

MINUTES: The regular Quarterly Meeting of the Board of Commissioners of the Town of Henlopen Acres held on Friday, July 13, 2012 at 10:00 a.m. at Town Hall, 104 Tidewaters in Henlopen Acres, Delaware.

PRESENT:

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| Wanda Davis | Mayor |
| David Hill | Commissioner |
| Frank Jamison | Commissioner |
| David Lyons | Commissioner |
| John Staffier | Commissioner |
| Beatrix Richards | Commissioner |
| Thomas A. Roth | Town Manager |
| Glen Mandalas | Town Solicitor |
| Sharon Karl | Town Clerk |
| Dave Boyce | 11 Tidewaters |
| John Scheurer | 62 Tidewaters |
| Diana Beebe | Rehoboth Art League |
| Henry DeWitt | 55 Fields End |
| Marcia DeWitt | 55 Fields End |
| Eileen Clark | 59 Tidewaters |
| Martin Clark | 59 Tidewaters |
| Connie Boland | 45 Pine Reach |
| Gail McDermott | 7 Pine Reach |
| Tina Manatos | 1 Tidewaters |
| Christine Moore | 14 Tidewaters |
| Carol Smith | 8 Pine Reach |
| Betsy Wilgis | 32 Tidewaters |
| Ryan Mavity | Cape Gazette |

ABSENT: Winifred W. Kee Commissioner

1. Call to order

Mayor Davis called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance

2. Approval of Minutes

a. Quarterly Meeting, April 13, 2012

Commissioner Hill made a motion to approve the minutes. Commissioner Richards seconded. The motion passed unanimously.

b. Special Meeting, May 25, 2012

Commissioner Hill made a motion to approve the minutes. Commissioner Lyons seconded. The motion passed unanimously.

c. Special Meeting, June 8, 2012

Commissioner Hill made a motion to approve the minutes. Commissioner Lyons seconded. The motion passed unanimously.

3. Treasurer's Report

Commissioner Hill said that in the packet are preliminary year end numbers. The information on the Balance Sheet will be updated and presented to the Audit Committee for their work. He said that he has some concern that current assets are down \$81,549.31 yet total equity was down only \$25,384.67, but that can wait until the audited financial statements are done.

The Profit and Loss Budget vs. Actual is where there is more good news. There is \$27,541.59 in revenue over the budgeted revenue. Looking at the expenses, we were at budget in most categories. The security breakdown was \$5,538.74 over budget largely attributable to payroll and bonuses. In the Operating Budget for the year-ended June 30, 2012 there is a \$3,972.07 surplus. In Other Income and Expenses we were budgeting a \$106,585.50 total deficit. Under Capital we acquired new vehicles and Phase IV of the road project was completed. We ended up with (\$25,384.67) deficit. Mr. Hill said that the budget was generally adhered to.

4. Maintenance Report

Mr. Roth pointed out that the maintenance report was in the packet. The water usage figures averaged between the last two years. Bob Ribinsky is now a licensed Water Operator. There are now three licensed Water Operators in town. Bob still needs hands on training. Four wells received minor electrical damage from a storm a couple of weeks ago.

5. Security Report

There were no comments.

6. Town Manager's Report

Mr. Roth said that his written report is in the packet. In addition to what is printed Mr. Roth said that the town hall now has a new HVAC system. The total cost of the system was \$23,000 but the town received \$19,000 of it from a federal energy grant. We are also looking into the cost of more efficient lighting for the town hall. Phase IV of the paving was completed and that came in less than budgeted. We also received a \$20,000 grant through Senator Bunting, that was not budgeted.

Mayor Davis added that the Town has contracted the CPA firm of Sombar and Company to perform the audit this year. She said that they were highly recommended and they are almost \$3,000 cheaper than the firm that we were using. The Chairman of the audit committee approved and endorses our selection.

7. UNFINISHED BUSINESS

a. Change from criminal offenses to civil

Mr. Mandalas apologized for not yet reviewing the offenses to determine the ones that should be changed from criminal to civil. He said that the only remaining issue was what the basic fee should be for a civil violation. As currently drafted, it is a voluntary assessment of \$25, if the person chooses to pay rather than have a hearing. Mr. Mandalas said that it will say that the base is \$25 unless specified otherwise within the violation provision itself. You can say it is \$75 within the specific violation provision but the default is \$25 and if it is not paid within 15 days then it doubles. Mr. Hill said that there is a due process issue if the violator asks for a hearing. Mr. Staffier said they either ask for a hearing or pay the fine. Discussion continued on receiving a violation by mail and the possible two week lapse in time caused by returning to their main residence from Henlopen Acres. It was agreed to make the payment due date 30 days instead of

15 and either pay or request a hearing within 30 days. If a hearing is not requested the fine would double if not received within 30 days.

Mr. Hill said, referencing page 2 A. "Any person responsible for committing a civil offense shall, within 15 days of the receipt..." someone could say I'm not responsible and argue that is why they did not pay. Mr. Hill said that it should read "Any person receiving a citation for committing a civil offense shall, within 15 days of the receipt..." All agreed and Mr. Mandalas noted the change. Mr. Hill said that getting these criminal offenses changed to civil offenses is a long overdue step for the town.

Mr. Mandalas said that he will bring the ordinance to the next meeting, and he'll have a list of the criminal offenses he thinks should be changed to civil and he'll include the extended time, double fine and make the change to page 2, A "responsible for committing" changing that to "receiving".

b. Event Parking

Mr. Jamison said that he met a few weeks back with Ms. Richards, Mr. Stewart and Mr. Roth to have informal discussions on event parking town wide and then specifically with the art league. We have become aware of rules and regulations such as not parking within 30 feet if a stop sign, (DelDot requirement). Although the easements are town property they felt that the homeowners are in charge of whether they want to put a red flag out or a green flag on the property in front of their house. For safety reasons they thought that easement parking should be parallel to the street as opposed to perpendicular. Mr. Jamison said that they tried to add considerations for the art league, in being able to use the marina in the off season. We do have a dredging issue this year so we have to work that out. We would like to allow perpendicular parking in front of the marina parking lot during the season from dawn to dusk. We feel this will help relieve the art league but we do need to receive a parking plan from them in order to make this all work together. There are a lot of streets where parallel parking will not work and Mr. Roth prepared a master map. We think that we should provide more temporary event signage, if need be, to direct people coming into the town for events. This is a work in progress that we are doing both for homeowners and their personal events as well as art league parking.

Mayor Davis said no one should park in front of the building at the marina where no parking is posted, for safety reasons. Mrs. Richards said that what they had discussed in regard to parking in front of the marina was for allowing parking there weekends only. Mr. Hill had a problem with allowing parking from dawn, particularly in the summer when that is 5:30 am. Mr. Jamison said that we are going to allow parking inside the marina during the season, in a defined area. That little corner that is not in front of anybody's slip that is what our intention was. Mr. Hill said the head in parking was exacerbated by allowing parking on both sides of the road. Mr. Jamison agreed with Mr. Hill that the committee needs to meet again before the RAL event. Mr. Hill said that maybe one of the security officers could come in extra for the occasion and that they would have to understand the provisional arrangements made by the parking committee. Mr. Lyons said to get together with Mrs. Bravo, that it would be helpful to have on one sheet of paper that can be handed out to people how to park and where you can and cannot park.

Mrs. Beebe, (RAL), said that it is difficult, without signs communicating to people where they can park, to control parking. She said that this year they have worked hard using volunteers instead of the fire department to assist with parking. She said that allowing parallel parking only would create a hardship not only for the art league but others in the town that have big events for charity. Mr. Jamison said that it is not his responsibility to make sure that every car that wants to come to an event in Henlopen Acres can park here. Our first responsibility is safety. Mrs. Richards said that she agrees that this is a work in progress and it would be a big help to the committee if they had the art league's parking plan. Mayor Davis said that the town has requested a parking plan from the RAL for several years and also a parking plan for on-site parking but has not received one. In some earlier documents the RAL mentioned that they had 40 some

parking spaces. We are asking the art league to define them. Mrs. Richards said then we could build from there.

Mrs. DeWitt, 55 Fields End said that the art league has submitted four written plans for parking over the last 7 or 8 years so there is on record, documents that have been submitted. Mr. Mandalas asked Mrs. DeWitt if she had a copy of the decision from the Board of Adjustment, she described, on the number of parking spaces. Mrs. DeWitt said that she would see if she does. Mr. Jamison asked if the BOA decision included a map. Mrs. DeWitt said it did not and to her recollection that it left the designation of the parking spaces up to the RAL. Mr. Staffier said that a big parking concern is the art show in August. He said that it is his understanding that a major parking area of the RAL is used as an exhibition during that show. Mrs. DeWitt said that more than 75 neighbors have let the RAL use their property for parking. Mrs. DeWitt said that the RAL, as when she was president, spend over \$10,000 for each outdoor show to hire professional parking people, if they are not doing the job the RAL needs to be told, but it is not because the RAL has not invested resources.

Mayor Davis stated the parking plan is being designed for everyone having any event in the town. Mayor Davis instructed the parking committee to work with Mrs. Bravo at the RAL, Mr. Stewart and Mr. Roth and have a parking plan in place before the art show and work further to get a town parking plan in place at the office so everyone in town knows where we stand.

c. §130-4.B Definitions, “Under Roof”

Mr. Roth said he and the Zoning Officer drafted a definition of what “under roof” meant to better clarify what is counted as square footage. Mr. Roth said that he concurred with the Town Solicitor’s edits. Mr. Mandalas read §130-4 B. “The term “under roof” should include but shall not be limited to areas covered by a traditional roof with a pitch or slope finished in approved materials. It shall also include an area whether or not enclosed by walls under cover of a deck or structure above that has been finished to protect from weather, the area below. It shall not include areas subject to weather permeable from a deck or structure above.” Mr. Mandalas said that the intent of the language is to cover where decking above is built to protect the area below from weather, “impermeable,” that should be considered roof and the area below it would be considered under roof. Where it is “permeable,” it is not protecting the area below it from weather, than it is not considered under roof.

Mr. Mandalas said that they could work on the language. Mr. Staffier said that it would help if instead of reading, “protect from weather” it read “to protect the area below it from weather.” He said that one of the concerns we had at the last meeting was that we did not want to include the ground below an impermeable deck. Mr. Mandalas said that he can add to the last sentence, “It shall not include areas subject to weather permeable from a deck or structure above or any unimproved area.” Mr. Hill made a motion that this amendment to the zoning code, with revisions made by the town solicitor, be presented for public hearing at the next quarterly meeting. Mr. Staffier seconded the motion. The motion passed unanimously.

8. NEW BUSINESS

a. Ratification of Budget, Tax rate. Water Rate and Fee Schedule

Mr. Hill recapped the budget and proposed fee changes and presented the final version of the budget that included the fee and salary changes. Mr. Hill made a motion to ratify the final version of the budget with changes. Mr. Staffier seconded the motion. The motion passed unanimously.

b. Comprehensive Plan Review

Mayor Davis asked if there was any discussion on the revised Comprehensive Plan Review. There was none. Mrs. Richards made a motion to approve and forward the revised Comprehensive Plan to the State Planning Office in Dover. Mr. Lyons seconded the motion. The motion passed unanimously.

c. Appointments to Planning Commission

Mayor Davis said there are two vacancies on the Planning Commission, Connie Boland resigned and John Barto resigned. Mayor Davis said that she would like to appoint Bob Reed, 36 Pine Reach and Gordon Kaiser, 13 Dodds Lane as the replacements. Mr. Lyons made a motion to approve the appointment of Bob Reed and Gordon Kaiser to the Planning Commission. Mr. Jamison seconded the motion. The motion passed unanimously.

d. Appointments to the Environmental Approval Committee

Mayor Davis said since Bob Reed has moved to the Planning Commission there is an opening on the Environment Approval Committee and she would like to appoint Herb Wilgis, 35 Pine Reach. Mr. Jamison made a motion to approve the appointment of Herb Wilgis to the Environmental Approval Committee. Mr. Lyons seconded the motion. The motion passed unanimously.

e. Trash and Recycling Service

Mr. Scheurer, 62 Tidewaters, said that a copy of an e-mail from him to Mr. Roth is in the packet. He said that having one trash company service Henlopen Acres would accomplish four important objectives. 1. Reduce traffic, 2. Reduce air pollution, 3. Reduce noise pollution and 4. Likely save money for all of the residents of the town. He said that this was discussed a number of years ago, but was tabled. Because of recycling we have twice as many trucks from three to four different vendors rolling through the acres. In the e-mail he said that he highlighted some of the facts, such as, if there were two less trash trucks per week that would be the equivalent of 650 cars per week and the noise level they generate.

Mr. Lyons questioned whether the number of trucks would be reduced as a result of only using one service. It may be require more trucks from the one provider. Mayor Davis pointed out that if the Town handles the trash company selection the town will be inundated with calls. With all the variables, it is going to be a headache for the town. Mr. Scheurer said that he has volunteered to work with Mr. Roth on this project. Mr. Hill said that trash collection would be a contract with the town by one of the disposal companies. It would become a budget item offset by revenue from citizens. We would need to look at what our liabilities and the obligation of the town and what the administrative costs might be. Mr. Lyons said that the people who live here all year long may benefit because some people will be paying more and some paying less.

f. Removal of registrants from voting roll

Mr. Roth said provided a list of disqualified voters. Voters were disqualified because either the ownership has changed, they have moved or they are deceased. Mr. Roth said that with the exception of the deceased voters a letter has been mailed informing those on the list that they are slated to be removed from the voter list.

Discussion ensued on the validity of the process. Mr. Roth read from Henlopen Acres Code §16-26, Removal of registrants from voting rolls.

Mr. Roth stated he will send a letter to each one of the voters that are disqualified and inform them that they have two weeks to re-register for this year's election, if they are qualified. Mr. Hill made a motion to remove the people listed from the voting roll. Mr. Staffier seconded the motion. The motion passed unanimously.

9. Any other business that may come before the Commissioners

Mayor Davis said that signs need to be addressed at the next meeting. Mr. Hill said that anything that is in a right of way the town has authority to control. Parking and the outdoor art show should be part of the

discussion. Mr. Staffier said that there is a fundamental difference between event specific directional signs and a real estate for sale sign. A directional sign serves a safety purpose and is only there for a short period. A for sales sign could be around for a very long period of time.

Mr. Mandalas mentioned that this was the last Commissioners Meeting that Mayor Davis will serve on. Mayor Davis thanked everyone, she said it was a good ride and that she has learned a lot and she has enjoyed it.

There was no other business.

10. Town Solicitor's Report

Mr. Mandalas said he had nothing to report publicly.

11. Executive Session

Mr. Hill made a motion to enter Executive Session to discuss matters relating to potential litigation. Mr. Staffier seconded and the Board entered executive session at 11:38 am

The Board came out of executive session at 12:07 pm.

12. Consideration and/or action on matters discussed in Executive Session

No action was taken.

Further discussion on parking continued.

Mr. Lyons discussed resubmitting the Charter change to the State. He felt phone calls need to be made so the change is understood by the State. They don't understand that what they are voting against is the one man, one vote rule.

13. Adjournment

Mrs. Richards made a motion to adjourn, seconded by Mr. Hill seconded. The meeting was adjourned at 12:37 pm.

Approved: _____, 2012