

MINUTES: The Quarterly Meeting of the Board of Commissioners of the Town of Henlopen Acres held on Friday, January 17, 2014 in Town Hall, 104 Tidewaters in Henlopen Acres, Delaware.

PRESENT:

David L. Hill	Mayor
Andrew Brittingham	Commissioner
David Lyons	Commissioner
John Staffier	Commissioner
Beatrix Richards	Commissioner
Frank Jamison	Commissioner
Thomas A. Roth	Town Manager
Sharon Karl	Town Clerk
Glenn Mandalas	Town Solicitor
Diana Beebe	Rehoboth Art League
Christine Moore	14 Tidewaters
Bob Stevens	66 Fields End
Herb Wilgis	35 Pine Reach
Jane Wilgis	35 Pine Reach
Michael Stakias	51 Tidewaters
Mollie Ingram	60 Tidewaters
Tom Ingram	60 Tidewaters
Henry DeWitt	55 Fields End
Melissa Steele	Cape Gazette

ABSENT: Winifred W. Kee Commissioner

1. Call to Order, Pledge of Allegiance

Mayor Hill called the Quarterly Meeting of the Board of Commissioners to order at 10:00 am followed by the Pledge of Allegiance.

2. Approval of Minutes Quarterly Meeting – October 11, 2013

Commissioner Lyons made a **motion** to approve the minutes as corrected. Commissioner Richards seconded the motion. Motion passed.

3. Treasurer’s report

Commissioner Lyons said we are ahead on zoning and construction fees. The marina dredging came in under budget. There is only one unpaid real estate tax. In answer to Mayor Hill, Mr. Roth said that he is doing what is necessary to protect the town’s position.

4. Maintenance report

Mr. Roth said the water use report just a little above average. Last week we had six broken pipes, most from outdoor showers, so we will show a spike in January.

5. Security report

The monthly reports are also included in the packet. We will be replacing a security vehicle in the coming weeks as we do every two years. Mr. Roth said we will get approval from North Shore prior to purchase.

6. Town Manager's report

Mr. Roth said that he had previously distributed the monthly reports. Mr. Roth met with our engineer on Wednesday to address storm water problems on Pine Reach.

Mayor Hill set a date of April 11th, after the Commissioners next meeting, to have a ceremony naming the plot of land at the Henlopen Acres entrance in Honor of former Mayor Wanda Davis.

Mr. Staffier asked Mr. Roth if he has discussed with the Army Corp of Engineers or DNREC on ways we can slow sedimentation rate at the marina. Mr. Roth responded that he will be attending a conference on January 30th that pertains to this subject.

7. UNFINISHED BUSINESS

a. Charter amendment, Chapter C-5, Qualifications of voters, Treasurer, Town Manager

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 property ownership requirement for voter eligibility, (2) increasing from thirty days to one year the durational requirement for qualification to run as a resident Commissioner, and (3) establishing a voter eligibility requirement of a fifty percent (50%) ownership interest in real property for an individual or entity to vote as a real property owner. Additionally, this bill corrects the numbering and lettering of provisions which, through previous amendments, became non-sequential.

Mayor Hill said that residents, regardless of property ownership, have the right to vote. Individual non-residents may vote, that own at least a 50% interest in real property within the town. Entities with at least a 50% interest in property in the town, may vote. An entity has one vote and has to follow the procedures concerning entity voting, certifying at each election that they are authorized to vote, in good standing and that the person is properly authorized to vote on behalf of the entity. There is also a process for challenging qualifications. We have eliminated any non-resident who doesn't hold a 50% interest in real property from voting or running for office in the town.

Mr. Mandalas said this piece of legislation is a comprehensive and thoughtful view on entity voting. He added, in reference to "one man, one vote", this seems to take care of an individual voting as an individual and also as an agent for an entity.

Mr. Staffier asked if we have flexibility to deal with these questions on an ad hoc basis under the Charter or would there need to be a Charter amendment. Mr. Mandalas said that under state law the town has to appoint a Board of Elections, every election. If the scenario happened where someone who has voted has assigned an agent for another property he owns through a corporation to vote and it appears that the person is getting a second vote through the agent then any voter in the Town could file a complaint with the town's Board of Elections. The Board of Election has a very short amount of time to determine whether there is any credibility to the complaint. If there is, they have a certain window to schedule a hearing and make a decision. However that decision can be appealed. The first person to make the decision is the Inspector of Elections. If the agent did not like that decision then it goes to the Board of Elections.

Mayor Hill said that the second bill makes certain changes to the duties of the Treasurer and nature of the office of Town Manager. This had already been approved 1-1/2 years ago by the Board, but at that time it did not go to the State Legislation.

Mr. Jamison made a **motion** to approve the Charter Amendments as drafted and authorize Mayor Hill to work with state representatives and senators on sponsorship of the bill and forward it to the General Assembly. Mr. Lyons seconded. The motion passed unanimously.

b. Amendment to Chapter 43 Building Construction (Lighting)

Mr. Mandalas said that this adds an addition to Section 43-5 of the Code “(2) All outside lighting shall be oriented, shielded or both, so that glare and illumination of adjacent properties is minimized.”

Mr. Jamison made a **motion** to adopt Ordinance to amend Section 43.5. Mr. Staffier seconded. The motion was passed unanimously.

c. Amendment to Chapter 116 Vehicles & Traffic (Parking in Public Places)

Mayor Hill said that this was adopted in principle at our last meeting. It changes penalties to a civil offense, adds a new section §116-8 and renumbering of other items as needed.

Mr. Jamison made a **motion** to approve the changes to Section 116-8. Mrs. Richards seconded the motion. The motion passed unanimously.

d. Audit Report

Mayor Hill said that we have received the audit report signed off by our accountants. The audit committee authorized Sombar to do the next audit subject to a proper engagement letter from the accountants with their fee approved by the town. Generally we are in good health financially. Sombar felt that our procedures were appropriate for a small town.

Mr. Staffier made a **motion** to approve the Audited Financial Statements 6/3013. Mr. Jamison seconded the motion. The motion passed unanimously.

e. Process for evaluating Rehoboth Art League status, possible changes

Mayor Hill we will arrange to hold a meeting in February with the Art League concerning parking issues and the outdoor show as previously discussed.

8. NEW BUSINESS

a. Convert Criminal Offenses to Civil

i. Chapter 43, Building Construction

Mayor Hill asked the Board to consider making Building Code violations civil, (Chapter 43). Those violations may have serious consequences, injury, even possibly death; certainly property damage if the building falls down or if fire happens because the electrical code wasn't followed. Discussion ensued.

Mr. Mandalas added that the town has adopted the International Building Code (IRC). The IRC distinguishes between what is criminal and what is civil when you get beyond the municipal level. County inspectors would also look to the town's provision to determine what violations are civil or criminal. Mayor Hill suggested those provisions that have been adopted that are unique to Henlopen Acres, the shielding of lighting, etc. be changed to civil violations. Anything that is under the IRC, would remain subject to criminal penalties.

Mr. Staffier made a **motion** to authorize Mr. Mandalas to prepare an ordinance amendment for presentation at our next meeting that would make all non-building Code violations under Chapter 43, civil offenses and maintain International Building Code decisions as they exist or may be amended from time to time. Mrs. Richards seconded the motion. The motion was passed unanimously.

ii. Chapter 112, Parking of Trailers

Mayor Hill stated, on occasions where equipment or trailers are left on construction sites in violation of the Code; we'd like to make this a civil violation. We'd also need to determine a monetary penalty. Currently the penalty is between \$50 and \$100. Mr. Jamison suggested a scale of \$50 per day up to 3 days than \$100 per day. Mr. Mandalas added that with civil violations, the town is supposed to be recouping fees that the town has incurred because of the violation. Where it is an ongoing violation even in the civil context a scale makes sense.

Mr. Roth suggested that he and Mr. Mandalas review the entire Chapter to make sure that it is pertinent to today. Mayor Hill directed Mr. Roth and Mr. Mandalas to review Chapter 112, and bring it back to the Commissioners.

b. Appointment to the Environmental Approval Committee

No action taken.

c. Appointment to the Board of Adjustment

No action taken.

d. Personnel Policy – Amendment to Holiday policy

Mr. Roth said that this is to clarify our policy as to when a holiday is paid. This clarifies that the employee either has to work or have a paid absence the day before and the day after. He added that the current language is indecipherable.

Mr. Staffier made a **motion** to approve amendment to the employee handbook Holiday Policy, rephrasing when holiday is paid. Mr. Lyons seconded the motion. The motion passed unanimously.

e. Charter Review

Mayor Hill said he wished to discuss whether it would be cost effective to perform a comprehensive review of the Charter. It would be a significant task to do a top to bottom review of the Charter. Mr. Mandalas said that the House has done individual Code sections but never has he been asked to do an entire Charter review. There are plenty of archaic provisions that remain in a lot of town Charters that are not current to the times. The General Assembly may look at the town as being up front trying to make these changes or they may question the motive of making comprehensive Charter changes. Mr. Mandalas said that we have knowledgeable Board Members that could take on the challenge if they wished. No action was taken.

9. Any other business that may come before the Commissioners

No other business.

10. Town Solicitor's report

No comments.

11. Adjournment

Mr. Staffier made a **motion** to adjourn the meeting. Mr. Jamison seconded the motion. The motion passed. The meeting was adjourned by Mayor Hill at 11:27 am.

Approved: April 11, 2014