

Town of Henlopen Acres
104 Tidewaters
Henlopen Acres, DE 19971

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BOARD OF COMMISSIONERS

QUARTERLY MEETING

The Board of Commissioners of the Town of Henlopen Acres held a **Quarterly Meeting on Friday, April 11, 2025, at 10:00 a.m.** virtually and in person at Town Hall, 104 Tidewaters, Henlopen Acres, Delaware.

MINUTES

Present:

Joni Reich	Mayor
Tiffany Derrickson	Commissioner
Tim Hidell	Commissioner
Jeffrey Jacobs	Commissioner
Beatrix Richards	Commissioner
John Staffier	Commissioner
Richard Thompson	Commissioner
Anna Fagan	Town Manager
Andrea Harpster	Town Clerk
Glenn Mandalas	Town Solicitor
Amy Mendelson	AECOM

1. **Call to Order**

The meeting was called to order at 10:01 a.m.

2. **Public Comment**

Gabi Koeppel, 8 Dodds Lane, expressed disappointment that there was no public notice for the Environmental Approval Committee meeting on February 7, 2025. Joanne Pinover, 45 Pine Reach, echoed Ms. Koeppel's comment. Town Manager Anna Fagan stated the meeting notice was posted on the Town website and on the door of Town Hall. Mayor Joni Reich stated that the Town will review its notice procedures with the Town Solicitor to ensure the correct procedure is being followed.

3. **Approval of Minutes**

a. Board of Commissioners Meeting – January 10, 2025

Amendment to the minutes: Mayor Reich suggested, on page 3, that the estimated expense for the archive proposal from Bill Meehan should be added in the amount of \$1,790.

Motion: Richard Thompson made a motion to approve the January 10, 2025 minutes as revised. John Staffier seconded the motion; the motion was unanimously approved.

b. Board of Commissioners Meeting – February 13, 2025

Motion: Tim Hidell made a motion to approve the February 13, 2025 minutes. John Staffier seconded the motion; the motion was unanimously approved.

4. **Appointment of Gordon Kaiser to the Planning Commission**

Mayor Reich nominated Gordon Kaiser for another five-year term on the Planning Commission beginning at the expiration of his previous term, March 31, 2025.

Motion: R. Thompson made a motion to approve the appointment. Jeffrey Jacobs seconded the motion; the motion was unanimously approved.

5. **Treasurer's Report, by Commissioner Jeffrey Jacobs**

J. Jacobs stated that the financial reports for the period ending March 31, 2025, which were included in the Commissioners' packets, accurately represent the financial activities of the Town. With the level of construction activity in Town, zoning and construction fees are trending above plan. Given the current interest rate environment, earnings on the Town investment accounts are also trending above plan. On the expense side, increased building levels are resulting in increased costs in zoning and building compliance, which is manageable and not unexpected. The forecast for the next fiscal quarter suggests zoning and construction revenue above plan and transfer tax revenue above plan. The Streets Department expenses are forecasted slightly above plan due to replacement costs for older equipment. This will be taken into consideration while preparing the budget for the upcoming fiscal year.

6. **Town Manager's Report**

Town Manager Anna Fagan highlighted several items from the report provided in the Commissioners' packets.

The Urban and Community Forestry grant that the Town applied for through the State Forestry office to fund an inventory of Town Trees is on hold due to the federal funding freeze. There is currently \$7,000 in surplus funds dedicated to tree maintenance that the Tree Committee would like to use to pay for the tree inventory. Town Arborist Jay Ashby will conduct the survey, which could take up to two months. The Commissioners were supportive of moving forward with this approach.

The Town received significant funding through the state Emerging Contaminants grant program to conduct a feasibility study to remediate PFAS detected in two of the Town wells. The Town received a proposal and scope of work from KCI, the project engineer, and found it to be sufficient in covering the scope of what is required under the grant agreement. The Commissioners were supportive of executing the KCI contract for the feasibility study. KCI has also provided a proposal to assist with the replacement of bladder tanks at the water plant that are reaching the end of their useful life. The Commissioners were supportive of executing the KCI contract for their assistance with replacing the tanks. Method of replacement is contingent on the findings of the feasibility study.

The Town is participating in a class action suit against four different companies found to be responsible for PFAS contamination in drinking water supplies. The Town is expecting a payout estimated at around \$425,000 from du Pont and 3M. That amount could increase or decrease. There are also additional claims against BASF and Tyco that should yield an estimated additional \$25,000. J. Jacobs stated that these funds would be applied to the Town's PFAS remediation efforts.

A. Fagan has been working with resident David Kaplan on the possibility of contracting a preferred trash removal service to reduce truck traffic throughout the Town. They have pulled together information that could be used to issue a call for proposals seeking bids from trash companies for a preferred pricing model that would provide a discount for residents that choose to use the preferred company. This would be voluntary. The Commissioners were supportive of these exploratory efforts.

a. **Discussion and Possible Action on a Resolution to Authorize Anna Fagan, Town Manager as a Credit Card User.**

Community Bank's administrative process requires a motion recorded in the Town's meeting minutes approving the new user.

Motion: J. Jacobs made a motion to authorize Anna Fagan, Town Manager, as a credit card user. T. Hidell seconded the motion; the motion was unanimously approved.

7. **Discussion and Possible Action on Request for Waiver of Building Permit Extension Fee for 73 Tidewaters, by Melissa and Blair Jones**

A. Fagan informed the Commissioners that due to multiple delays in their new home build, including some outside of their control, the property owners at 73 Tidewaters are seeking relief from building permit extension fees. Specifically, they are requesting that the Commissioners waive additional permit extension fees as well as consider them subject to the permitting fees that were in place when their permit was issued, which would result in a refund of overpayments.

A. Fagan walked the Commissioners through a detailed schedule of extensions and associated fees for the project. Under the current fee schedule, another extension would amount to \$32,000.

Motion: R. Thompson made a motion that the fees already paid for extensions of the permit for 73 Tidewaters are adequate, and no additional money is owed to the Town. T. Hidell seconded the motion; the motion was unanimously approved.

After some discussion, the Commissioners set a date by which the project must be completed before additional extension fees will be applied.

Motion: J. Staffier made a motion to extend the permit until August 31st. Thereafter, late fees will begin under the terms of the late fee schedule that is in place at the time. J. Jacobs seconded the motion; the motion was unanimously approved.

8. **Discussion and Possible Action on Approval of 2025 Comprehensive Plan for Submission to the Office of State Planning Coordination in accordance with 22 Del. C § 702(f), with comments from Lee Raesly, Chair, Planning Commission**

A. Fagan summarized the revisions made to the Plan since it was last reviewed by the Commissioners and provided details on the review process and the timeline for certification. Lee Raesly stated that the target date for submission to the State of Delaware for Primary Land Use Service (PLUS) review is May 1st.

Motion: B. Richards made a motion to approve the 2025 Comprehensive Plan for submission to the Office of State Planning. R. Thompson seconded the motion; the motion was unanimously approved.

9. **Discussion and Possible Action on a Resolution to Set a Public Hearing Date on Draft Amendments to Chapter 114, Trees, of the Town Code to establish restrictions on the removal and maintenance of canopy trees in setback areas on private property and to increase the minimum tree density related to construction, with comments from: Amy Mendelson, AECOM & Zoning Officer and Jeff Meredith, Certified Arborist, SavATree (formerly Sussex Tree)**

Mayor Reich provided a summary of the tree preservation issue, which has been under discussion by the Commissioners for some time, and summarized the proposal presented for the Commissioners' consideration. The proposal has three main components. It would create a new requirement for every resident to maintain their trees in such a way that they remain healthy and live a long life. It would create restrictions on removing mature canopy shade trees from the setback areas, along with a permitting process that requires specific criteria for removal. And finally, in the case of major construction, residents would no longer be able to clear-cut the lot.

There would be an increased minimum density requirement, and applicants would have to preserve trees in the setbacks, with a 5 foot allowance around the building line to provide adequate clearance.

If the proposal is viewed favorably by the Commissioners, they can move to distribute materials about the proposal to property owners and set a public hearing date to allow residents to provide comments of their own. In this way, the Commissioners will learn whether there is broad-based support to adopt this type of proposal.

J. Staffier further explained that the proposal places restrictions on the setback areas only, it does not restrict a property owner's ability to construct in the buildable area of their lot.

A. Fagan reviewed the proposal in detail and led discussion amongst the Commissioners about its provisions. Certain amendments were identified to be made before the proposal is distributed to residents ahead of the public hearing. These amendments included clarifying the definition of Protected Canopy Trees on Private Property, adding "certified" as a qualifier for arborists submitting reports on tree health and risk, requiring the planting of a replacement tree if a lot does not meet the minimum density requirement after a tree is removed, adding clarifying language regarding bridle paths, and other minor line edits.

Motion: J. Staffier made a motion to adopt the resolution to hold a public hearing on the proposal as it was discussed and revised during the meeting. B. Richards seconded the motion; the motion carried with five votes in favor, with T. Hidell voting against and R. Thompson abstaining.

10. Discussion and Possible Action on a Resolution to Set a Public Hearing Date on Establishing a Moratorium on the removal of canopy trees in setback areas on private property

Town Solicitor Glenn Mandalas reviewed an ordinance that would place a moratorium on tree removal while the Commissioners consider the proposed amendments to the Code. The moratorium would be effective immediately, April 11, 2025, would require compliance with the proposed amendments that have been introduced.

The moratorium shall not apply to tree removals previously approved by the Environmental Approval Committee that have not yet been removed, as well as tree removals for which there is a tree removal contract pre-dating the introduction of the ordinance. Construction projects that have already been submitted to the Town and who already have vested rights are exempt from this ordinance. The only project identified as having vested rights is the landscape plan for 47 Pine Reach.

G. Mandalas explained that if the Commissioners adopt the resolution to set a public hearing on the moratorium ordinance, then the pending ordinance doctrine goes into effect. This means that the moratorium is effectively in place until a public hearing on the moratorium is conducted and until the Commissioners formally adopt the moratorium ordinance. The duration of moratorium was set at 90 days.

A special meeting of the Commissioners, which would include the public hearing on the moratorium, was set for Monday, May 5th, 2025, at Town Hall.

Motion:

J. Staffier made a motion to adopt the moratorium ordinance as amended to include 47 Pine Reach as being exempt due to vested rights. T. Hidell seconded the motion; the motion was unanimously approved.

11. Executive Session for the purpose of Discussion of Potential Litigation, in accordance with 29 Del. C. § 10004(b)(4)

Motion:

B. Richards made a motion to go into an executive session for discussion of Potential Litigation. J. Staffier seconded the motion; the motion was unanimously approved.

Motion:

T. Hidell made a motion to come out of executive session. B. Richards seconded the motion; the motion was unanimously approved.

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

Motion:

J. Staffier made a motion to take the actions discussed in executive session. Tiffany Derrickson seconded the motion; the motion was unanimously approved.

13. **Adjournment**

The meeting was adjourned at 1:38 p.m.

Respectfully submitted,

Andrea Harpster, Town Clerk