

MINUTES: Meeting of the Planning Commission of the Town of Henlopen Acres held on **Monday, May 03, 2013 10:00 a.m.** at Town Hall on 104 Tidewaters in Henlopen Acres, Delaware

PRESENT:

John Scheurer	Planning Commission Chairman
Mary Jane Lyons	Planning Commission
Bob Reed	Planning Commission
Dick Thompson	Planning Commission
Gordon Kaiser	Planning Commission
David Hill	39 Rolling Road (member ex-officio)
Thomas Roth	Town Manager (member ex-officio)
Sharon Karl	Town Clerk
Christine Moore	14 Tidewaters
Barbara Shortley	59 Pine Reach
Martin Clark	59 Tidewaters
Eileen Clark	59 Tidewaters
Henry DeWitt	55 Fields End
Marcia DeWitt	55 Fields End
Joni Reich	25 Tidewaters
Jean Stakias	51 Tidewaters
Kit Wilson McNeilly	55 Rolling Road

[The Minutes Are Not Verbatim]

1. CALL TO ORDER – Pledge of Allegiance

Chairman Scheurer called the meeting to order at 10:00 a.m.

2. APPROVAL OF MINUTES – October 15, 2012

Mr. Thompson pointed out that he was not present at the 10/15/12 meeting. Mr. Thompson made a **motion** to accept the minutes as amended. Mr. Kaiser seconded the motion. The motion was approved.

3. 2014 COMPREHENSIVE PLAN –

Mr. Scheurer said that we have an aggressive schedule that we will have to maintain this year in order to meet the deadline of our plan update which is due July 2014. The goal is to add to the work we have done during the review and look forward five to ten years and add any additional items. Also we have a list of items from issues that were identified when we submitted our plan review to the state.

Mr. Scheurer said included in the packet is a list of those items to address, some identified by the Planning Commission and some identified by the State of Delaware. We will go through as many of these items as we can today.

Item 1 - Rehoboth Art League Zoning Status: Mr. Scheurer said this item addresses the Rehoboth Art League Zoning Status. A questionnaire was compiled by Commissioner Staffier. It attempts to solicit answers to things needed in any zoning issue. Mr. Thompson asked if the RAL had responded. Mayor Hill said that the RAL responded but did not answer the questionnaire. In the event that the Commissioners decide that they want the Planning Commissioners to further address RAL issues then we will do so at that time.

Item 7 - Consideration of tree coverage requirements or restrictions: In a study done in 2008 Delaware Forest Service studied municipal tree canopies throughout Delaware and determined that the Town of Henlopen Acres has a tree canopy of 43.2% compared to Lewes 29.61% and Rehoboth 19.89%.

Mr. Reed asked if the town can interfere with a homeowner's right to remove trees from their property. Mayor Hill responded that the Town Code states, you cannot clear cut a lot without a building permit. Mr. Roth said that §114 was amended in 2008 to address the concern of clear cutting vacant lots. Mr. Scheurer stated that we will incorporate this tree canopy section into the 2014 Plan Draft.

Item 8 - Develop responsibility and contingency plans for jetty/groin: Mr. Scheurer stated the concern is what the Town and/or Beach Club would do if the jetty was destroyed. §C-29 of the Charter gives the town the authority to do whatever it deems appropriate in order to protect this property. Mr. Scheurer said that the Beach Club has sufficient reserves, without making a special assessment, to repair or partially replace the jetty. Mrs. Clark, 59 Tidewaters said to be aware that DNREC may not permit the jetty be rebuilt, should something happen to it.

Mr. Scheurer questioned, is there any other modification or any other thought on this section that should be included as part of the 2014 Plan update. Mr. Reed said if we had a cost effective way of improving the jetty would we do that. Mr. Scheurer said that we should include in this some language about working with the Beach Club and DNREC. Mr. Roth said that he would draft a new section for the next meeting.

Item 5 - Develop Block W compliance reporting: Mr. DeWitt said that there is a requirement that every non-profit has to file with the state. Mr. Scheurer asked Mr. DeWitt to supply a copy of that to the town every year and asked Mr. Roth to find a way to track that. We'll include this item in our draft.

Item 9 - Clarify and develop understanding with the City of Rehoboth for land adjacent to Pine Reach: We have information from Sussex County about the land at Surf Avenue & Henlopen Avenue which shows this property is owned by the State. Mr. Roth pointed on the conference room map that the strip of land and the parking lot across the street is also owned by the state and designated as State Park. Mr. Scheurer said this was shown in our Comprehensive Plan as the only land the town would want to annex.

Discussion followed. Mr. DeWitt, 55 Fields End said that the canal is Army Corp of Engineers property from Lewes to Dewey. Mr. Roth said that he knows the town hall parking is on Army Corp land. Mr. DeWitt said that the property in question is also within Rehoboth's boundaries.

Mr. Scheurer said that the biggest issue is that we want to make sure nothing happens to that strip of land adjacent to Pine Reach. Mr. Reed suggested discussing this with the City of Rehoboth to figure out a way to protect it. Mr. Roth said that he will talk with the Rehoboth City Manager. Mayor Hill recommended finding out how that property is zoned. Mr. Roth said that is where the State Office of Planning would come in. If Rehoboth would want to change their land use plan they would have to put it through PLUS just as we would. We should go on record that we are interested in that strip of land. Mr. Scheurer said that we'll include a clarification concerning this item in our update. Mr. Roth will review the Army Corp of Engineers easement agreement.

Item 13 - Solicit input from neighboring jurisdictions with regard to Comprehensive Plan: Mr. Roth said that he modified the language in 3.2 Coordination. Mr. Scheurer said that it includes a copy of the Memorandum of Understanding between Sussex County and the Town of Henlopen Acre, Delaware for evaluation of land use restrictions and limits, etc. Also there is a copy of the letter of November 19, 2012 to Mr. Todd Lawson, County Administrator of Sussex County, Sam Cooper of Rehoboth Beach and James Ford of the City of Lewis about our Comprehensive Plan telling them that once we prepare another draft of our plan we will

forward it to them and invite them to any meetings or hearings. Mayor Hill said that we have not received any response to the letter of November 19, 2012. Mr. Thompson added that if they don't respond, that should be included in the report.

Item 14 - Identify key wildlife habitat: Mr. Roth included a map of an area identified by DENREC as key wildlife habitats. Mr. Roth said Delaware Wildlife Action Plan identifies many different types of environment and the endangered species that would live in them. The area between Duneway and the dunes on Block W is identified as a key wildlife habitat. Mr. Reed said that we need to see if the strip of land abutting Pine Reach is identified as a key wildlife habitat.

Item 17 - Determine the need for additional outdoor recreational needs: Mr. Scheurer said, is to determine the need for additional outdoor recreation needs. In the packet is an article which includes the walk through Henlopen Acres as part of the "Rehoboth Walk". Part of this item should include our concern, for walking, jogging and bike riding on the roads that are shared, be included in the transportation and traffic section of our plan update. Perhaps a traffic study as part of our plan to evaluate how much traffic is going through the town. Mr. Roth said he would discuss with other Town Managers to get an idea of the cost and how to implement it. Mr. Kaiser added that studies at different times of year show different results.

Mr. Scheurer said beach activities and the Beach Club are included elsewhere in the Comprehensive Plan. Mr. Roth said that PLUS wants us to explore what other activities the Town could provide. As part of transportation, Mr. DeWitt said that Crossways, where the road splits you can't see people walking, and should be examined as a road safety issue. Mr. Scheurer said we would explore traffic and the Crossways issue.

Item 18 - Incorporate the delineation of wetlands as part of the permit approval process: Mr. Scheurer suggested incorporating the delineation of wetlands as part of the permit approval process. Federal wetlands mapped along with additional scientific information. An area is a wetland if all three of the following criteria are met: wetland hydrology, the presence of hydric soils and the predominance of hydrophytic vegetation. Henlopen Acres does not contain any hydric soils.

Mr. Roth said that the Federal Government has identified some wetlands, mainly behind 61 Tidewaters, he assumed because it has all been eroded away. Mr. Roth included soil maps of the town and none showed hydric soils. Mr. Roth said that we can rephrase the Comprehensive Plan to address that. Mr. Scheurer said that we will include this and some language about it.

Mr. Reed said that regulatory protection of wetlands is mandated under the Federal government but that the state also has requirements. Mr. Roth said he will research the state vs. federal regulations.

Item 23 - Explore the need for a storm water utility: Mr. Scheurer stated included is a copy of section 2.4a Utilities, Storm water Management and Drainage. In this we disclose that a study was performed by Soule and Associates of Salisbury, Maryland in 2000. The town adopted a multi-phase plan to interconnect various areas of concern within the town. The build-out was completed in 2005 with additional tie-ins completed in 2010. We state that we do not foresee the necessity for a storm water utility, as no further major development within the town is possible. Future construction and site development is limited to single parcels. We will include this again in the Comprehensive Plan update.

4. WELLHEAD PROTECTION –

Mr. Roth presented a map that showed the 11 wells that the town uses for its' water system. Blue indicates a 150 foot radius that we propose in the draft ordinance. The square brown marks indicate buried tanks. The purple dots indicate private wells. Mr. Roth said that you can see that we have private wells within the

wellhead protection radius and 150 foot radius proposed is well below the standard recommended. Mr. Roth said that there may be more buried tanks at residences that did not respond to the request.

Mr. Scheurer said that the map was a good first step. It was very helpful because the radius around the wells is critical. Some areas these proposed protection areas extend into Rehoboth. Mr. Roth said the main concern is; what is getting into the soil in the recharge area, like lawn pesticides. When you have a well field that is completely within people's yards, how do you tell them that they can't put pesticides on their lawns? Mr. Roth suggested that he send the draft to DNREC to request review and comment. Mayor Hill asked if the wells are locked or secured to avoid deliberate sabotage. Mr. Roth said that he is looking into getting caps to secure over the wellheads.

Mr. Scheurer said that we will include some data on the buried tanks and do some more diligence on the information on the map so we can determine what further needs to be addressed. Mr. Thompson said that to put a new tank in should need approval from the zoning officer so at least we know who has tanks and where they are. Mr. Reed said that since companies that deliver heating oil and propane need to be licensed in Henlopen Acres we could find out from them who has tanks and where they are. Mr. Roth said that he will obtain that information from the companies.

Mr. Scheurer said one more item he would like to address in the draft is impervious cover. This should be updated because of all the new types of cover that might look like they're impervious but actually not and does that then count towards our 40% of lot coverage.

5. LIGHTING –

Mr. Scheurer said that there are a couple of sections about lighting from our Zoning Code to review and also the ordinance from the Town of Fenwick with regard to lighting. Part of this item is outdoor lighting some that is objectionable to neighbors. Mr. Scheurer said that we have the requirement that requires one outside lamp with installation approved by the building official.

Mayor Hill said that this is a model of what the Town of Fenwick Island has done, such as putting a limit on the power of certain bulbs, not to point lighting in the direction of the neighbors. Mr. Scheurer said that he would like to see flood lights that put out a relatively low amount of light and that are movement activated. Also lighting requirements should be part of plan approval process that would have to be approved by the Zoning Officer. Mr. Roth said that he will pull from the Fenwick Islands requirements and consult with our Zoning Officer to prepare a draft for review at the next meeting.

6. REVIEW OF §130-20 BUILDING SETBACK –

Mr. Scheurer read the current ordinance for §130-20 Building Setback. There was a recommendation made that a "block" should be taken into consideration, if you are looking at the six buildings on each side of any home/lot, that you do not go into the next block. Mr. Roth presented some examples.

Mr. Scheurer said that the proposed language is the established building line will be the average of the setbacks of existing structures on the same "block" on the same side of the street. Mr. Thompson said do you want to say at a minimum and/or put some other provisions in there. Mr. Roth said that in 2003 §130-20 was instituted as a result of 88 Tidewaters not built as approved; it was too close to the street and stood out from all the other houses.

Mr. Reed said that it can be an undue hardship as it was in the case of 42 Pine Reach, forcing their setback to 40 feet. Mr. Roth said another example 77 Pine Reach, where they wanted to do renovations but with all the setbacks that lot is basically unbuildable. They went to the BOA and got approval.

Mr. Roth said the feedback he has received from architects is that eventually no one will have a backyard. Mr. Reed suggested leaving the average in, leave the minimum 20 feet from the front property line, but put a maximum that the town can require on the front setback. Maybe make the front setback from the front property line the average of the houses on either side or 40 feet. Mr. Scheurer said we will review the draft language and address this at a later meeting.

7. ADJOURNMENT –

Mr. Thompson made a motion to adjourn. Mr. Kaiser seconded the motion. The meeting adjourned at 11:38 am.

Approved: July 3, 2013