

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, DE 19971

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MINUTES: Meeting of the Planning Commission of the Town of Henlopen Acres held on **Monday, December 1, 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
Thomas Roth	Town Manager (member ex-officio)
Lisa Michaels	Town Clerk
Glen Mandalas Esq.	Town Solicitor
Paddy Richards	5 Rolling Road
Joni Reich	25 Tidewaters
Andrew Brittingham	31 Pine Reach
Henry & Marcia DeWitt	55 Fields End
Barbara Shortley	59 Pine Reach
Diane Beebe	Rehoboth Art League
Sheila Bravo	Rehoboth Art League
Sherry Rutherford	Rehoboth Art League
Ken Casazza	Rehoboth Art League
John Schroeder	Rehoboth Art League
Mark Dunkle Esq	Rehoboth Art League Attorney
Jim Ellison	107 Henlopen Ave
Carter VanDyke	54 Pine Reach
Tom Ingram	60 Tidewaters
Constance Holland	State of Delaware-Director of State Planning
Dorothy Morris	State of Delaware State Planning

EXCUSED:

Mary Jane Lyons	Planning Commission
Dick Thompson	Planning Commission

[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

a. Meeting August 18, 2014.

A motion to approve the minutes was made by Commissioner Bob Reed and seconded by Commissioner Gordon Kaiser. Motion passed.

3. Old Business

a. Comprehensive Plan

Mr. Schuerer addressed the Planning Commission first to take any comments on the current draft of the Comprehensive Plan. There were no comments from the Commission and Mr. Scheurer opened the floor for public comments.

Diana Beebe-Rehoboth Art League (RAL)

Ms. Beebe addressed the Planning Commission and read a two page letter, which is entered as part of the minutes. She requests the Commission change the zoning of the Art League to allow for the future protection and ability to rebuild.

Mr. Scheurer discussed Map 6 of the Comprehensive Plan which addresses future land use. He reminded the Commission and public that if that map is changed to reflect a new zone for the RAL, the Town would only have 18 months to seek official zoning changes with the State. Mr. Scheurer then discussed the 12 informal meetings he had with the RAL with the hopes of reaching a compromise. The Town offered a written agreement that addressed the issues the RAL had previously raised but the RAL had not formally replied.

Mark Dunkle Esq-Rehoboth Art League Attorney

Mr. Dunkle submitted a nine page proposal that addresses the zoning issue. The proposal is entered as part of the minutes.

Mr. Glen Mandalas Esq, discussed that he has not a chance to review the proposal submitted by Mr. Dunkle so he could not comment on it at this time. His initial concern is that if a change is made for the RAL, how it will affect all other property owners in Town.

Mr. Scheurer reminded the Commissioners that the main goal of today's meeting was to vote on submitting the Comp. Plan to the State for the Pre-Plus Review while continuing to meet with the RAL.

Constance Holland-Director of State Planning

Ms. Holland addressed the Planning Commission by reminding them she was present today to inform them of the issues the Town may face moving forward. She does not recommend sending the Plan to Pre-Plus review as it currently is because it will be a "waste of time". Current Plan does not meet Delaware Law because of its legal non-conforming situation for the RAL. The Town must put a new designation on the Comp Plan Maps for the RAL. She is not trying to scare the Town but wants everyone to be aware that the Town may lose State funding if their Plan remains out of compliance.

Mr. Mandalas addressed Ms. Holland's comments by confirming that she is stating legal non-conforming is not State compliant on any Town's Comprehensive Plan and offered Dover as an example of where he thought a Town/City had legal non-conforming land use. Ms. Holland responded that Dover has corrected all of its' legal non-conforming land usage and that it is out of State compliance to have any legal non-conforming land use. Mr. Mandalas asked Ms. Holland to state for the record that Henlopen Acres Comprehensive Plan would not be certified as it is currently amended. She nodded her head yes.

Mr. Reed mentioned that Rehoboth Beach had non-conforming land use to which Ms. Holland confirmed that was true but their zoning parameters and usage are clearly spelled out.

Henry Dewitt-55 Fields End

Mr. Dewitt stated the Town needs to rezone RAL which would then give the Town more control over the RAL.

Mr. Scheurer reiterated the Town's desire to send the Comp. Plan up for Pre-Plus review so that the entire plan can be reviewed by the State.

Connie Holland responded that she cannot stop the Town from doing that but strongly suggests continuing to work out a resolution with the RAL before sending it up for review.

Mr. Roth informed Ms. Holland that the entire Comp. Plan has been rewritten since its last review in 2012 hence the Town's desire for Pre-Plus review now.

Carter VanDyke-54 Pine Reach

Mr. VanDyke commented on the tremendous amount of work done between the Town and the RAL. He reminded everyone again that he was a certified planner and offered his services to help facilitate a new zoning district for the RAL. He also made suggestions about the Town's open space, trees and historic preservation as it related to the Comp. Plan.

Tina Weber-Manatos-1 Tidewaters

Ms. Weber-Manatos remarked that her family would like the Town to resolve their issues with the RAL and would like to see RAL rezoned as Cultural.

Marica Dewitt-55 Fields End

Ms. Dewitt was thankful for all the work done so far between the Town and RAL. She would like to see the Town change the future land use Map and then use the following 18 months allotted by the State to work out the details with RAL. She is concerned what would happen if Henlopen Acres is the only Town without a certified Comp. Plan. She wonders what burdens the residents would face if the Town loses State funding.

Mr. Scheurer inquired of Ms. Holland about any other Towns that had their Comp. Plan rejected by the State. Ms. Holland said there was one other Town that didn't have a certified Comp. Plan in the past and it finally went to dispute resolution and changed but the Town lost \$30,000 in State funding. She again reminded the Commissioners that if the Town make changes to the land use maps of the Comp. Plan it would have 18 months to work out the details with RAL.

Mr. Scheurer asked Mr. Roth what Henlopen Acres received this year in State funding. Mr. Roth responded approximately \$14,000, which is not a significant amount. Ms. Holland remarked that there is no way to tell what the future needs of the Town will be.

Mr. Kaiser asked Mr. Scheurer what issues the RAL has with their current zoning. Mr. Scheurer responded the biggest issues are rebuilding in the event of a fire and the land usage for large events. Mr. Scheurer said the Town addressed both issues in the proposal given to the RAL.

Mr. Scheurer addressed the meeting attendees by stating the Town appreciates the RAL but the silent majority are concerned about future expansion, noise, traffic, parking, lighting and outdoor performances. While both sides have made some concessions during the series of meetings, the Town is concerned about the legal ramifications of rezoning both for the Town and RAL.

Connie Holland remarked that Comp. Plans can be amended at any time. Mr. Kaiser expressed that the Town could send the Plan up as is and amend the map down the road when an agreement is reached.

Tina Weber-Manatos-1 Tidewaters

Ms. Weber-Manatos asked Ms. Holland if a storm came in and damaged property in Henlopen Acres, would the State help with funding to rebuild. Ms. Holland said it would if we had a certified Comp. Plan that addressed Sea Level Rise and Climate Change.

Mr. Scheurer reminded Ms. Weber-Manatos that the Beach Club and Henlopen Acres Property Owners Association work together each year to protect the beach and surrounding property from storm damage.

Mr. Reed addressed the Commissioners and meeting attendees with the fact that the US Constitution gives the Town the right to govern themselves and he feels the State is trying to take that away by inserting themselves into this situation by telling us how we have to write our Comp. Plan.

Ms. Weber-Manatos and Mr. VanDyke made the suggestion of a Town wide survey on how they feel about the RAL and rezoning.

Mr. Scheurer responded that many of the residents, especially property owners adjacent to the RAL with whom he met, don't want to get involved. This is their vacation home and they desire to come to Henlopen Acres and relax, not to get involved in Town matters.

Tom Ingram-60 Tidewaters

Mr. Ingram feels all property owners should have an opinion on the future of the RAL and that the ones adjacent to RAL shouldn't be the only ones heard.

Ms. Weber-Manatos commented that homeowners who purchased houses adjacent to the RAL knew what they were getting in to.

Mr. Kaiser responded as a homeowner right across from the RAL that he did indeed know what he was getting into when he purchased his home but that if the RAL is able to expand or change what they are currently doing, his decision to purchase a property in Henlopen Acres may have been different.

Mr. Kaiser made a motion to send the Comp. Plan to the Board of Commissioners for approval to submit to Pre-Plus State Review. Mr. Reed seconded that motion. The motion passed.

b. Garages

This item was deferred to the next meeting.

c. §130-4.B.(2) Accessory use, Cooking facilities

This item was deferred to the next meeting

4. New Business

There was no new business.

5. Adjournment

The meeting was adjourned by Mr. Scheurer at 11:11am.

Approved 07/10/2015