

**Town of Henlopen Acres**

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Henlopen Acres, DE 19971

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**MINUTES:** Meeting of the Planning Commission of the Town of Henlopen Acres held on **Friday June 27, 2014 10:00 a.m.** at Town Hall on 104 Tidewaters in Henlopen Acres, Delaware

**PRESENT:**

John Scheurer	Planning Commission Chairman
Bob Reed	Planning Commission
Gordon Kaiser	Planning Commission
Mary Jane Lyons	Planning Commission
Winnie Kee	President Pro-Tem (member ex-officio)
Glen Mandalas	Town Attorney
Thomas Roth	Town Manager
Lisa Michaels	Town Clerk

**[The Minutes Are Not Verbatim]**

**1. Call to Order – Pledge of Allegiance**

Chairman Scheurer called the meeting to order at 10:04 a.m.

**2. Public Hearing to Receive Comments on the 2014 Comprehensive Plan Draft**

Chairman Scheurer began the meeting by introducing the members of the Planning Commission. He then gave background on what had been done to get the Comprehensive Plan to this point. There have been 14 total meetings and 1 other Public Hearing on the Plan. Henlopen Acre's first Comprehensive Plan was completed in 2004 with the first review due in 5 years. The Town did its first review in 2012. The Plan is due for updates every 10 years or 2014. When the Plan is completed, it will be sent to the State of Delaware for review and certification.

Mr. Scheurer noted, by those present, that the dominate topic of discussion for today's meeting would be Rehoboth Art League (RAL). Mr. Scheurer mentioned that he was appointed as Chairman of the Planning Commission in 2012 after the previous chairman resigned. The Planning Commission has been able to address all the other issues in relation to the Comprehensive Plan except the RAL and the Commission had asked the Town Commissioners and the Mayor's help in resolving the issues with RAL and keeping within the 2014 filing deadline.

In January 2013, Mayor Hill sent the RAL a questionnaire to help define the RAL status. In March 2013 the attorney for the RAL sent a letter to the Town stating the information requested was not necessary. In October 2013 RAL did provide a partial response to the questionnaire but did not provide the requested information about the rules and regulations that the RAL proposes to apply to it going forward. The toughest issue for the Town is defining a Cultural Zone, which is how the RAL wants to be rezoned. The draft of the Comprehensive Plan does show a need for additional study on the status of the RAL. There have been no changes in Maps 5 and 6 of the Comprehensive Plan from 2004 to 2014. The Plan does not contemplate or insinuate that Henlopen Acres wants the demise of the RAL. The Town still does not have sufficient information to recommend a Cultural Zone.

Mr. Scheurer proposed to add additional language to the Comprehensive Plan. The RAL has recently confirmed that it has no intention or desire to change or expand the nature of its activities in Henlopen Acres or to increase the frequency or intensity of its activities, compare to what they have been in prior years. The RAL

has also confirmed that it does not intend or desire to expand or change its facilities in Henlopen Acres, but wishes merely to be assured of its ability to maintain and update its facilities when necessary, without changing their size or current use. With these points in mind, and with input from the RAL and Town residents, the Town should attempt to (1) develop and clarify specific rules and regulations that will apply to the RAL, its activities and its facilities going forward, and (2) explore methods to implement such rules and regulations.

Mr. Scheurer wanted to address the multiple email questions that he had received over the past week by reviewing the information discussed above.

Mr. Scheurer addressed a specific document that was sent to him by email that had several resident signatures on it concerning the RAL. (All emails and letters received in response to the Comprehensive Plan will become part of the record.) Mr. Scheurer felt his explanation of the work done on the Comprehensive Plan and the proposal to add additional language concerning the RAL addressed the issues raised in the letter,

Mr. Scheurer then opened the Hearing to questions from the floor:

**John Richter-69 Pine Reach-**

Mr. Richter wanted to make sure his email is included in the public record. He was thankful Mr. Scheurer addressed the issues of the RAL and was originally concerned the Comp. Plan indicated the expulsion of the RAL, but issue was addressed.

**John Schroeder-Lewes DE-Vice President of RAL-**

Mr. Schroeder has had a relationship with the RAL and Henlopen Acres since the 1960's. His parents were friends of the Corkrans and he then read a lengthy prepared statement (which is included in this record.)

**Constance Holland-Director of State Planning-**

Ms. Holland was here to discuss certification issues with the current draft of the Comprehensive Plan. She suggested having the towns of Lewes and Rehoboth look at the current Comprehensive Plan draft. Ms. Holland commented that she could not send the current plan to the Governor as it stands now because of the zoning of the RAL staying residential. Her first suggestion was to rezone RAL. She then suggested to State Historical Preservation Office (SHPO) could work with the Town to help find the correct zoning for RAL. Ms. Holland suggested the Town take 30-90 days to work with RAL to come to an agreement about the zoning. Another suggested zoning to consider is "conditional use". Ms. Holland again remarked the current Comprehensive Plan is not certifiable.

Mr. Scheurer responded to Ms. Holland's comments by first clarifying that the City of Rehoboth's Planning Commission had in fact reviewed Henlopen Acre's Comprehensive Plan. Mr. Scheurer wanted to be sure he understood that Ms. Holland felt either rezoning the RAL to Cultural or changing the zoning to "conditional use" would be acceptable for the revision of the Comprehensive Plan. Ms. Holland responded that he was correct. Mr. Scheurer stated that "conditional use" had been presented to the RAL previously but was not accepted. Mr. Scheurer commented on a letter received from the State of Delaware in 2012 addressing Map 6 (future land use) and the RAL zoning. This map has not changed from the 2004 Comprehensive Plan which was certified by the state. Mr. Scheurer then cited Title 29 of the Delaware Code subsection 9103: "The municipality or county shall have the right to accept or reject any or all of the recommendations. The final decision on the adoption of the comprehensive plan is that of the municipality or county."

Ms. Holland responded that if Henlopen Acres' Comprehensive Plan was not certified by the state, the Town may not receive any state funding.

Mr. Scheurer added that the current residential zoning of Henlopen Acres allows art galleries, art studios and art classrooms, theaters and theater classrooms as special exceptions.

**Tom Ingram-60 Tidewaters-**

Mr. Ingram had a question for Ms. Holland. He was first recognized by Mr. Scheurer then addressed Ms. Holland. He inquired that if both parties-RAL and Henlopen Acres could come to an agreement, understanding the terms of "conditional use" and rezoning the RAL from Residential, would the state approve the Comprehensive Plan? Ms. Holland answered "yes".

**Ann Stephenson Cameron-Rolling Road and Broad Hollow-**

Ms. Stephenson-Cameron has been a long time resident of Henlopen Acres and was raised using the RAL and her children now use RAL. She is distressed that the RAL doesn't understand that the Town desires for the RAL to continue to exist as is without expansion. Ms. Stephenson-Cameron feels the Town does compromise with the RAL in regards to increased traffic including school buses coming from RAL. She also felt RAL gave misinformation to residents of Henlopen Acres and strongly encourages RAL and Town to compromise and come to an agreement.

**Tim Slavin-Director for Division of Historical Affairs-State of Delaware-**

Mr. Slavin made 2 points in regards to the Comprehensive Plan:

1. The Current Plan places undue restrictions on the RAL.
2. Acknowledgement of the RAL's significance should be stronger in the Comprehensive Plan.

**Henry DeWitt-55 Fields End-**

Mr. DeWitt felt that under the current code RAL is the only property that cannot rebuild without Town approval or make minor renovations without Town approval. Mr. DeWitt also referenced the Town Covenants make allowances for libraries and art leagues.

**Kathy McGuinness-6 Broad Hollow-**

Ms. McGuinness was glad that Mr. Scheurer clarified the intentions of the Comprehensive Plan at the beginning of the hearing.

**Martin Clark-59 Tidewaters-**

Mr. Clark spoke on behalf of himself and his wife, and his main concern was that after 6 years he is still unclear on what the Town's main problem is with the RAL.

Commissioner Bob Reed addressed Mr. Clark's question. The Town's biggest concern is the expansion of the RAL. The perception is that there are more members, more events and more traffic than 40 years ago. Mr. Reed feels that the Town unanimously loves the RAL. He feels the perception is that the RAL wants to be the "Sussex County version of the Center for Arts & Culture". The RAL is the central issue of all the Town elections as well. Mr. Reed feels the zoning of the RAL is so important to limit the ability of expansion. Mr. Reed poses the question, "What plans does the RAL have to expand?"

**Carter VanDyke-54 Pine Reach-**

Mr. VanDyke has been a Town resident since 1950. He is friends with the Corkrans and always goes to the RAL and Homestead and it means a great deal to him. Mr. VanDyke is an AICP and licensed Landscape Architect and feels the problem is an easy one to solve. He feels the Town should want to protect the RAL and if they worked together they could go after grants to preserve the Historical sites. Mr. VanDyke feels the Town would be put at risk without having a Certified Comprehensive Plan and feels the current plan is set up to cause

the RAL to fail. He read through old RAL minutes from the 1950's and feels the activities of RAL now are similar to the ones from then. He disagrees with the concept of "conditional use" for the RAL.

**Shelley Wasserman-3 Henlopen Ave-**

Ms. Wasserman is a land use attorney who has worked in the MD. Department of planning for 20 years and is volunteering her time to help make the necessary changes to Henlopen Acres Comprehensive Plan.

**John Morris-7 Broad Hollow-**

Mr. Morris is concerned about the expansion of the RAL and how it would affect property values in Henlopen Acres. He encouraged the RAL to seek property outside Town for their expansion.

**Ann Stephenson Cameron-Rolling Road and Broad Hollow-**

Ms. Cameron requested clarification of the membership of RAL. Could she get the number of members and the geographical distribution of the membership? She also asked what part of the RAL is failing and how would a change in the zoning affect that?

Mr. Scheurer responded that the Planning Commission did not have the information Ms. Cameron requested. Mr. Scheurer then reminded those at the hearing that 7 years ago the RAL applied to the Board of Adjustments for a permit for a larger building which was denied by the Board of Adjustments. RAL appealed the decision to the State Supreme Court. Henlopen Acres had to pay legal fees to defend themselves and did win the case. Is there a 10 year plan for RAL that the Town could have access to in order to help make the decision on rezoning of the RAL?

**Bruce Moore-14 Tidewaters-**

Mr. Moore questioned whether the Board would accept volunteers who are "pro-Art League"?

Commissioner Mary Jane Lyons responded to Mr. Moore. The Board of Commissioners is not against the RAL and wanted to clear up the rumor that the Town wants the demise of the RAL to build houses on the Homestead site. On a personal note, Ms. Lyons stated all the art in her home was purchased at the RAL.

**Sheila Bravo-Rehoboth Art League-**

Ms. Bravo thanked all those in attendance for their support. She comments that the current zoning states that if the structures of the RAL burnt down they could not be rebuilt and that if a program stops for 365 days it cannot be restarted. Her biggest concern is that the zoning and use of the RAL be very specifically addressed and agreed upon. Ms. Bravo stated the RAL membership is approximately 1000 with 60% being Delawareans and 40% from other states. She also said that last year the RAL submitted a CD to Henlopen Acres that had 10 years' worth of RAL data on it. Ms. Bravo discussed the lack of funds available to keep the gardens maintained and the buildings need approximately \$2.5 million in repairs. The RAL needs a legally protected right to exist. Ms. Bravo stated the RAL had its annual meeting last week. Their main goal is to reach people who can't get to the RAL. They received a grant to reach at risk children outside town. They have been able to teach over 700 children at places such as the Lewes library. The RAL has been looking into other ways to reach the community outside Henlopen Acres. Ms. Bravo feels growth of the RAL is hard when the "home base" is not growing. Income from the RAL has been flat over the past 10yrs. Ms. Bravo encourages the Town to do a traffic study because she feels the traffic in Henlopen Acres has not increased because of the RAL. The RAL wants to know they have a protected property.

**Ann Stephenson Cameron-Rolling Road and Broad Hollow-**

Ms. Cameron asked to have the record reflect she was not complaining about the school buses going into the Art League but about increased traffic and the concern of RAL expansion.

**Ken Casazza-Lewes-Treasurer of RAL**

Upon listening to the discussion, Mr. Casazza felt the RAL could address all the issues presented today.

Ms. Lyons asked Ms. Bravo if the RAL received any State funding. Ms. Bravo stated they apply each year for grant money and usually receive between \$40,000 and \$70,000.

President Pro-Tem Winnie Kee asked Ms. Bravo if the RAL receives any funding as a Historical site? Ms. Bravo responded that they can apply to the State but that only the Homestead is registered as Historical.

**John Staffier-58 Pine Reach**

The Henlopen Acres Board of Commissioners sent a questionnaire to RAL to gather the needed information in establishing a zoning change for RAL. Will RAL respond to the questionnaire?

Mr. Scheurer confirmed with Ms. Holland the Henlopen Acres can have another 60-90 days to submit the Comprehensive Plan? Ms. Holland said yes. Mr. Scheurer discussed the options of changing the maps in the plan based on the zoning changes. Final decision on map changes will be made if zoning changes are made.

Mr. Reed spoke about Map 6 which specifies land use and not zoning. Residential zoning needs to be clarified. Would keeping residential zone with specific designation for the RAL protect the Art League? Could we exempt RAL from non-conforming rebuilding restrictions?

Greg Mandalas, Esq. responded that distinctions for one parcel in a specific district is a new zone.

Ms. Holland suggested the cleanest fix is rezoning of the RAL.

Commissioner David Lyons added that the Homestead has reversionary language to the University of Delaware.

**Marcia Dewitt-55 Fields End-**

Ms. Dewitt suggested the Town use volunteers to help solve the zoning issues. Ms. Dewitt said that a Cultural District was submitted and used in Lewes. Could Henlopen Acres use their language? She also complimented the RAL board of trying to dispel any fear of expansion. She stressed the need for sharing good information on both sides.

Sheila Bravo said the RAL considers resolution of the zoning issue their top priority.

**Ed Rowell-4 Broad Hollow-**

Thanked Mr. Scheurer for a well-run meeting.

**3. Adjournment**

Chairman Scheurer adjourned the meeting at 11:45am

Minutes Approved: August 18, 2014

Additional Attendees:

David Lyons	43 Pine Reach
Joni Reich	25 Tidewaters
Paddy Richards	5 Rolling Road
John Staffier	58 Pine Reach
Barbara Shortley	59 Pine Reach
Martin Clark	59 Tidewaters
Michael and Jean Stakias	51 Tidewaters
Kathy McGuinness	6 Broad Hollow
Carol and Charles Smith	8 Pine Reach
Fred Beaufait	Lewes, DE
John Schroeder	Rehoboth Art League
Molly Murray	DE News Journal
Christine and Bruce Moore	14 Tidewaters
Nita Hill	39 Rolling Road
Jack Richter	69 Pine Reach
Le and Ed Rowell	4 Broad Hollow
Tim Slavin	DE. Division of Historical and Cultural Affairs
Jim Ellison	107 Henlopen Ave
Fitzhugh Brown	20 Rolling Road
Sheila Bravo	Rehoboth Art League
Ken Casazza	Rehoboth Art League
Deb Appleby	Rehoboth Art League
Susan Auten	20 Tidewaters
Angie Watkins	3 Zwaanendael
Henry and Marcia DeWitt	55 Fields End
Gene Wilson	10 Tidewaters
Carter and Lynn VanDyke	54 Pine Reach
Molly and Tom Ingram	60 Tidewaters
John Morris	7 Broad Hollow
Gail Mc Dermott	7 Pine Reach
Shelley Wasserman	3 Henlopen Ave
Betsy Wilgis	32 Tidewaters
Connie Holland	State of Delaware-State Planning
Dorothy Morris	State of Delaware-State Planning
Ann Stephenson Cameron	40 Rolling Road/5 Broad Hollow
Ryan Mavity	Cape Gazette
Katherine McNeilly	55 Rolling Road
Jane and Herbert Wilgis	35 Pine reach
Kate Lyons	43 Pine Reach