

# Town of Henlopen Acres

104 Tidewaters  
Henlopen Acres, DE 19971

302-227-6411  
fax: 302-227-3978

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**MINUTES:** The Board of Commissioners of the Town of Henlopen Acres held a Meeting at **10:00am on Friday, December 12, 2014**, at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

<b>PRESENT:</b>	Winnie Kee	Mayor
	David Lyons Sr.	Commissioner
	John Staffier	Commissioner
	Joni Reich	Commissioner
	Andrew Brittingham	Commissioner
	Frank Jamison	Commissioner
	Beatrix Richards	Commissioner
	Thomas Roth	Town Manager
	Lisa Michaels	Town Clerk
	Glenn Mandalas, Esq.	Town Solicitor
	Bob Reed	36 Pine Reach
	Harriett Hertrich	7 Dodds Lane
	Barbara Shortley	59 Pine Reach
	Eileen and Martin Clark	59 Tidewaters
	Sheila Bravo	Rehoboth Art League
	Diana Beebe	Rehoboth Art League
	Christine Moore	14 Tidewaters
	Le Rowell	4 Broad Hollow
	Maurice Lewis	65 Pine Reach
	Kathy McGuinness	6 Broad Hollow
	Tim Hidell	96 Tidewaters
	Ryan Mavity	Cape Gazette

## **[Minutes are Not Verbatim]**

### **1. Call to Order, Pledge of Allegiance**

The Meeting was called to order by Mayor Winnie Kee at 10:01 am.

### **2. Comprehensive Plan**

Commissioner Beatrix Richards made a **motion** to submit the Comprehensive Plan to the State for PLUS review with a cover letter requesting review of the entire plan. The motion was seconded by Commissioner Andrew Brittingham. Motion passed.

### **3. Approval of Audited Financial Statements**

Commissioner David Lyons discussed the Audited Financial Statements and also asked Commissioner Joni Reich to comment. A current concern of the Town is that their monies

are spread across several banking institutions in order to meet FDIC guidelines. Mr. Lyons wants to expand on this issue further when discussing the Town's investment policy and recent meeting with investment specialists from Brown Advisory Group under item 5 on the agenda. Ms. Reich met with the auditors and reviewed the financial statements and the Audit Committee also reviewed the statements. The auditors as well as the Audit Committee had no issues with the statements. The auditors felt the Town was well-funded. A **motion** to approve the Audited Financials was made by Commissioner Frank Jamison and Seconded by Ms. Richards. Motion passed.

#### **4. Selection of Engineering Firm for Phase V Paving**

Three different firms, GMB, Beacon and URS submitted proposals for the project. The complete information for each is included in the meeting packet. Mr. Roth and Mr. Richard Kollar, Zoning Officer both recommend choosing Beacon Engineering based on the level of detail in the proposal submitted and because of the previous work done by them in the Town. **Motion** to choose Beacon Engineering made by Ms. Reich and seconded by Mr. Lyons. Motion passed.

#### **5. Investment Policy**

Mr. Lyons spoke on the current status of the Town's finances. With \$1.75 million in assets, all in low interest bearing accounts, it would be prudent for the Town to invest some of their money in investments that will yield a better return. A new investment policy has been drafted and is included in the meeting packet. Goal is to earn enough return on investments to eliminate the need to raise taxes in the future. Mr. Lyons, Ms. Reich and Mr. Roth met with Brown Advisory Group to get some preliminary information.

Mayor Kee suggested meeting with more than one firm and also reminded the Commissioners that the Town is currently in such good financial shape because of the conservative nature of past financial decisions and encourages conservative decisions in the future.

Mr. Roth asked Mr. Mandalas, Esq. if the Town charter prohibited this type of investment. Mr. Mandalas said it does not.

Commissioner Staffier asked what percent of current assets are to be invested. Ms. Reich answered that no decision has been made, the first step was to see if the Town was even interested in exploring the idea further.

Mr. Lyons recommends putting together an Investment Committee not made up of Commissioners. Mr. Mandalas remarked that several other local towns are looking into investing as well.

Maurice Lewis, 65 Pine Reach, asked if the Town Charter allows the Town to use an outside firm for investing. Mr. Mandalas said it does.

Mr. Lyons made a **motion** to adopt the Investment Policy and create an Investment Committee. The motion was seconded by Mr. Jamison. Motion passed.

**Diana Beebe-Rehoboth Art League (RAL)**

Ms. Beebe said she was disappointed the Comp. Plan was being sent to State review without addressing the zoning of the RAL. She is thankful for the work done thus far by the Planning Commission and Commissioners.

**6. Adjournment**

A **motion** to adjourn was made by Mr. Lyons and seconded by Ms. Richards. The meeting was adjourned at 10:20am.

**The meeting was reconvened at 10:23am by Mayor Kee.**

Mr. Staffier discussed in greater detail the Memorandum of Understanding (MOU) presented to the RAL and wants it to become public record and be included in the Comp. Plan draft being sent to the State. Mr. Staffier recounted the discussions that have occurred over the past several months between the Town and the RAL. The RAL made the statements that they have no intention of expanding their activities or facilities in Henlopen Acres and that their main concern going forward was the ability to rebuild in the event of a fire or other catastrophic event. They also requested clearer guidelines as to what they are allowed and not allowed to do here in Town. Mr. Staffier reviewed that the MOU addressed these issues and spelled out a 1 year trial agreement while continuing to work together towards a long term solution. The MOU states that in the event of a catastrophe the Town would support a variance to allow the RAL to rebuild and waive any fees associated with a variance. Mr. Staffier wanted it made public that the RAL has not formally responded to the MOU. Mr. Staffier feels that Town has addressed the issues the RAL has raised. Copies of the MOU will be available at Town Hall.

Diana Beebe, Rehoboth Art League (RAL), stated the RAL has been advised the MOU constitutes contract zoning which is illegal in Delaware. While there is language in the MOU about the Town supporting the RAL's ability to rebuild, it's still not a guarantee.

Mayor Kee asked Mr. Mandalas is the MOU language is contract zoning. Mr. Mandalas said it is not contract zoning but in fact a clarification of the current zoning of the RAL. Mr. Mandalas requests the RAL's attorney address any specific concerns he has with the MOU and not discount the entire document.

Mayor Kee addressed the issues by stating the Town has made it clear that the RAL is an asset and the Town has made concessions over the years with the RAL including recently with their garage renovations. The Town has put in over 100 hours of work in negotiating with the RAL and wants it made public that the Town has not ill intent towards the RAL. Mayor Kee is hopeful that Constance Holland of the State Planning Department will take all the information into consideration when reviewing the Town's Comp. Plan.

Ms. Reich agrees with Mayor Kee and believes the MOU is an opportunity for the Town and the RAL to move forward and set the framework together for a better relationship. The Town set out in good faith with the MOU and the RAL should strongly consider taking advantage of what is being offered.

Mr. Jamison asked if this is the first time the RAL has responded about the MOU. Mr. Staffier said no, they simply commented the MOU was illegal but did not respond with specifics.

Ms. Reich is still unclear how it is illegal to work out an agreement between the Town and the RAL. The Town cannot rezone the RAL without knowing what the future impact will be on the Town.

Mr. Staffier again reiterated that the MOU addresses all the issues the RAL raised. The first paragraph sets up standard communication procedures that will develop mutual trust. He understands the RAL wants a guarantee about the ability to rebuild and doesn't expect the RAL to give up any rights they have without a guarantee from the Town. The 1 year trial agreement puts framework in place while continuing to work out a permanent agreement. During the one year trial period the Town would draft an ordinance to allow the RAL to rebuild in the event of a catastrophe. The Town's stand has strong resident support that the RAL should continue as is without expansion or growth.

Diana Beebe, Rehoboth Art League (RAL), added that she wants the RAL and Town to continue conversations. She feels the Comp Plan still has land use maps that will make the RAL go away in the future. Zoning is supposed to be transparent and commented on by all parties and the public not thru a private contract such as a MOU.

Mayor Kee commented it would be in the best interest of the RAL to support the Town's Comp. Plan and not continue to oppose it.

Mr. Staffier responded that the Town's maps do not show the RAL going away. The RAL has a legal right to continue by their grandfathered status as legal non-conforming just as any other legal non-conforming structure in the Town. He does not recommend making any changes to the maps without first reaching an agreement with the RAL. The 80% rebuilding ordinance that currently exists and has the potential to effect the RAL, could be changed with a permanent agreement between the RAL and the Town. New Zoning for the RAL wouldn't change that.

Bob Reed, 36 Pine Reach, stated that the idea that a Comp. Plan cannot have a non-conforming use is untrue. Other towns have non-conforming land use that is not addressed in their Comp. Plan. He rejects the idea that the Town is required to make the RAL conforming use because that opens the door to any other institution to come in if they meet the same requirements should the RAL leave.

Diana Beebe, Rehoboth Art League (RAL), asked Mr. Mandalas if he has responded to Mr. Dunkle's (RAL attorney) proposal regarding Ordinance 1. Mr. Mandalas has not

formally responded to him. He does not agree with Mr. Dunkle's proposal and can send him a response in writing if he's expecting that.

A **motion** to adjourn was made by Mr. Lyons and seconded by Ms. Richards. The meeting was adjourned at 10:55am.

**Approved: January 9, 2015**