

# Town of Henlopen Acres

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Henlopen Acres, DE 19971

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**MINUTES:** The Board of Commissioners of the Town of Henlopen Acres held their Organizational Meeting at **10:00am on Friday, September 6, 2019** at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

**PRESENT:**

Joni Reich	Mayor
Beatrix Richards	Commissioner
Tim Hidell	Commissioner
John Staffier	Commissioner
Andrew Brittingham	Commissioner
Frank Jamison	Commissioner
Glen Mandalas	Solicitor
Thomas Roth	Town Manager
Lisa Michaels	Town Clerk

**EXCUSED:** Richard Thompson Commissioner

## **[Minutes are Not Verbatim]**

### **1. Call to order, Pledge of Allegiance**

The meeting was called to order at 10:00am by Mayor Joni Reich.

### **2. Administration of Oath of Office to elected Commissioners**

Town Manager, Thomas Roth, administered the Oath of Office to newly re-elected Commissioner Frank Jamison. The Oath of Office will be administered to Commissioner Richard Thompson at the October Board Meeting.

### **3. Nominations and election for the Office of Mayor**

Commissioner John Staffier made a **motion** to nominate Joni Reich for Mayor and Commissioner Frank Jamison seconded the **motion**. There were no other nominations. **Motion** passed unanimously and Joni Reich was re-elected Mayor.

### **4. Appointments**

Mayor Reich recommended the following appointments

- a. President Pro tempore**-Commissioner Frank Jamison
- b. Treasurer**-Commissioner Tim Hidell
- c. Secretary**-Commissioner Paddy Richards
- d. Assistant Secretary**-Town Manager Thomas Roth

A **motion** to approve the appointments was made by Mr. Staffier and seconded by Commissioner Tim Hidell. **Motion** passed unanimously.

## 5. Meeting Schedule

The 2020 Board of Commissioners meeting schedule was included in the meeting packet. The April 2020 Board of Commissioners meeting falls on Good Friday which is a Town Hall holiday. The Commissioners have agreed to change that date to Friday April 17, 2020. There were no conflicts for the other meeting dates.

## 6. New Business

### a. Tree Planting on Rolling Road ocean block

Included in the meeting packet was a sample letter Mayor Reich sent to the property owners on the ocean block of Rolling Road. The intent of the letter was to inform those property owners that the Town is planning to plant trees in the Town easement along that block of Rolling Road. The Town will be working with Jay Ashby of Cypress Tree. He will meet with all property owners interested to discuss location and tree species to be planted. So far the feedback Mayor Reich has received from the property owners has been supportive. Once Jay has met with the property owners he will submit a planting plan for approval and planting will take place this fall. Cypress Tree care is expected to plant approximately 25 trees.

### b. Memorial for David Lyons at Marina

Mayor Reich had a rendering drawn up by Bella Terra Landscaping for a memorial garden at the marina to honor Mayor David Lyons. The rendering was presented to the Commissioners and depicts a park like setting near the parking lot of the marina. It includes trees, flowers and park benches. It will also contain a memorial marker commemorating David Lyons. Due to the estimated cost, the Town will solicit a second proposal.

#### Tim Lyons-43 Pine Reach

Tim expressed the appreciation of his family for the Town planning this memorial for his dad. He remarked that the marina was one of his father's favorite spots in Town.

All the Commissioners were in favor of moving forward with the project.

### c. License Request from Robert and Debbie Reed-57 Tidewaters

Mr. Mandalas reviewed the background that brought the Reeds to request a licensing agreement from the Town. The outside runner of their concrete driveway is encroaching on Town's bridle path in the back of their property by two feet. The Reeds presented a packet of information supporting their case for a licensing agreement that was given to the Commissioners. Mr. Bob Reed then addressed the Commissioners with an explanation as to why their driveway was built partially in the bridle path and why the Town should approve their licensing agreement. He stated that the driveway being in the bridle path was accidental. Mr. Reed's explanation included the argument that driveways are typically placed on a Town setback, either the front or side and that is acceptable so a rear bridle path should be treated the same way. He doesn't believe anywhere in the Code it explicitly states a driveway cannot be in the bridle path. He had to submit several different plot plans and drawings of the proposed construction because his original one didn't meet the Town's requirements. It should be noted that the set of building plans Mr. Reed submitted and the Town approved

did not show the driveway being in the bridle path. Mr. Reed also stated that according to his research of property maps from before Henlopen Acres was incorporated, there is no mention of the Brightwater bridle path behind his home. As such, he is disputing the existence of a bridle path behind his house. Mr. Reed also referenced 42-4A of the Zoning Code which states no improvements can be made to the bridle path. He believes "improvements" doesn't include a driveway. Mr. Staffier and other Commissioners felt the point of whether the Brightwater bridle path existed on early Town maps is an issue that needs to be explored in greater detail. Mr. Reed feels strongly that his driveway being in the bridle path doesn't interfere with the Town's ability to use or access it. He feels as a homeowner, his right to use that portion of land outweighs the Town's need to access it. Mr. Reed's attorney, Mary Shrider-Fox, then spoke to the issues that have been addressed so far. She would like the Commissioners to consider the fact that the potential for litigation to solve this issue could negatively affect the Town whereas the issuing of a licensing agreement to the Reeds would be a beneficial solution for both parties. Ms. Shrider-Fox also noted that a court may look at other examples in Town where homeowners have made improvements in the bridle path with or without the Town's permission and this could impact the outcome. Mr. Reed acknowledges that with a licensing agreement, if the Town ever deems his use of the bridle path negatively affects the Town, he would be responsible for bearing the cost of removing the driveway.

Mr. Mandalas then directed the Commissioners to decide first whether they would consider issuing a licensing agreement to the Reeds. If so, he believes the language needs to be changes from the draft submitted by the Reeds' attorney. He is willing to work with Ms. Shrider-Fox to draft an acceptable agreement. Mayor Reich would like to further explore the issue raised about the location and existence of the Brightwater bridle path. She would also like more time to review the information presented today by Mr. Reed.

Commissioner Jamison doesn't feel the Town needs to explore the bridle path existence before making a decision on issuing a licensing agreement to the Reeds. He feels the decision should be made so the Reeds can have a resolution. Commissioners Richards, Staffier and Brittingham all agree they would like more time to review the information presented today by the Reeds. Ms. Richards would also like to better understand how issuing a licensing agreement would affect the Town going forward.

The Commissioners will further review the information discussed and make a decision at a later date.

**7. Executive Session for the purpose of reviewing executive session minutes, discussing possible litigation, and discussion of sale or lease of real property in accordance with 29 Del. C §10004(b)(6) §10004(b)(4), and §10004(b)(2) respectively.**

A **motion** to enter Executive Session for the purpose of reviewing executive session minutes, discussing possible litigation, and discussion of sale or lease of real property was made by Mr. Hidell and seconded by Mr. Brittingham at 11:20am.

A **motion** to come out of Executive Session was made at 12:13pm by Mr. Staffier and seconded by Ms. Richards.

**8. Review and possible action on matters discussed in Executive Session**

A **motion** to approve the executive session minutes reviewed was made by Mr. Staffier and seconded by Ms. Richards. **Motion** passed unanimously.

A **motion** to direct Town Solicitor, Glenn Mandalas to proceed as discussed in Executive Session was made by Mr. Staffier and seconded by Ms. Richards. **Motion** passed unanimously.

**9. Adjournment**

A **motion** to adjourn was made by Ms. Richards and seconded by Mr. Staffier. The meeting was adjourned at 12:15pm.

<b>Also in Attendance:</b>	Chris Flood	Cape Gazette
	John Scheurer	62 Tidewaters
	Tim Lyons	43 Pine Reach
	Henry DeWitt	55 Fields End
	Leigh Jamison	90 Tidewaters
	Julia Lewis	65 Pine Reach
	Bob & Debbie Reed	57 Tidewaters
	Mary Schrider-Fox	Reeds' Attorney

**Approved 10/11/2019**