

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, DE 19971

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

WORKSHOP MEETING AGENDA

1. Call to Order, Pledge of Allegiance
2. §C-5.D Qualifications of voters
3. §C-15 Town Manager
4. §C-16 The Treasurer
5. §C-17 Auditors
6. Adjournment

Pursuant to 29 Del. C. §10004 (e) (2), Agenda items as listed may not be considered in sequence. This agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which may arise at the time of the Meeting.

POSTED 11/16/12

SPONSOR:

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. _____

AN ACT TO AMEND THE CHARTER OF THE TOWN OF HENLOPEN ACRES, RELATING TO THE QUALIFICATIONS OF MAYOR, COMMISSIONERS, AND VOTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend the Charter of the Town of Henlopen Acres, by making insertions shown by underlining and
2 deletions as shown by strike through as follows:

3 ~~Section 5.~~

4 ~~The qualifications for Mayor and Commissioner shall be as follows:~~

5 ~~(a) Each of the seven (7) Commissioners of Henlopen Acres, at the time of the approval of their qualifications by~~
6 ~~the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout his~~
7 ~~or her term of office, shall have attained the age of twenty one (21) years of age.~~

8 ~~(b) Each shall be a non-delinquent taxable of the Town, as to all property taxes levied or assessments made by the~~
9 ~~Town for at least one year immediately prior to the date of the annual election.~~

10 ~~(c) (1)a. At least four of the seven Commissioners must be bona fide residents of the Town, but all may be~~
11 ~~residents of the Town for at least one year immediately prior to the date of the annual election. The Commissioner with the~~
12 ~~title of Mayor of the Town of Henlopen Acres shall be a bona fide resident of the Town.~~

13 ~~b. Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment~~
14 ~~to fill a vacancy), has been a full time resident of the Town for at least one year immediately prior to the date of the annual~~
15 ~~election and certifies his or her intention of remaining a full time resident of the Town, shall be deemed to be a resident~~
16 ~~Commissioner upon taking office, whether or not such person is also a freeholder in the Town; and if such person~~
17 ~~subsequently fails to maintain residency in the Town, but continues to be a freeholder in the Town, during his or her term of~~
18 ~~office, that person shall continue to be deemed a resident Commissioner.~~

19 ~~e. Any person who, on the date of filing of the notice of intention to run (or on the date of his or her appointment~~
20 ~~to office in the case of a vacancy) is not a resident of the Town but is a freeholder for at least one year immediately prior to~~
21 ~~the date of the annual election be deemed to be a non-resident Commissioner. If such non-resident Commissioner~~
22 ~~subsequently establishes residency in the Town during his or her term of office, that person shall continue to be deemed to~~
23 ~~be a non-resident Commissioner; provided, however, that if any non-resident Commissioner shall, during his or her term~~

24 of office, cease to be a freeholder in the Town, that person shall be deemed to have vacated his or her office by reason of
25 that fact alone, regardless of whether or not that person has subsequently become a resident of the Town.

26 (d)

27 (1) Every property owner, whether an individual, trust, partnership, corporation or limited liability company shall
28 have one vote.

29 (2) A entity other than an individual shall vote by a person named in a certificate signed by the president, vice-
30 president or person with authority, attested by the secretary or an assistance secretary, and with the corporate or appropriate
31 seal affixed. A partnership shall vote by a person named in a certificate signed by all of the general partners. No vote shall
32 be cast by a person named in a certificate given pursuant to this paragraph until the certificate is filed with the Town
33 Manager. A new certificate shall be required for each election.

34 (3) Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is not a property
35 owner but who is a bona fide resident for thirty days immediately prior to the date of the annual election of the Town of
36 Henlopen Acres, and is over the age of eighteen (18) shall have one vote.

37 (e) These provisions shall be construed in accordance with the principle of "one person/entity, one vote": If a voter
38 is entitled to vote by virtue of being both a resident and an owner of real property, the voter is entitled to only one vote; if a
39 voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only one vote.

40 (f) The Commissioners may, by ordinance, provide for a voter registration procedure.

41 5. Qualifications of Mayor and Commissioners and voters.

42 The qualifications for Mayor and Commissioners shall be as follows:

43 A. Each of the seven Commissioners of Henlopen Acres, at the time of the approval of their qualifications
44 by the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout
45 his or her term of office, shall have attained the age of 21 years of age, and shall be eligible to vote under the provisions of
46 this Section.

47 B. Each shall be a non-delinquent taxable of the Town, as to all property taxes levied or assessments made
48 by the Town.

49 C. At least four of the seven Commissioners must be bona fide residents of the Town, but all may be
50 residents of the Town. The Commissioner with the title of Mayor of the Town of Henlopen Acres shall be a bona fide
51 resident of the Town for at least one year prior to the date of the annual election.

52 (1) Any person who, on the date of the filing of notice of intention to run (or on the date of his or
53 her appointment to fill a vacancy), has been a bona fide resident of the Town for at least 30 days prior to the date
54 of the annual election and certifies his or her intention of remaining a bona fide resident of the Town, shall be

55 deemed to be a "resident" Commissioner upon taking office, whether or not such person is also a freeholder in the
56 Town; and if such person subsequently fails to remain a bona fide resident of the Town, but continues to be a
57 freeholder in the Town, during his or her term of office, that person shall continue to be deemed a "resident"
58 Commissioner.

59 (2) Any person who, on the date of filing of the notice of intention to run (or on the date of his or
60 her appointment to office in the case of a vacancy), is not a bona fide resident of the Town but is a freeholder for at
61 least one year prior to the date of the annual election be deemed to be a "non-resident Commissioner." If such
62 "non-resident" Commissioner subsequently becomes a bona fide resident of the Town during his or her term of
63 office, that person shall continue to be deemed to be a "non-resident" Commissioner; provided, however, that if
64 any non-resident Commissioner shall, during his or her term of office, cease to be a freeholder in the Town, that
65 person shall be deemed to have vacated his or her office by reason of that fact alone, regardless of whether or not
66 that person has subsequently become a bona fide resident of the Town.

67 D. The Commissioners shall be judges of the qualifications of their members.

68 E. For purposes of this Charter, a "freeholder" shall be deemed to include any person who holds fee simple
69 title of real property in his own name, or who holds title to an undivided interest in real property, or who holds title to real
70 estate as a tenant by the entirety, or who is both grantor/settler and trustee of a valid revocable trust to which real property
71 located within the Town has been conveyed, provided that a copy of the trust document identifying a grantor/settler and
72 trustee is on file with the Town.

73 The qualifications for voter eligibility shall be as follows:

74 F. At such annual election, every natural person who shall have attained the age of Eighteen (18) years and
75 who shall be a freeholder, as defined in this Section, in The Town of Henlopen Acres for a period of thirty (30) days
76 immediately preceding the date of such Annual Municipal Election, whether or not a resident of the State of Delaware or of
77 The Town of Henlopen Acres shall be entitled to One (1) vote, provided such person is registered on the books of registered
78 voters.

79 G. Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is not a
80 freeholder, as defined in this Section, but who is a bona fide resident of the Town of Henlopen Acres for thirty (30) days
81 prior to the date of the annual election of the Town of Henlopen Acres, and is over the age of Eighteen (18) shall be entitled
82 to One (1) vote, provided such person is registered on the books of registered voters.

83 H. These provisions shall be construed in accordance with the principle of "one-person, one vote": If a voter
84 is entitled to vote by virtue of being both a resident of the Town of Henlopen Acres and a freeholder, the voter is entitled to

85 only One (1) vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to
86 only One (1) vote.

87 I. The Commissioners may, by ordinance, provide for a voter registration procedure.

88 Section 2. If any provision of this Act shall be deemed or held to be invalid or unenforceable for
89 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Act which may
90 be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Act are hereby
91 declared to be severable.

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SYNOPSIS

This bill amends the Charter for the Town of Henlopen Acres to clarify that all candidates for Town Commissioner and all serving Town Commissioners must be eligible to vote in the annual municipal election, and to modify the qualifications for voter eligibility in municipal elections, including (1) reducing from six months to thirty days the freeholder durational requirement for voter eligibility, (2) removing general entity voting, and (3) allowing voting by individuals who are both grantors/settlers and trustees of valid revocable trusts holding real property located within the municipal boundaries of Henlopen Acres. Additionally, this bill corrects the numbering and lettering of provisions which, through previous amendments, became non-sequential.

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Author: Sen. Bunting

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§C-15. Town Manager

- A. The Commissioners of Henlopen Acres shall appoint a Town Manager.
- B. Upon the appointment of a Town Manager the duties shall be prescribed by the Commissioners.
- C. The Town Manager shall not be a member of the Town Commissioners. ~~He shall give corporate bond to the corporation in an amount fixed by it conditioned for the faithful performance of his duties, the payment to the Town of all money coming into his hands as Town Manager from whatever source derived, and in the event of death, resignation or removal from office, the delivery to his successor of all papers, books, records and other property of the Town in his hands or under his control.~~
- D. He shall receive as compensation for his services an annual salary to be fixed, from time to time, by resolution of Commissioners. ~~payable in 12 installments.~~
- E. He shall attend all meetings of the Commissioners and keep proper and adequate minutes of its acts and proceedings and keep a correct journal of the same in a book or books provided for that purpose; said journal must show all bills approved by the Commissioners, the amount of said bills and to whom payable; and he shall be in attendance at his office on such days and between such hours as may be directed by ordinance or resolution of the Commissioners.
- F. He shall keep a record of all officers, agents and employees of the Town, when elected or appointed, the terms of office or employment, if a term be fixed, and the salary or compensation thereof.
- G. He shall keep the assessment books and tax records of the Town with the names of the taxpayers arranged alphabetically showing the tax, a short description and assessed value, as determined by the Commissioners, of each parcel of real estate and a short description of each item of personal property assessed, if any. He shall also keep and maintain proper books and records showing the names of persons charged with utility rentals or service charges and detailed account thereof.
- H. He shall collect all taxes, license fees, utility rentals assessments and all other money due to be paid to the Town under the provisions of this Charter, or as prescribed by ordinance or resolution of the Commission; and he shall keep separate, full and accurate accounts of all money received and due to be paid to the Town.
- I. He shall keep full and accurate accounts of all money paid out for or on account of the various departments and agencies of the Town together with proper vouchers.
- J. He shall perform such other responsibilities and duties as the Mayor and Commissioners may assign.

§ C-16. The Treasurer

- A. A Treasurer of the Town of Henlopen Acres shall be appointed by the Town Commissioners of Henlopen Acres at their annual meeting hereinbefore provided. He shall hold his office for the term of one year from the date of his appointment at such annual meeting or if he be appointed to fulfill an unexpired term, his appointment shall expire one year from the date of the annual meeting immediately preceding his appointment.
- B. The Treasurer must be a resident of the Town of Henlopen Acres.
- C. The compensation, if any, to be received by the Treasurer of Henlopen Acres shall be fixed by the Town Commissioners of Henlopen Acres.
- D. ~~The Treasurer shall file with the Town Commissioners of Henlopen Acres, a bond with corporate surety, approved by the Commissioners in the sum of not less than \$25,000 to be paid for by the Town Commission. The bond shall be conditioned upon the faithful performance of his duties of his office and the restoration to the Commissioners of Henlopen Acres in the case of his death, resignation or removal from office of all books, papers, vouchers and other property of whatever kind in his possession belonging to the Town of Henlopen Acres.~~
- E. The Treasurer shall be the custodian of all the funds of the Town. He shall deposit them in banking institutions prescribed by the Town Commissioners.
- F. ~~The Treasurer shall promptly deposit in such bank or trust company doing business in Lewes and Rehoboth Hundred as may be designated as depository by ordinance or resolution of Commissioners all money received by him and, as directed by ordinance or resolution, keep and maintain separate accounts of monies received from taxes, water rentals, sewer service charges, or otherwise.~~
- G. At a regular monthly meeting of the Commissioners he shall be prepared to render to the Commissioners a true and detailed account of all money collected or received by him in the performance of his duties, and of all monies disbursed for and on account of the Town and its agencies and departments; and all books, records and documents showing the receipt and disbursement of money shall be open to inspection by the Mayor and any member of the Commission at any time.
- H. ~~At least 30 days prior to the municipal election he shall prepare and post in his office a list of all taxables who are then in arrears in the payment of taxes.~~
- I. He shall perform such other duties as may be provided by this Charter, or as prescribed by ordinance or resolution of the Commissioners.
- J. ~~The Treasurer shall pay out no money except upon check or warrant countersigned by the Mayor of the Town of Henlopen Acres and authorized by the Commissioners of Henlopen Acres.~~
- K. He shall keep a true, and accurate and detailed account of all monies received and of all monies paid out by him. He shall preserve all vouchers for monies paid out by him and his books and accounts shall, at all times, be open to inspection by the Commissioners. He shall make such reports and at such times as the Commissioners shall direct.
- L. He shall prepare, in conjunction with the Secretary and the Town Manager, an annual report of the financial condition of the Town.

§ C-17. Auditors

A. Three Auditors of Accounts, (*the Audit Committee*), who shall be ~~freeholders~~ *residents* of the Town shall be appointed by the Commissioners at each annual meeting hereinbefore provided to serve for the term of one year or until their successors shall have been duly appointed and qualified.

B. It shall be their duty to ~~audit the accounts~~ *review the financial statements* of the Town, *including the annual statement prepared by the Town's Certified Public Accountant (CPA's)*, and all of its officers whose duty involves the collection, custody and payment of monies to the Town. They shall audit the books of the Mayor of the Town of Henlopen Acres, and the records of all fines, penalties and costs imposed or collected by him pursuant to any judgment, order or decree made. The auditors on or before the 15th day of August, annually, next following their appointment, shall make and deliver a detailed report of every and all accounts, records and books by them examined and audited, which report under their hands and seals shall be printed in a newspaper which has general circulation in the Town in the issue immediately succeeding ~~their annual report~~. The Auditors, in the performance of their duties, shall have access to all records and accounts of the offices of the Town. ~~Commissioners, and they are authorized and empowered to employ such clerks and accountants as in their judgment may be necessary in the proper performance of their duties at such compensation as may be determined by the Commissioners.~~ *They are to report their findings to the Town Manager, the Mayor and the Treasurer of the Town. They are to assist in resolving any discrepancies with the Town's CPA's and to make recommendations concerning the Town's fiscal affairs.*