

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, July 8, 2016** at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

PRESENT:	David Lyons Sr.	Mayor
	John Staffier	Commissioner
	Frank Jamison	Commissioner
	Joni Reich	Commissioner
	Andrew Brittingham	Commissioner
	Tim Hidell	Commissioner
	Beatrix Richards	Commissioner
	Thomas Roth	Town Manager
	Glenn Mandalas, Esq.	Town Solicitor
	Lisa Michaels	Town Clerk
	Michael Kail	13 Tidewaters
	Barbara Shortley	59 Pine Reach
	John Morris	7 Broad Hollow
	Molly Houston	21 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. Approval of Minutes

a. Quarterly Meeting-April 8, 2016

Two changes to be made to minutes per Commissioner John Staffier. On page three under New Business letters b., c., and d. the word appoints should be replaced by submitted since Mayor Lyons did not attend the April 8 meeting and there is a missing period at the end of the last sentence on page three. **Motion** to approve the minutes with changes was made by Mr. Staffier and seconded by Commissioner Frank Jamison. **Motion** passed unanimously.

b. Board of Commissioner's Meeting-June 17, 2016

Motion to approve was made by Mr. Staffier and seconded by Mr. Jamison. **Motion** passed unanimously.

3. Treasurer's Report

Commissioner Joni Reich reviewed the year end financials included in the meeting packet. The Town ended the fiscal year with less of a deficit than was originally budgeted by

\$23,000. Transfer tax income was also higher than expected. Ms. Reich felt the year ended in a positive way.

4. Maintenance Report

A water report is included in the packet. The monthly water usage appears on track for this time of the year. There is a decrease in usage from the same time period last year. Sonny McClure and Bob Ribinsky took a continuing education course to maintain their water operators' licenses. The street department has done an excellent job keeping up with the yard waste and will begin cleaning up the bridle paths. Mosquito spraying is being done each Friday morning with special attention being paid to any standing water in response to the concerns over the Zika virus. Spraying will continue weekly into the fall.

5. Security Report

A security report is included in the packet. No other incidents to report.

6. Town Manager's Report

A written report is included in the meeting packet. An ERC meeting is scheduled for July 19th to review a small renovation at 8 Tidewaters. A Tree Committee meeting is scheduled for July 11th and will include a consultation with a certified arborist. We are receiving FEMA reimbursement for costs of the January storm. The last day to file for the Town election is today by 4:30pm.

7. Unfinished Business

None.

8. New Business

a. Review and possible resolution on an amendment to Chapter 130-19 Zoning, Lot and building requirements

This was recommended to the Commissioners from the Planning Commission. The original intent was to allow a homeowner an additional 250 sq. ft. to accommodate a garage/storage building. The original discussion by the Planning Commission was to allow this 250 sq. ft. to be exempt from the 6000 sq. ft. building maximum but it still had to be within the 20% building area and 60% lot coverage limits. As the Planning Commission continued the discussion they decided to make the 250 sq. ft. exempt from all zoning requirements as long as it is attached to the main dwelling. Mayor Lyons and several other Commissioners were concerned that this additional 250 sq. ft. would become additional living space and not storage space as originally designed. The Commissioners unanimously decided to send this back to the Planning Commission for a more specific clarification of acceptable use.

b. Review and possible resolution on an amendment to Chapter 130-4(2) Zoning, Definitions, Unenclosed cooking facilities

This was also recommended from the Planning Commission. The Planning Commission wanted to allow some sort of outside cooking facility beyond a basic grill. The concern becomes if it is allowed to be an enclosed cooking facility, it will open the door for the creation of additional living space. The discussion

centered on allowing walls but no roof then switched to allowing a roof but no walls that must be attached to the main home, which then falls under the 6000 sq. ft. building maximum. Mr. Mandalas added the definition of unenclosed cooking facility under section 2a. The Commissioners also discussed encouraging more outdoor living by approving more elaborate outside entertainment areas and the pros and cons of that decision. The Commissioners unanimously decided to send this back to the Planning Commission to review the additional language added by Mr. Mandalas. They should also address if the outdoor cooking facility should be covered by a roof, included in the 6000 sq. ft. maximum and meet the 60% lot coverage and 20% building area requirements.

c. Review of Chapter 75-1 Grass and weeds, Nuisance plants

The meeting packet includes a letter signed by four property owners affected by the growth of bamboo coming from a fifth property. Mayor Lyons discussed the situation briefly mentioning that the bamboo is also growing into the Town bridle path. Mr. Mandalas provided a statue from another town addressing bamboo and also discussed several ways the Town can address the issue. The Town could declare bamboo a nuisance plant and change the current ordinance. Even if existing bamboo were included in the new ordinance, Mr. Mandalas felt some type of legal action would be needed to force a homeowner to address the issue or get permission for the Town to intervene on private property. The other option would be to leave it a neighbor to neighbor issue that could ultimately need to be decided in court. Ms. Reich provided Mr. Mandalas with an ordinance from Cambridge, Maryland that addresses bamboo in that town. Mr. Mandalas will review and make recommendations. Several of the Commissioners felt that the property where the bamboo is originating should be held accountable to eradicate the problem. Mayor Lyons has tried mediating between the parties and would like to reach out to them again. The Commissioners sympathized with the homeowners being affected and would like to see a resolution to this problem.

d. Review and possible action on an amendment to Chapter 43-4.1 Building Construction, Board of Appeals

A proposed Ordinance is included in the meeting packet. Mr. Mandalas explained that most towns don't have a separate Construction Board of Appeals but instead give that power to the Board of Adjustment. Henlopen Acres current Code refers appeals to a Construction Board of Appeals. The two options are to appoint members to a Construction Board of Appeals or adopt the proposed Ordinance. Mayor Lyons questions if the fee would be the same for a Construction Appeal and request for a variance currently \$1000. Mr. Mandalas noted the fees could be different and set by the Board of Commissioners. The ERC (environmental review committee) is the first level of evaluation a homeowner has when submitting plans for renovations or construction. The duties of that committee would not change with the new Ordinance. The appeal of an unfavorable decision by the ERC would now be sent to the Board of Adjustment. The Commissioners agreed the fee for a Construction Appeal should be lower than for a variance request and decided on a set fee of \$250. A **motion** to adopt the Ordinance as written was made by Mr. Staffier and seconded by Ms. Reich. **Motion** passed unanimously.

e. Review and possible amendment to Chapter 67 Firearms and weapons

There was a brief discussion on changing the current Code as it pertains to firearms. No action was taken.

f. Reappointment of two member to the Board of Adjustment

Mayor Lyons recommended reappointment of Marshall Jones-31 Rolling Road and Kathy McGuinness-6 Broad Hollow to the Board of Adjustment. A **motion** to approve the reappointments was made by Mr. Staffier and seconded by Ms. Reich. **Motion** passed unanimously.

g. Reappointment of three members to the Audit Committee

Mayor Lyons recommended reappointment of John Talbott-41 Rolling Road, Barry Hale-37 Pine Reach and Robert Moltz-62 Pine Reach to the Audit Committee. A **motion** to approve the reappointments was made by Ms. Reich and seconded by Mr. Staffier. **Motion** passed unanimously.

h. Removal of registrants from the voting roll

A **motion** to remove the registrants from the voting role as edited was made by Commissioner Frank Jamison and seconded by Commissioner Paddy Richards. **Motion** passed unanimously.

9. Any other business that may come before the Commissioners

Mayor Lyons discussed the 2nd Annual Independence Day Parade. It was successful and well attended even though it was moved from Sunday July 3rd to Monday July 4th due to the weather. Mayor Lyons also discussed the increasing deer population in Town and that he is working on a solution in conjunction with the State of Delaware. More details will follow as a plan comes together.

Michael Kail-13 Tidewaters

Mr. Kail wanted to bring the issue of excessive noise created by landscapers working in Town to the Commissioners attention. While there is currently not a noise ordinance, the Commissioners will consider the issue in the future

Mr. Roth has been approached by a small group of property owners about having a cocktail party at the Marina on Saturday August 20th. The group would like the Town to set up and tear down tables and chairs for the event. The Commissioners felt the Town should support events that promote Town unity.

Mr. Jamison would also like to mention that there are several vacant properties being used as parking lots by neighbors. Currently there is no Ordinance to prohibit parking on a vacant lot as long as the property owner has given consent.

Mayor Lyons revisited the issue of silting at the Marina. The Commissioners need to decide if they want to allocate the budgeted \$58,000 to AECOM for a consultation and recommendations on addressing the silting problem. The Commissioners agreed to allocate the money with the hopes that recommendations will provide a long term solution.

10. Town Solicitors Report

Mr. Mandalas briefly discussed House Bill 395. In order to vote, a person must own property with a municipality at least 30 days prior to an election. This has no effect on elections in Henlopen Acres.

11. Adjournment

A **motion** to adjourn was made by Ms. Richards and seconded by Mr. Staffier. The meeting was adjourned at 12:01pm.

Approved 10/07/16