

MINUTES: A Public Workshop Meeting of the Board of Commissioners of the Town of Henlopen Acres held on Friday, December 14, 2012 at 10:00 a.m. at Town Hall, 104 Tidewaters in Henlopen Acres, Delaware.

PRESENT:

David Hill	Mayor
David Lyons	Commissioner
Winifred W. Kee	Commissioner
John Staffier	Commissioner
Beatrix Richards	Commissioner
Frank Jamison	Commissioner
Andrew Brittingham	Commissioner
Thomas A. Roth	Town Manager
Sharon Karl	Town Clerk
Christine Moore	14 Tidewaters
Herb Wilgis	35 Pine Reach
Shaw Wilgis	32 Tidewaters
Diana Beebe	Rehoboth Art League
Martin Clark	59 Tidewaters

1. Call to order

Mayor Hill called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance. Mr. Hill said that this is a special meeting held in workshop forum to review possible changes to the Town Charter. The documents will be put in final form for the January Board of Commissioners meeting and passed on by our counsel to the State Legislature for their action. There is no requirement by law for public hearings or workshops on charter changes but because questions were raised over the last several months the charter change sent to the legislature last year on voter qualifications, we decided to have a public workshop on the matter. We have added to this agenda three other possible Charter changes dealing with the Town Manager, The Treasurer and Auditors that have archaic language, not in keeping with current practices of town governments.

2. §C-15 Town Manager

There were provisions for both the Town Manager and the Treasurer requiring a bond for faithful performance of their duties. We no carry insurance that protects the Town against any misfeasance or malfeasance. So we propose to eliminate that requirement. There was also a specific requirement that the Town Manager get paid in 12 equal installments. We pay all employees weekly. There were no questions.

3. §C-16 Treasurer

Mayor Hill stated that in the Charter, the Treasurer was to secure a \$25,000 bond. Again, the town has insurance that protects against misfeasance or malfeasance. Secondly, in the Charter the Treasurer is to only deposit money in banks within the Lewes and Rehoboth Hundred. Also, the Treasurer is to prepare a list of all taxes in arrears and if someone was delinquent on paying their taxes not allow them to vote. Our solicitor has advised us that we cannot deny someone the right to vote because they owe the Town money.

Lastly, the Charter does not state the Treasurer should be a resident commissioner, implying that the treasurer could be a third party, a bank, a lawyer or an accounting firm. We want to make sure that the Treasurer can only be an elected resident commissioner.

Commissioner Richards asked why not have the Treasurer bonded. Mayor Hill felt it was not necessary because we have insurance that protects the town. Mrs. Richards said that makes two commissioners that must be residents, the Mayor and Treasurer. Mayor Hill said that he thinks that the major reason being that they are needed to be available to sign checks.

Martin Clark, 59 Tidewaters, questioned the definition of resident and how a determination is made. Mr. Roth stated that under Chapter 16 of the Town Code (Elections), proof of identity and residency would be a driver's license or a signed lease. Our practice is to follow the State's definition. Mr. Clark said that a Commissioner should be required to sign an affidavit that says they are a resident. Mr. Roth stated that candidate's for commissioner swear an affidavit to run for office as a resident.

4. §C-17 Auditors

Mayor Hill stated the town has a three member audit committee. The Charter speaks in terms of this audit committee as hiring the auditors, (the CPA), who prepare audited financial statements. The town would fund the audit committee to hire the CPA. This has not been the practice. The town has hired the CPA. The town manager has worked with the auditors to provide supporting documents and answers questions concerning the audit. Recently one of the members of the audit committee expressed concern about that process. Mayor Hill did not see how it was practical for the audit committee to hire CPA and then work in a quasi-independent fashion. Mayor Hill said that he has looked at other town charters and several do not have an audit committee.

Commissioner Jamison felt strongly that the audit committee needs to be totally independent of the town. The auditors should hire the CPA. We are creating a conflict of interest by having the Town Manager or Mayor select the CPA. Mayor Hill felt that to be on the audit committee a member does not have to be a resident, but they should be a property owner. Mr. Lyons suggested that the wording be changed from resident to property owner. All agreed. Mayor Hill added that what Mr. Jamison suggests has not been followed in the nearly ten years he has been involved in the town.

Shaw Wilgis, 32 Tidewaters, concurred with Mr. Jamison that the audit committee should be totally independent by hiring the auditors. Since there is a strong concern that the independence of the audit committee be preserved, Mayor Hill said that he will redraft the section for the January meeting, to apply the ideas and comments received today.

5. §C-5.D Qualifications of voters

Mayor Hill stated that the Commissioners approved this Charter change at the January Meeting, nearly a year ago and sent to the state legislature, where it was tabled after a question was raised about whether there had been proper opportunity for citizens to comment on the proposed change. The Charter change as originally proposed would do away with entity voting. Voting would be allowed by the property owner, a resident and one exception to entity voting, revocable trusts, where the grantor and trustees are the same. This can go back to the state legislature either revised or as previously written. We have received two written statements; one from Mr. & Mrs. Tom Ingram, who commented on the burden of having to complete an authorization each year, if you were an entity, to appoint a designated voter, for that entity. Also a letter received from Mr. Henry DeWitt on the requirements for office, requiring a one year residency requirement for both resident and non-resident by office seekers. He also raises the question about the definition of resident and qualifying resident.

Mr. Jamison said that in all our discussions Mr. Mandalas has been very strong in his belief that entity voting should be eliminated. Mayor Hill said “that sums it up”, and also there was an advisory from the Attorney General of Delaware in 2010 alerting Municipalities on the constitutional issues concerning municipal voting that could degrade or take away from rights to vote if ten people that own one property all vote.

Mayor Hill requested any comments on the fundamental issue of eliminating entity voting. Discussion ensued about grandfathering. Diana Beebe, Rehoboth Art League asked if this would mean the Art League would no longer be permitted to vote. Mayor Hill said that is correct. Mayor Hill said that if you are a resident nothing will change, the elimination of entity voting only applies to non-residents. Residents can deed their property anyway they want and not lose their right to vote. It is the non-resident property owner and in what form is the property owned. Non-residents in almost all jurisdictions do not vote. Mayor Hill asked Mrs. Beebe how important in the scheme of things is voting in the Henlopen Acres Municipal Election. Mrs. Beebe said that it is symbolic because of the Art Leagues relationship to the founding of the town and this neighborhood. She said that she understands the concept. Mr. Jamison stated that many residents belong to the Art League and the Art League gets a voice in that respect.

By the January meeting, Mayor Hill said we will work with the Town Solicitor on the question of grandfathering. Also we want to make the residency requirement for holding office eligibility one year for both resident and nonresident. The rest would remain how it was presented in January.

6. Adjournment

Having no other business, the Mr. Jamison made a motion to adjourn. Ms. Kee seconded the motion and the motion passed unanimously. Meeting was adjourned at 11:02 am.

Approved: January 11, 2013