

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, DE 19971

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MINUTES: The Board of Commissioners of the Town of Henlopen Acres held their Quarterly Meeting at **10:00am on Friday, October 9, 2015** at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

PRESENT:	David Lyons Sr.	Mayor
	Joni Reich	Commissioner
	Frank Jamison	Commissioner
	Beatrix Richards	Commissioner
	John Staffier	Commissioner
	Andrew Brittingham	Commissioner
	Tim Hidell	Commissioner
	Thomas Roth	Town Manager
	Lisa Michaels	Town Clerk
	Glenn Mandalas, Esq.	Town Solicitor
	John Scheurer	62 Tidewaters
	Bob Reed	36 Pine Reach
	Harriet Hertrich	7 Dodds Lane
	Charles Smith	8 Pine Reach
	Barbara Shortley	59 Pine Reach
	Le Rowell	4 Broad Hollow
	Jim Ellison	Rehoboth Art League
	Diana Beebe	Rehoboth Art League
	Ann Weir	62 Fields End
	Julie Lewis	65 Pine Reach
	John Morris	7 Broad Hollow
	Gene Wilson	10 Tidewaters

[Minutes are Not Verbatim]

1. Call to Order, Pledge of Allegiance

The Meeting was called to order by Mayor David Lyons at 10:00 am.

2. Presentation by the Rehoboth Art League

Mr. Jim Ellison made a presentation with an architect's rendering of the master plan of the Rehoboth Art League. The presentation was to show future renovations and changes to be done to the Art League campus in stages. The first renovation is to be done to the Homestead, costing approximately \$750,000. The other changes to the campus involve addressing the parking and storm water drainage issues. The master plan was originally created by Diana Beebe and Tim Slavin. The goal is to preserve the campus, create better access and be sensitive to the surrounding neighbors. According to Mr. Ellison the only

structural change will be moving the Paynter Studio to a new location due to foundation issues. The parking lot will move in front of Corkran Building with only limited parking on Dodds Lane. There will also be several “bump outs” to accommodate additional bathrooms. The campus will also be aggressively landscaped to limit the view of surrounding neighbors. Mr. Staffier asked Mr. Ellison to expand on how the Art League will address storm water issues. Mr. Ellison stated there will be two new drains added to the campus, one at the top of Dodds Lane and one in the new parking lot.

John Scheurer-62 Tidewaters

Mr. Scheurer asked if there was an overlay of the current campus to compare with this new master plan. Mr. Ellison said there was not. Mr. Scheurer asked if there was a large amount of dirt that needs to be moved to complete this project and if so how will that be phased in. Mr. Ellison replied yes there will be a large amount of dirt that will be moved according to the master plan starting with the Homestead. The project timeline will also be based on fundraising.

Mr. Staffier asked Mr. Ellison to expand on the timeline with the concern of the large construction equipment and trucks in Town. Mr. Ellison elaborated on the process by explaining that once the design is approved, all the buildings will need to be structurally assessed, then the architects will have to come up with construction plans which will be reviewed and approved by Tim Slavin. Once construction starts he expects it will take one to one and a half years to complete. Mr. Hidell asked how many parking spots are being created in the new lot and Mr. Ellison said it would be about 50. Ms. Richards asked how the Town Bridle Paths will be affected and Mr. Ellison responded they will essentially run through the center of the campus.

John Morris-7 Broad Hollow

Mr. Morris is concerned about the parking and traffic in and out of the Art League campus and its effect on the property values of the adjacent homes. He’s also concerned about the lighting in the new parking lot and how it will affect those same properties. Mr. Ellison felt any lighting placed in the new parking lot would be more pleasing to the surrounding neighbors and will be blocked some by the aggressive landscaping that is part of the plan.

Ms. Reich commented that the parking is increasing and moving closer to the adjacent homes. Mr. Ellison stated the new location is more about addressing the storm water issues and campus accessibility. Ms. Reich asked if the new parking is going to be elevated to help with the water run-off. Mr. Ellison it would not be elevated but an intricate water collection system will be installed. Mayor Lyons asked Mr. Mandalas if the Town needed to do a public hearing to allow the residents to review this master plan. Mr. Mandalas said he would review the Code and that even though he felt it wasn’t mandatory he certainly recommended it.

Diana Beebe-Rehoboth Art League

Ms. Beebe stated that this plan was already presented to residents on several occasions even though not specifically those adjacent to the Art League. She agreed those residents should be given the opportunity to review the plan.

John Scheurer-62 Tidewaters

Mr. Scheurer questioned Mr. Ellison on why they were moving the Paynter studio but not addressing the Tubbs studio which seems to have the same foundation issues. Mr. Ellison agreed that something would need to be done in the future with the Tubbs studio, especially since it's in the flood plain but it is not being addressed in the current master plan. Mr. Scheurer also asked Mr. Ellison if there would be a decrease in after dark activities since the parking lot lighting is an issues with the adjacent neighbors. Mr. Ellison said the Art League plans to keep all current programs without any increase. He feels strongly that the location of the new parking lot, change in lighting and increased landscaping will be friendlier to the neighbors.

Mr. Roth noted that with the recent storm, he was concerned that the Broad Hollow storm water system would be able to handle the increased water from the Art League. Mr. Mandalas asked Mr. Ellison if Sussex Conservation District has reviewed the Art League's plan and Mr. Ellison did not know. Mayor Lyons questioned whether there would be Board of Adjustment issues with the Art League's plan to which Mr. Roth responded that it was too soon to answer. Mayor Lyons again reiterated the need for a Public Hearing. Ms. Reich expressed concern that this master plan has been adopted by both the Art League and the State yet there is no clear evidence these changes address storm water issues and that the Town of Henlopen Acres and especially adjacent neighbors have not been included at all in the process.

Diana Beebe-Rehoboth Art League

Ms. Beebe feels this plan has been presented numerous times including at a Rehoboth Art League meeting in October 2014. She also stated that meetings were held in Washington DC and Maryland where Henlopen Acres property owners reside and were invited to participate.

Ms. Reich feels that until everyone sits down together and walks through the presentation as was done today, it's hard to make informed decisions.

3. Approval of Minutes

a. Quarterly Meeting-July 10, 2015

Motion to approve the minutes was made by Commissioner Beatrix Richards and seconded by Commissioner Andrew Brittingham. **Motion** passed.

b. Organizational Meeting- September 8, 2015.

Motion to approve the minutes was made by Commissioner John Staffier and seconded by Ms. Richards. **Motion** passed.

4. Treasurer's Report

Ms. Reich commented that so far this year expenses are tracking nicely against the budget. The Town has received 2 State grants. All property taxes are paid except about \$9000. The Town has purchased a new truck for the streets department for \$45,000. The final phase of the streets repairs will be made during this fiscal year. Mr. Roth commented that the repairs will be made next spring instead of this fall as previously planned. Once the bid goes out the job should only take one week to complete. Ms. Reich also discussed that the Investment Committee met with Brown Advisory on September 25, 2015. So far this year the investment account is down 1%.

5. Maintenance Report

A water report was included in the meeting packet. It shows a substantial increase in water usage for September with 407,000 gallons being used on Labor Day weekend alone. Mr. Roth discussed that the Town adds water meters to all new construction and large renovations, not for billing purposes, but to assist the Town in locating leaks.

6. Security Report

A written report is included in the meeting packet. Mr. Roth had nothing to add. Mayor Lyons did mention the car accident that occurred during the most recent RAL event in which two people were injured and had to be taken to the hospital by ambulance.

7. Town Manager's Report

A written report was included in the meeting packet. Mr. Roth discussed that the Town lost 11 trees in the recent storm and there were four trees that fell on homes, all with minor damage. The Town received Municipal Street Aid and a County grant. Mr. Roth is investigating silting in the marina. He is meeting with Mr. Kyle Gulbranson of AE Com to see what options are available. Mr. Roth is also going to meet with a local landscaper about helping the town with the upcoming leaf season if the streets department gets behind on leaf pickup. Both Commissioners Frank Jamison and Joni Reich commended the streets department on how hard they worked during the recent storm including that Saturday to remove branches and debris.

Unfinished Business

a. Discussion of and possible appointments to Tree Committees

Mayor Lyons wants to establish a formal Tree Committee and has several residents who are interested in being a part of the committee. Mr. Roth drafted a preliminary tree ordinance which the Commissioners felt was too onerous. Mayor Lyons desires this committee to address replacing older trees as they die and also addressing the clear cutting of lots during construction. Mayor Lyons recommends the appointment of the following to the Tree Committee: Nathalie McGregor-3 Pine Reach, Karen Walsh-83 Tidewaters, Freddie Nolan-44 Pine Reach and Henry DeWitt-55 Fields End. A **motion** to approve the appointments to the Tree Committee was made by Mr. Staffier and seconded by Mr. Jamison. **Motion** passed.

Ms. Reich wants to be sure this new committee reports back to the Commissioners before acting. They should work within strict guidelines set up by the Commissioners. Mayor Lyons and Ms. Reich reiterate that the Town should not mandate what people do on their own property but protecting the tree canopy in the Town is important. Mr. Mandalas stated that the Commissioners need to develop a charging document for any new Committee that is formed and suggested one Commissioner take the lead on drafting a document for the Tree Committee to follow. He also remarked that Rehoboth Beach's Tree Ordinance may be the most restrictive in the country.

b. Review and possible amendment to Rental Property, Town Code §95

Mayor Lyons addressed the Commissioners about the changes that have been occurring in Town regarding rentals. More homeowners are renting online instead of or in addition to using a realtor. The length of the rental period has also changed from weekly to in some cases nightly. The Town has noticed an increase in occupancy and volume of cars at some rental properties. The Town met with one homeowner who is currently renting online. He felt it was a productive meeting for both parties. Mr. Jamison feels we need to address maximum occupancy. Mr. Mandalas reminded the Commissioners they would need to codify any limits they set. The Town has changed its rental license application to include a 24/7 local contact that must be included in order to be issued a license.

Harriet Hertrich-7 Dodds Lane

Ms. Hertrich asked the Commissioners to require all the homeowners renting their properties to use a realtor. Mr. Mandalas was unsure that was legal. He also noted that no other local town is placing that restriction on their rentals.

Mayor Lyons wants the Town to be careful how restrictive the rental ordinance becomes in order to avoid legal issues down the road. Any changes made need to be enforceable by the Town and security. Mr. Staffier feels maximum occupancy and minimum rental period are good starting points. Occupancy should not be based on the size of the house but one standard set for all properties. The Town is set up for single family residents. Defining “group rental” seems more difficult to do than setting a flat occupancy limit. Mr. Staffier also wants to the Town to address how they are able to collect the 3% Gross Receipt tax generated by online rentals.

John Scheurer-62 Tidewaters

Mr. Scheurer remarked that other states limit the amount of time within a calendar year houses can be rented. He agrees on setting a minimum rental period of one week and also of requiring all rentals go through a real estate agent.

Mayor Lyons questioned whether the Commissioners could get changes in place before the rental license applications go out for 2016. Mr. Staffier felt strongly that changes should be made today effective for 2016.

John Morris-7 Broad Hollow

Mr. Morris asked about the homeowners who inherited the home in Henlopen Acres and need to rent the property in order to keep it. Should they have a voice in the decision making process.

Mayor Lyons again reiterated that the Town has no intention on limiting a homeowners’ ability to rent their property but there are several issues that need to be addressed. Mr. Jamison questioned why the Town cannot make decisions based on what’s best for the Town as a whole and not one individual homeowner. He feels there should be limits placed on length of rental and occupancy. Mr. Staffier again reiterated the need to make changes for the 2016 rental season.

Mayor Lyons asked by a show of hands from the Commissioners who felt the changes needed to be made during this meeting for the 2016 rental season. All Commissioners raised their hands. Mr. Staffier made a **motion** to amend the Rental Ordinance to limit the rental occupancy for all homes to 12 persons and make the minimum rental period one week. He also included in the **motion** to require a 24/7 contact person with a minimum age of 21 as per Mr. Mandalas' recommendation. It was seconded by Ms. Richards. **Motion** passed. The new rental application and cover letter is to be reviewed by Mr. Mandalas prior to sending it out to the homeowners.

8. New Business

a. Appointment of one member to the Board of Adjustment

Mayor Lyons recommends the appointment of Maurice Lewis-65 Pine Reach for appointment to the Board of Adjustment. A **motion** to approve the appointment of Maurice Lewis was made by Mr. Brittingham and seconded by Mr. Staffier. **Motion** passed.

b. Reappointment of one member to the Environmental Approval Committee

Mayor Lyons recommended the reappointment of Carol Smith-8 Pine Reach to the Environmental Approval Committee. A **motion** to approve the appointment of Carol Smith was made by Commissioner Tim Hidell and seconded by Mr. Staffier. **Motion** passed.

c. Discussion and Possible Action on Cable TV Franchise agreement, Town Code §A134

Our current contract with Comcast expires in 2018 but they approached Mr. Roth with a new agreement which could raise the franchise tax to 5% but would cut out the free internet service for Town hall. Mr. Mandalas will begin negotiating the new contract. Mr. Roth wants him to address the internet issue and require them to place all temporary cables underground within 30 days.

d. Review and possible amendment to the Personnel Policy, Uniforms

Mr. Roth discussed the issue of uniforms for the streets department. In the past ten years the Town has had three different uniform services and none have provided good service. Mr. Roth has purchased seven uniform pants and seven shirts for each full time streets employee and will replace up to two each year. Any other purchases will be made by the employee. Mr. Roth expects the Town to save approximately \$1000.00 per year. The Board agreed to the policy change.

e. Review and possible amendment to Disorderly Conduct, Town Code §60

The current noise ordinance lists 12:00am to 7:00am as the period for no unreasonably load noise. Mr. Roth would like that changed to 11:00pm to 7:00am to give security a better window to address noise and disorderly conduct. A **motion** to amend Chapter 60 to from 12:00am to 11:00pm was made by Ms. Reich and seconded by Ms. Richards. **Motion** passed.

9. Executive session for purpose of discussing potential litigation, in accordance with 29 Del. C §10004(b)(6)

A **motion** to go into executive session was made at 12:00pm by Mr. Staffier and seconded by Mr. Hidell.

A **motion** to come out of executive session was made at 12:34pm by Ms. Reich and seconded by Mr. Hidell.

A **motion** to proceed as discussed in executive session was made by Mr. Staffier and seconded by Mr. Hidell. **Motion** passed.

11. Any other business that may come before the Commissioners

Mr. Roth wanted to make the Commissioners aware of the increase in food trucks coming into the Rehoboth area and one doing business here in Town. Another new trend is brew buses which he fears the Town will have to deal with in the near future. Current covenants prohibit food trucks from operating in the Town and suggests the Commissioners consider an alcohol regulation. Mr. Mandalas commented that Rehoboth Beach is currently looking into a brewpub law. No action was taken.

12. Town Solicitor's Report

Mr. Mandalas had nothing to report except what was discussed in executive session.

13. Adjournment

A **motion** to adjourn was made by Ms. Richards and seconded by Ms. Reich. The meeting was adjourned at 12:39pm.

Approved: 01/08/2016