

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, DE 19971

302-227-6411
fax: 302-227-3978

MINUTES: The Board of Commissioners of the Town of Henlopen Acres held their Virtual Quarterly Meeting at **10:00am on Friday, October 9, 2020** at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

PRESENT:

Joni Reich	Mayor
Jeffrey Jacobs	Commissioner
Andrew Brittingham	Commissioner
Beatrix Richards	Commissioner
Richard Thompson	Commissioner
John Staffier	Commissioner
Tim Hidell	Commissioner
Thomas Roth	Town Manager
Lisa Michaels	Town Clerk
Glenn Mandalas, Esq.	Town Solicitor

ABSENT:

[Minutes are Not Verbatim]

1. Call to Order, Pledge of Allegiance

The meeting was called to order by Mayor Joni Reich at 10:07 am.

2. Administration of the Oath of Office

None

3. Approval of Minutes

a. Board of Commissioner's Quarterly Meeting-July 10, 2020

A **motion** to approve the minutes from the July 10, 2020, Quarterly Meeting, was made by Commissioner Paddy Richards and seconded by Commissioner Andrew Brittingham. **Motion** passed unanimously

b. Board of Commissioner's Public Hearing August 31, 2020

A **motion** to approve the minutes from the August 31, 2020 Public Hearing was made by Commissioner Jeff Jacobs and seconded by Mrs. Richards. **Motion** passed unanimously.

c. Board of Commissioner's Organizational Meeting-September 11, 2020

A **motion** to approve the minutes from the September 11, 2020, Organizational Meeting, was made by Mr. Jacobs and seconded by Mr. Brittingham. **Motion** passed unanimously.

4. Treasurer's Report

A copy of the current financials were included in the meeting packet. Mr. Jacobs discussed the current budget. He remarked that the current year's budget is set to run at a small deficit which is very unusual. There are reserves in place to cover the deficit but Mr Jacobs would prefer to not have the budget show a deficit. Mr. Jacobs will continue to look at the financials and procedures in place going forward to keep the budget balanced. He notes that it is possible that Code enforcement may affect the budget for the rest of the fiscal year as the Town updates the rules for rentals with additional resources required to enforce them. Mayor Reich also commented that the current budget was affected by the one-time Town Anniversary Party. She was glad the Town was able to host such an event for the residents.

5. Town Manager's Report

A copy of the Town Manager's report is included in the packet. Mr. Roth made an announcement that if anyone currently on the Zoom meeting has a question regarding an agenda item, they can email the question to Mr Roth and he will address it during the meeting. Mr. Roth discussed with the Commissioners that Sussex County will be doing smoke testing the week of October 19 to look for leaks in the sewer lines. Any Henlopen Acres residents that are going to be affected, will be notified directly by Sussex County. The tree planting on Tidewaters is to be done at the end of October. Tree Committee members John Scheurer and Jeff Jacobs are meeting with residents of the ocean block of Tidewaters to discuss the tree planting locations. The marina dredging project is slowly moving along. The Army Corps is requiring additional survey plans be submitted and the Town is working with a surveyor to get that work complete. Mr Roth also noted that unlike the second quarter of the year, when the Town's water usage was well above normal, the third quarter usage has returned to normal. The Town's inter-connect with Rehoboth's water system received all approvals. Henlopen Acres will be paying all expenses related to the connection and the Town is working directly with Rehoboth's water department and a plumber to get the work completed. KCI has evaluated the Town's master control panel in the water plant and has recommended replacing it. The estimated cost is about \$61,000. They have also recommended replacing the underground telemetry running to all the wells with an estimated cost of \$190,000. The Town will be purchasing a new security car and a truck for Maintenance Supervisor Sonny McClure, both of which were in the budget for this fiscal year.

6. Unfinished Business

a. Review and possible action on §43-5J Building Construction, Solar Panels

A copy of the draft Ordinance was included in the meeting packet. The Town's current Ordinance on Solar Panels requires updating. The Town originally limited where solar panels could be placed on a roof specifically prohibiting them from being seen from the road. The State of Delaware has updated the laws stating HOA's cannot overreach on limiting the use of solar panels. The proposed Ordinance states solar panels should not be placed on the front slope of the roof facing the street unless no other placement is available. It also includes that solar structures are for residential purposes only. The changes achieve compliance with the new State regulations. Mr. Mandalas is not sure that the State regulations applied to

municipalities but these proposed changes comply with the State regulations. A **motion** to approve the draft changes to Chapter 23, Solar Panels was made by Commissioner John Staffier and seconded by Mr. Jacobs. **Motion** passed unanimously.

7. New Business

a. Review and possible action on §114-11 Trees, Minimum Tree Density requirement parameters

The proposed changes to Chapter 114-11 are included in the meeting packet. The Tree Committee would like to increase the minimum tree caliper size acceptable to be planted by homeowners as per recommendations from Cypress Tree Care. The Tree Committee noted that when the Town made the switch to larger caliper trees to replenish the tree canopy, the larger specimens increased the visual impact and the survival rate was much higher. The financial impact to homeowners would be minimal. A **motion** to approve the changes to Chapter 114-11 Minimum Tree Density requirement parameters was made by Commissioner Richard Thompson and seconded by Mrs. Richards. **Motion** passed unanimously.

b. Discussion on rental rules and enforcement

An outline of the parameters on the rental rules was included in the packet. Mayor Reich, Commissioner Jacobs and Mr Roth have been working on revisions to the rentals rules using some feedback received at the public hearing on August 31, 2020. Mr. Jacobs explained the outline in detail to the Commissioners. The goal is to solidify new rental rules by December 2020 to be in place for the 2021 rental season. Mr. Jacobs spent a significant amount of time meeting with area rental agents. He also spoke with real estate investors, and the manager of North Shores to discuss the experiences they have with rental properties in their community. Mr. Jacobs received extensive feedback and the consistent feeling was that Henlopen Acres is being proactive at getting ahead of the issues in an ever-changing rental market. Mr. Jacobs also noted that three of the four realtors mentioned that Henlopen Acres is on the low end of Gross Receipts Tax collected. Most other local towns are at approximately 6.5%. It is important to note that the tax is paid by the renter and not the property owner. Mr Jacobs also noted that since realtors are not required to obtain a business license in Town, we do not have a contract with them. The Town also does not have a contract with a renter. The only contract in a rental situation is between the Town and the property owner. So this contract is the one that the Town needs to focus on. Realtors have recommended the Town be redundant with rental rules including providing them to tenants on multiple occasions as well as to the property owners and rental agents. If violations of the rental rules occurs by a tenant, the Town will be forced to fine the property owner, who in turn can choose to recoup the fine from the renter's security deposit. The Town will be requiring all rental properties to have a local 24/7 contact who can be at the property to address a rental violation if needed. Mayor Reich wants to make it clear that the Town's goal is not to issue fines but to have all renters comply with the rental rules. Fines will not be looked at as a revenue stream by the Town. Henlopen Acres is a residential community and not a typical beach town. Mr. Jacobs suggests having the local contact be able to respond to a property within 30 minutes. Mr Thompson

commented that this will require both the tenants and property owners receiving the information needed to understand what is required of each of them. Mr. Staffier suggests providing potential tenants with the rental rules prior to booking a rental in Town so they understand what is expected of them. Mr Jacobs and Mr Roth will continue to work on the rules and the Commissioners will discuss this item again at their December meeting.

c. Review and possible action on business license fees per §50-7, Annual License required

Mr. Roth recommends changing the current business license structure. Currently businesses with less than 50 employees pay \$50 for an annual business license. Mr Roth suggests lowering that to less than ten and businesses with 10 or more employees paying \$100 for an annual license. Many contractors and service providers with more than ten employees are doing extensive business in Town and sometimes damaging the easements and other Town property with their equipment. A **motion** to approve the change in Business license fee structure was made by Mr. Thompson and seconded by Mrs. Richards. **Motion** passed unanimously.

d. Appointment of one member to the Environmental Approval Committee

Mayor Reich recommended Lynda Moses for reappointment to the Environmental Approval Committee for a three year term. A **motion** to approve the reappointment of Lynda Moses to the Environmental Approval Committee was made by Mr. Thompson and seconded by Mrs. Richards. **Motion** passed unanimously.

e. Appointment of one member to the Tree Committee

Mayor Reich recommended Henry DeWitt for reappointment to the Tree Committee for a three year term. A **motion** to approve the reappointment of Henry DeWitt to the Tree Committee was made by Mr. Thompson and seconded by Mrs. Richards. **Motion** passed unanimously.

f. Review and possible approval of Audited Financial Statements

The draft Financial Statements were received from PKS and Company and have been forwarded to the Audit Committee. Mr. Roth has not received written comments from all the members of the Audit Committee. PKS and Company will attend the meeting in December to review the Audited Financial Statements with the Commissioners. Mr. Thompson suggested forming another committee to evaluate the risk the Town as a whole may face, other than financial, over the next five years. No action was taken.

8. Any other business that may come before the Commissioners

There was no other business.

9. Adjournment

A motion to adjourn was made at 11:10 am by Mr Thompson and seconded by Mr. Brittingham.

Also in Attendance: Chris Flood
John Scheurer
Roger Warin
Joe Wade
Patrick Hurson
David Kaplan
Carol Smith

Cape Gazette
62 Tidewaters
26 Tidewaters
96 Tidewaters
3 Zwaanendael
11 Rolling Road
8 Pine Reach

Approved 01/08/2021