mellen said that the standard PLUS committee was in attendance. At the PLUS meeting, Mr. Mellen and Mr. Markert gave a presentation of the background regarding the lakes report. DNREC believes there is legal precedence for the State to say it owns Silver Lake. The issue is that DNREC is still studying the ownership of property around the lake and what to do about it. In some cases, there are property owners who have deeds saying they own property to the center of the lake. DNREC is perplexed about what to do about that and what the impact would be. Mayor Cooper and Commissioner Patrick Gossett were also in attendance. If the State would take possession of the lake, it would control through a variety of rules what can be done along the edge of the lake. There were no comments from DeDOT. The Department of Education said it has resources if people need to be educated with regard to the lake. Mr. Bryan Hall of the Office of State Planning Coordination was not in attendance at the PLUS meeting. Mr. Markert said that the meeting was basically a formality of going through the process.

Chairman Littleton had hoped that DeDOT because of the storm sewers coming off of Route 1 would have addressed what it intends to do or not do about that. Mr. Michael Strange said that this is a very contentious and difficult issue. Unless DeDOT has to deal with it, DeDOT's preference is not to deal with it. Silver Lake is a massive stormwater retention pond. Unless forced to do so, DeDOT will not take the lead on it. DNREC may take more of a lead when it can.

Chairman Littleton called to finalize the Commission's lakes report.

Chairman Littleton said that he would like the Planning Commission to be comfortable with allowing the written comments to be incorporated in the lake report or included as an appendix or exhibit after it receives them from the PLUS review. When the Planning Commission met with the Board of Commissioners regarding the report, Ms. Sallie Forman brought to the Planning Commission's attention the legislative citation relative to the City lakes. This citation should be included as an attachment or exhibit to the lakes report and cited within the body of the report. Copies were provided in the Planning Commission's folders. A copy of the citation had been forwarded to the Office of State Planning Coordination.

Chairman Littleton suggested that the Planning Commission go further in terms of the report on trees and cite the fact that there is not a lot of room on the 50 feet x 100 feet properties or other sized lots to plant trees. He would like to expand that recommendation and discussion on trees to cite out problems with regard to private property. The consensus of the Planning Commission was to move forward with this suggestion. Mr. Mellen said that this would fall into the issue of side yard setbacks for larger lots, but it does not address the issue for smaller 50 feet x 100 feet lots.

Chairman Littleton read correspondence from Commissioner Stan Mills. Additional notes were submitted for the Planning Commission's consideration to include in the report or to at least recognize them for their importance. The knowledge of where all the storm sewers are is not precisely known right now in terms of records. The City does not have a current up-to-date map, and the Planning Commission has recommended it in the report. Commissioner Mills noted that more emphasis is needed on updating electronic maps of the City's storm drain system including development of one map to identify locations of (A) all storm drain basins with sizes, directions of water flow and location of pipe discharge termini, (B) all stormceptors and similar filtrating systems, (C) all private (non-City owned) underground pipes connected that flow into the storm drain basins. The private connections would be the first step in monitoring and mitigating the potential for pollutants from

entering the storm drain system. Currently, in order to examine the storm drain system in its entirety, multiple maps have to be assembled to ascertain what is or is not up-to-date. This would be an appropriate moment to seek support on the importance of moving the mapping project forward. Chairman Littleton noted that the Planning Commission has known there are alleged private drains coming directly into the lake. The idea that there are people who have invaded the City storm system with private piping is the first time Chairman Littleton has heard about it. Mr. Markert said that if there is no ordinance to prohibit this, then one is needed. Chairman Littleton said that he would like to include portions of the correspondence from Commissioner Mills into the report. Mr. Mellen said that before this is done, it should be clarified with examples of where this actually occurs and how prevalent it is. It is now illegal to pump from a sump pump into the sewer system, but most houses built some time ago still do that. The only way this can be stopped is when there is a new or improvement to a house. As part of the inspection process, it would be required to be changed and discharged to the outside to a lawn.

Mr. Mellen noted that another issue had been discussed at the PLUS meeting which related to the plans for work on the west end of the lake. Currently, the issue is that instead of putting a dredge into the lake, DNREC is working with the school system to see if the school property will accommodate the use of drainage logs or tubes over a period of time. DNREC believes that this would be a more efficient way of excavating western end of the lake. There are no firm bids on the estimate of the cost to date.

Chairman Littleton said that he will update the report and bring it back to the Planning Commission for the next meeting. Mr. Mellen suggested that Ms. Chilcoat's submission should be part of the report. Chairman Littleton said that there are two priority items relative to the report: 1. 10 foot no-build zone. 2. Site plan review. Both of them are a high priority to get done. Mayor Cooper, City Solicitor Mandalas and Commissioner Gossett will be working on an ordinance for the 10 foot no-build zone.

Chairman Littleton called to continue to discuss, prioritize and formulate action plans to address items and/or issues that have been deferred by the Planning Commission including:

1. Proportional side lot setbacks and/or required natural area for lots larger than 5,000 square feet.

Ms. Wilson and Mr. Anderson met with Building Inspector Terri Sullivan to get her view of what they planned. Mr. Anderson had worked out a specific setback plan which Ms. Sullivan was not committed to. Ms. Sullivan preferred looking at the natural area for larger lots, but not necessarily through the change of setbacks. Ms. Wilson and Mr. Anderson had not met with Mayor Cooper. Ms. Wilson would like one to two other members of the Planning Commission to also talk with Mayor Cooper about this issue.

Chairman Littleton said that looking at the natural area is an interesting approach. Changing the size of the natural area has ramifications no matter what size the lot is. The issue from a planning standpoint is a real issue. With regard to the tree ordinance, the City Commissioners may be looking at charging the Planning Commission with reviewing the ordinance.

Chairman Littleton will take action to set up a meeting with Mayor Cooper, Ms. Wilson, Mr. Strange and himself to discuss the issue of proportional side lot setbacks and/or required natural area for lots larger than 5,000 square feet.

2. Application forms/documents for site plan review to Mr. Patterson and Mr. Shulman.

Chairman Littleton noted that Mr. Brian Patterson had drafted a code amendment and application relative to site plan review. Chairman Littleton has forwarded the amendment to City Solicitor Glenn Mandalas for his review. One issue had been noted, and that had to do with commercial properties. There is no commercial property bordering the lakes. City Solicitor Mandalas had recommended that the amendment include the commercial properties since it will be a modification of the entire site plan review section. There was consensus among the members that the City Solicitor should include language on this matter and then have it forwarded to the Board of Commissioners for adoption.

Chairman Littleton suggested implementing the application that Mr. Patterson had put together on an interim basis, and then have discussion about formalizing an official application. In the budget proposal for 2012/2013, Chairman Littleton suggested meeting with Mayor Cooper and City Manager Gregory Ferrese with regard to the fees for subdivisions and charging off costs to the applicants. The Planning Commission would need to discuss with the Mayor and Commissioners an appropriate site plan review fee.

3. Others to be identified.

No others were identified.

Chairman Littleton called for the Building Inspector's Report.

There was nothing to report.

Chairman Littleton called for the City Solicitor's Report.

There was nothing to report.

Chairman Littleton called for the report, discussion and possible action concerning those activities or assignments taken at Regular or Workshop Meetings of the Mayor and Commissioners that directly relate to the Planning Commission.

Chairman Littleton will augment the lakes report and distribute it to the Planning Commission for its review.

No new subdivision applications have been received to date.

The next scheduled Regular Meeting will be held on December 14, 2012 at 6:30 p.m.

Mr. Strange made a motion, seconded by Mr. Markert, to adjourn the meeting at 7:48 p.m. Motion carried unanimously.

RECORDED BY

(Ann M. Womack, CMC, City Secretary)

**MINUTES APPROVED ON
JANUARY 11, 2013**

(Francis Markert, Secretary)