

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
January 13, 2014**

Garabrant Center, 4 Wilson Street, Mendham, NJ

CALL TO ORDER

The regular and reorganization meeting of the Mendham Borough Planning Board was called to order by Mr. Henry, Board Attorney, at 8:00PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

OPENING STATEMENT

Notice of this meeting was published in the *Observer Tribune* and the *Daily Record* on January 17, 2013 and was posted on the bulletin board in the Phoenix House in accordance with the Open Public Meetings Act, and furnished to all those who have requested individual notice and have paid the required fee.

OATHS OF OFFICE

Mr. Henry, Esq. administered the Oaths of Office to Mayor Henry, Councilman Sharkey, Administrator Sandman, Mr. Cascais, Ms. Isaacson and Mr. Sprandel prior to the meeting being called to order.

ATTENDANCE

Mayor Henry – Present
Mr. Bradley – Present
Mr. Cascais - Present
Ms. Isaacson – Present

Mr. Kraft - Present
Ms. Kopcsik – Absent
Ms. Lichtenberger - Present
Administrator Sandman – Present
Councilman Sharkey - Present

Alternates:

Mr. Sprandel, Alternate I – Present

Also Present:

Mr. Henry, Attorney
Mr. Bolio for Mr. Ferriero, Engineer
Mr. McGroarty, Planner
Ms. Kaye, Secretary

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2014 REORGANIZATION

Slate of Officers/Technical Review Committee

Election of Chair: Mr. Cascais nominated Mr. Kraft as Chair which was seconded by Mayor Henry. There being no additional nominations, a motion was made, seconded and passed by voice vote. A single ballot was cast for Mr. Kraft as Chair.

Election of Vice-Chair: Mayor Henry nominated Mr. Cascais as Vice Chair which was seconded by Mr. Bradley. There being no other nominations, a motion was made, seconded and passed by voice vote. A single ballot was cast for Mr. Cascais as Vice Chair.

Appointment of Board Secretary: Mr. Bradley made a motion to nominate Ms. Kaye as Board Secretary which was seconded by Mr. Cascais.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
Opposed: None
Abstentions: None

The motion carried and Ms. Kaye was appointed Board Secretary.

Technical Review Committee (TRC): Mr. Kraft named Mr. Bradley as Chair of the Technical Review Committee. Mr. Cascais, Ms. Lichtenberger and Mr. Sprandel agreed to serve as regular members. Administrator Sandman will serve as first alternate and Mr. Kraft as second alternate.

TRC Meeting Dates: The proposed TRC dates as identified in the notice provided in the pre-meeting packet were reviewed by the Board:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
MENDHAM BOROUGH PLANNING BOARD**

NOTICE IS HEREBY GIVEN that the Technical Review Committee of the Planning Board of the Borough of Mendham will meet to discuss or act upon public business at 9:00 a.m. prevailing time on each of the dates set forth below, at the Phoenix House, 2 West Main St., Mendham, NJ:

- Monday, January 20, 2014
- Tuesday, February 18
- Monday, March 17
- Monday, April 21
- Monday, May 19
- Monday, June 16
- Monday, July 21
- Monday, August 18
- Monday, September 15
- Monday, October 20
- Monday, November 17
- Monday, December 15

Mr. Cascais made a motion to approve the TRC meeting dates and Administrator Sandman seconded. On a voice vote, all were in favor. The TRC dates for calendar year 2014 were approved.

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RESOLUTIONS

Planning Board Meeting Dates: In the pre-meeting packet, Board Members received a copy of a resolution listing proposed meeting dates for 2014. After review, the resolution was revised to reflect that only the October meeting is scheduled for the second Tuesday rather than the regular second Monday of each month.

Administrator Sandman made a motion to approve the resolution, as amended, which was seconded by Mr. Cascais. On a voice vote, all were in favor.

The motion carried. Ms. Kaye will make the appropriate public notification. Following is the revised resolution:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
PLANNING BOARD RESOLUTION
2014 MEETING DATES**

BE IT RESOLVED that the regular meetings of the Mendham Borough Planning Board for the year 2014 and January, 2015 will be held on the second Monday of every month with the exception of October which will be held on the second Tuesday. The meetings will be at 8:00 p.m. prevailing time at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey. Meeting dates will be as follows:

- | | |
|-------------|------------------|
| February 10 | August 11 |
| March 10 | September 8 |
| April 14 | October 14 |
| May 12 | November 10 |
| June 9 | December 8 |
| July 14 | January 12, 2015 |

The regular and reorganization meeting of the Board will be held on January 12, 2015.

BE IT FURTHER RESOLVED that notice of any additions to the above schedule, or changes in time, date or place of any scheduled meeting, will be posted on the bulletin board in the Phoenix House and delivered to the official newspapers in advance as required by law.

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Official Newspapers: In the pre-meeting packet, Board Members received a copy of a resolution designating the official newspapers for 2014. After review, the second paragraph was revised such that the WHEREAS introduction is deleted. The sentence will begin with "The Planning Board of the Borough of Mendham hereby makes the following designations:"

Councilman Sharkey made a motion to approve the resolution, as amended, which was seconded by Mr. Bradley.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
Opposed: None
Abstentions: None

The motion carried. Ms. Kaye will make the appropriate public notification. Following is the revised resolution:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
PLANNING BOARD RESOLUTION
OFFICIAL NEWSPAPERS**

BE IT RESOLVED by the Planning Board of the Borough of Mendham, Morris County, New Jersey as follows:

The Planning Board of the Borough of Mendham hereby makes the following designations:

1. The *Observer Tribune* and/or the *Daily Record* are hereby designated as the two newspapers to receive notice of meetings required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings. Notices required by the New Jersey Municipal Land Use Law or the Borough’s Land Use Regulations may be placed, as required by law, in either of the designated newspapers.
2. The location for posting of notices of meetings shall be the bulletin board in the Phoenix House, 2 West Main Street, Mendham, NJ, where notices of this kind are normally posted.
3. The sum of \$12.00 per year is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 14 of the Open Public Meetings Act.

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Appointment of Attorney: The following resolution, distributed in the pre-meeting packet, was introduced:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
PLANNING BOARD RESOLUTION
APPOINTMENT OF BOARD ATTORNEY**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional legal services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. has submitted a proposal indicating that they may provide legal services for 2014 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. to serve as Board Attorney for the year 2014, at a total cost not to exceed \$15,000 or such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2014, and escrows as required; and
2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.
4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
5. This Resolution shall take effect as provided herein.

Mr. Cascais made a motion to approve the resolution which was seconded by Councilman Sharkey.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and the resolution approved. Mr. Henry, Esq. was appointed Board Attorney. Ms. Kaye will make the appropriate public notification.

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Appointment of Planner: The following resolution, distributed in the pre-meeting packet, was introduced:

**BOROUGH OF MENDHAM
 MORRIS COUNTY, NEW JERSEY
 PLANNING BOARD RESOLUTION
 APPOINTMENT OF BOARD PLANNER**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Planning Consultant services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500; and

WHEREAS, Banisch Associates, Inc. has submitted a proposal indicating that they may provide planning services for 2014 an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Banisch Associates, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Banisch Associates, Inc. and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Charles T. McGroarty, PP/AICP of the firm Banisch Associates, Inc. to serve as Planning Consultant for 2014, at a total cost not to exceed \$13,000 or such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2014, and escrows as required; and
2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.
4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
5. This Resolution shall take effect as provided herein.

Mr. Bradley made a motion to approve the resolution which was seconded by Councilman Sharkey.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and the resolution approved. Mr. McGroarty was appointed Board Planner. Ms. Kaye will make the appropriate public notification.

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Appointment of Engineer: The following resolution, distributed in the pre-meeting packet, was introduced:

**BOROUGH OF MENDHAM
 MORRIS COUNTY, NEW JERSEY
 PLANNING BOARD RESOLUTION
 APPOINTMENT OF BOARD ENGINEER**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Consulting Engineer services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500; and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has submitted a proposal indicating that they may provide engineering services for 2014 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated to serve as Consulting Engineer for the year 2014, at a total cost not to exceed \$5,000 or such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2014, and escrows as required; and
2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.
4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
5. This Resolution shall take effect as provided herein.

Mayor Henry made a motion to approve the resolution which was seconded by Mr. Bradley.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and the resolution approved. Mr. Ferriero was appointed Board Engineer. Ms. Kaye will make the appropriate public notification.

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MINUTES

On motion made by Mr. Bradley, second by Councilman Sharkey and carried, the minutes of the regular meeting of October 15, 2013 were approved, as amended, with clarifying language added pertaining to Public Comment, any future change of ownership at Seven Hilltop Holdings, LLC & Five Hilltop Holdings, LLC and new methodology under COAH.

After the minutes were approved, there was a brief discussion regarding the status of COAH matters, including affordable housing, trust funds and Third Round rules being established (still pending).

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PUBLIC COMMENT

Chair opened the meeting to questions and comments on items not included in the agenda. There being none, the public comment session was closed.

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HEARINGS

#941 – Mt. Hermon Hills – Minor Subdivision: **Extension of Time**
 Block 1801, Lots 35 & 36.03, Hilltop Road & Thomas Road

Present: Thomas J. Malman, Attorney for Applicant

Mr. Malman, Esq. appeared before the Planning Board to request that the Board grant an extension until May 1, 2014 for Applicant to perfect the previously approved minor subdivision. The statutory 190-day period expires on January 16, 2014 and due to a delay in the issuance of Letters of Interpretation from the DEP, the Applicant has been unable to complete the project within that time frame.

Councilman Sharkey inquired as to whether the Applicant would have to appear before the Board again should Applicant be unable to meet the May 1, 2014 deadline. Mr. Malman stated that would be the case and a discussion followed regarding the number of extensions that can or should be reasonably granted. Mr. Henry indicated that multiple extensions can be granted up to a point, however, the Board would not want to let the Application remain open indefinitely. Mr. Malman added that it would be the Board's prerogative to deny any extension and require the Applicant to file a new application.

Mr. Cascais made a motion to grant an extension of time to perfect the subdivision until May 1, 2014, which was seconded by Councilman Sharkey.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and extension granted.

#951 – One West Main Street, LLC – Minor Site Plan
 Block 301, Lots 1, One West Main Street (Historic District)

Present: Lawrence A. Calli, Esq., Attorney for Applicant
 Theodore Maglione, PE & PP, Engineer for Applicant

Mr. Calli, Esq. appeared before the Planning Board to seek approval for the installation of a backup generator that would allow the Black Horse Inn to operate both restaurants in the event of a power outage. Applicant had previously appeared before the Historic Preservation Committee and received approval. Permit application was denied by the Zoning Officer and referred to the Planning Board.

Applicant requested a number of waivers as set forth in the Ferriero Engineering letter to Ms. Kaye dated January 8, 2014. Based on the TRC’s and the Borough Engineer’s recommendations, the Board granted the requested waivers, and the application was deemed complete.

Mr. Calli stated that the generator would operate only during power outages and during routine test cycles. He further confirmed that the proposed placement of the generator fully conforms to setback requirements.

Mr. Maglione was sworn and testified regarding the size, location, operation and acoustical levels of the unit.

Mr. Maglione testified regarding the proposed location of the generator and noted the size of the generator (10’ x 3’ x 4.5’). The front of the unit will be located 24’ from the property line. When operating it will produce noise at a level of 64 dBa, which is below the State limit of 65 dBa. Mr. Maglione stated that the 80kw unit will operate using natural gas and will supply only temporary power, as needed. He agreed that routine test cycles and maintenance will typically be not more than once a week and will be conducted only on Monday through Friday and between the hours of 9AM and 5PM. Mr. Maglione further confirmed that Applicant will comply with all conditions set forth in the afore-mentioned Ferriero Engineering letter dated January 8, 2014.

Mr. Henry asked the Board if they believed a post-installation inspection was warranted in order to ensure that the setback and sound level are fully conforming. Mr. Bolio recommended that a post-installation site inspection be conducted for these purposes.

A discussion of decibel levels as they relate to everyday activities followed. Mr. Maglione asserted that the unit will operate at a “moderate sound level.”

Mr. Cascais made a motion to approve the application with the conditions of approval discussed at the meeting. The motion was seconded by Mayor Henry.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In favor: Henry, Bradley, Isaacson, Lichtenberger, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and application was approved. Mr. Henry, Esq. will prepare a resolution memorializing the action for the February 10, 2014 regular meeting of the Board. Ms. Kaye will make the appropriate public notification.

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DISCUSSION

2014 Planning Issues – Mr. Kraft opened the floor and asked the Board for feedback regarding goals and initiatives for 2014. Mayor Henry suggested the Board review ordinances and other issues that were discussed in 2013. Ms. Kaye agreed to distribute copies of past

minutes that list suggested focus areas. Mr. Kraft requested that the Board think about additional topics for discussion.

NPRM – Draft Letter: Telecommunications Legislation

Mr. Henry, Esq. stated that he was halfway through his review of the FCC's Notice of Proposed Rule Making. There was discussion about the particular interest of the Board and the Borough. Mr. Henry, Esq. agreed to draft a comment letter to the FCC, working with the Chair. The draft would be distributed to the Board for review prior to its submission by the February 3, 2014 deadline.

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TRC UPDATES (For Information Only)

Mr. Bradley reviewed the approved and pending applications with the Board.

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ADJOURNMENT

There being no additional business to come before the Board, Mr. Cascais made a motion to adjourn which was seconded by Councilman Sharkey. On a voice vote, all were in favor.

Chair Kraft adjourned the meeting at 8:57PM.

The next regular scheduled meeting of the Planning Board will be held on **Monday, February 10, 2013 at 8:00PM p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Margot G. Kaye
Recording Secretary