

**MINUTES OF A MEETING  
OF THE  
MAYOR AND COUNCIL**

**CALL TO ORDER**

Mayor Henry called the January 17, 2011 meeting of the Mayor and Council to order at 8:00p.m. in the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

**INVOCATION AND FLAG SALUTE**

Mayor Henry offered a moment of silence meditation, followed by the Pledge of Allegiance.

**OPENING STATEMENT**

Notice of this meeting of the Mayor and Council of the Borough of Mendham was published in the Observer Tribune and the Morristown Daily Record, and was posted on the Phoenix House bulletin board in accordance with the Open Public Meetings Act.

**ATTENDANCE:**

Mayor Neil Henry

Council President Louis Garubo  
Councilman Brad Badal  
Councilman Stanley Witczak  
Councilman John Andrus  
Councilman David Sharkey  
Councilwoman Veronica Daly

Also present: Fred Semrau, Esq.  
Ellen Sandman, Administrator

Absent: None

**CONSENT AGENDA:**

Approval of minutes of the Special (Budget) Meeting of December 11, 2010  
Approval of minutes of the Regular Session Meeting of December 20, 2010  
Approval of minutes of the Executive Session of December 20, 2010  
Approval of minutes of the 2011 Reorganization Meeting of January 3, 2011  
On-Premise Draw Raffle-5/5/11(Merchandise) Mendham Borough Library  
Res. #24-11 Release Cash Bond/ Block 405, Lot 13.01  
Res. #25-11 Transfer of Funds

Motion to table the approval of the consent agenda was made by Councilman Garubo  
Seconded by Councilman Badal  
Discussion: None

Roll Call – the vote was as follows:

In favor: Badal, Witczak, Andrus, Sharkey, Daly, Garubo

Opposed: None

Abstain: Councilman Witczak abstained from the approval of the December 20, 2010 regular and executive session minutes. Councilwoman Daly is recused from voting on the minutes as she was not a member of Council during that time frame.

Absent: None

**DISCUSSION:** No specific items for discussion.

**ORDINANCE INTRODUCTION:** None

**ORDINANCE PUBLIC HEARING/ADOPTION:** None

**ACTIONS TO BE TAKEN:**

**Res. #26-11 Sewer System Rehabilitation-PS&S-Change Order**

Motion to adopt Resolution #26-11 was made by Councilman Witczak  
Seconded by Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Garubo, Badal, Witczak, Andrus, Sharkey, Daly

Opposed: None

Abstain: None

Absent: None

**Res. #27-11 NJ Clean Energy Direct Install Program**

Discussion: Administrator Sandman led the discussion and answered questions from council members. It was noted that an energy audit was completed at the Borough by the Donnelly Group with a representative from DPW present. The Administrator emphasized the need for this resolution to be considered this evening to meet a 1/31/11 deadline and the determination not to miss out on this financial opportunity for the Borough. A question and concern for compliance with the Local Public Contracts Law with regard to purchasing of the necessary equipment was raised. The resolution was revised to include the appropriate language making the purchase of any equipment subject to compliance with the law and approval by the Borough Administrator.

Administrator Sandman referenced the total cost of the proposed project as \$69,817.24; NJ Clean Energy Incentive covers: \$41,890.35 (60%); cost to our municipality is: \$27,926.90 (40%) and the EECBG Rebate covers: \$20,000.00 (29%). The total cost to Mendham, including the EECBG Rebate would be \$7,926.90 (11%).

Atty. Semrau read the resolution aloud by title and added that the details were already discussed. He read the revision which addressed Councilman Andrus' concerns for compliance with the law.

Motion to adopt Resolution #27-11 as revised was made by Councilman Andrus  
Seconded by Councilman Witczak

Discussion: No further discussion.

Roll Call – the vote was as follows:

In favor: Badal, Witczak, Andrus, Sharkey, Daly, Garubo

Opposed: None

Abstain: None

Absent: None

**ADMINISTRATOR REPORT:**

Administrator Sandman announced that a meeting will be held on February 2<sup>nd</sup> with the Public Works Committee, Water Reclamation Facility Superintendent and the Engineer to discuss available gallons with PS&S (Paulus, Sokolowski and Sartor, LLC). The Borough Engineer will be attending a meeting at the County level for discussions on the Wastewater Management Plan as a requirement of the DEP (Department of Environmental Protection).

Administrator Sandman thanked the Department of Public Works for the care that was taken in the plowing of the Borough during the recent storms.

The Mayor asked about the library and their utilizing of the Joint Insurance Fund. It was made clear by the Administrator that if the library board approves this venture the premiums will be paid by the library and not the Borough.

**COUNCIL REPORTS, OLD & NEW BUSINESS:**

Councilman Witczak thanked the Department of Public Work Superintendent Ken O'Brien for operating his department in an efficient manner and for how he graduates each new employee as they are hired. Councilman Witczak requested the Police Department to assist DPW in enforcement for residents who plow or snow blows the snow back into the Borough street.

Councilman Witczak had questions and commented on vouchers submitted by the First Aid Squad. He was concerned that they were submitted year end and not throughout the year as all other departments, as well as, a voucher for payment of an insurance premium for over \$4,000. There was no indication if this premium was for the calendar year 2010 or 2111. Captain Oswald was in the audience and commented that she intends to review the process and do things differently this year. As for the insurance payment, she was unsure and will research and report back. He further reported that at the January 14<sup>th</sup>, 2011 at the sewer utility committee meeting, there were two (2) applicants that were deferred to after the February 2, 2011 wastewater management team meeting. At this meeting with himself, WRF Superintendent Doug Wright and Borough Engineer Paul Ferriero there will be discussion held on the Borough's present capacity and outflow. He noted that today is Martin Luther King's birthday and that Borough employees worked today.

**COUNCIL REPORTS, OLD & NEW BUSINESS** : (Cont'd.)

Councilman Andrus gave each council member a list of the capital projects requested and asked that they prioritize them for the 2011 budget process. He noted that the pension and medical expenditures to the State of New Jersey will be at a 3.74% increase. This will result in a 4 or 5% reduction in other areas to meet the maximum 2% cap requirement for the 2011 budget. He also commented that a decision of how much debt to pay off for 2011 would also have to be discussed.

There was a brief discussion with regard to the use of police vehicles for special detail and the use of police officers as flagmen on road jobs.

It was requested by council members that the First Aid Squad, wherever possible, process purchases through the borough offices rather than request reimbursement. Councilman Badal noted that he will be reviewing the purchasing procedures with the Public Safety Committee.

Councilman Sharkey reported that the land use committee is busy reviewing the expansion of the historic district and notifying residents. There will be another meeting held to further discuss the process with those residents from a prior forum who are still expressing concerns. The sign ordinance is still under review and with the help of the Borough's Zoning Officer, Geoff Price; it will be easier to understand. Neon, LED and window signs were noted as problem areas.

Councilman Garubo reported that West Field is closed for practice but open for games. He further reported that the recreation committee would like to charge a \$3.00 fee for the Recreation Brochure for non-residents to cover the costs. Since most of these requests are from Mendham Township residents it was suggested that Administrator Sandman discuss this with Township Administrator Steve Mountain for possible monetary consideration.

Councilman Badal requested that his report be given during executive session due to the nature. The executive session resolution will be revised to include contract negotiations/PBA. He further reported that he has requested Atty. Semrau's office to review the Borough's promotional ordinances to see if any need to be updated.

**ATTORNEY ITEMS:**

Atty. Fred Semrau reported that the issue on the ratio-assessed value-fair market value challenge with the Division of Taxation could go either way. Atty. Semrau noted the compelling arguments but after the hearing this Wednesday he will have more to report. Administrator Sandman had copies of Shawn Hopkins report available for the Council. He further commented that the Borough Tax Assessor, Scott Holzauer is on board but also feels it is difficult to challenge the Division of Taxation. If the Borough wishes to continue if the results of the hearing are positive, there will be an additional \$2,500 charge to reimburse Mr. Hopkins for his services.

**MAYOR'S ITEMS:**

Mayor Henry announced the retirement of the Borough's Planner, Adrian Humbert as of 7/1/11. The Mayor was grateful for the advance notice. There will be a presentation on the creation of a County Regional Police Department given by Roxbury Township Councilman T. Smith. The Mayor has requested Administrator Sandman and Councilman Badal to attend and report back. The Mayor further reported that the Borough will be declining the opportunity to join the Whippany Watershed this year and the Board of Adjustment has made a selection for a replacement of their attorney.

**PUBLIC COMMENT:**

Ray Kelsey, 16 Phoenix Drive, commented on the nice job done by the DPW during the last snow storm. Mr. Kelsey suggested that the Council ask the residents about merging of police departments with the Township. He further commented on the speed at which the Mendham Township police cars race through the Borough.

Mayor Henry responded that the Township has been notified in the past about the speed of their police cars. He continued and commented that with regard to merging of police departments and the 2004 process and outcome. The Mayor noted that a State Statute exists that makes it extremely difficult to attain this conclusion and until that statute is amended this could not be accomplished.

**PUBLIC COMMENT:** (Cont'd.)

The Mayor continued that before a referendum is placed on the ballot, the public needs to be fully informed and educated, encouraged to express their opinions and concerns and the question must be worded as to not be misleading. Councilman Andrus recommended that Mr. Kelsey also attend a Mendham Township meeting and also make this recommendation.

Wayne LeBlond, 6 Phoenix Drive, asked if the schools were aware of the Clean Energy program that the Borough has entered into. Administrator Sandman did not know but noted that the deadline has passed. Mr. LeBlond recommended a non-binding referendum be placed on the school board election ballot.

Councilman Garubo commented that it is time that Chief Taylor called the Mendham Township Police Chief regarding the speeding in the Borough and a letter be sent from the Mayor.

**APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated January 17, 2011

Motion to approve the January 17, 2011 bill list was made by Councilman Andrus

Second by Councilman Garubo

Discussion: Councilman Witczak commented further that he felt confident that his concerns with the vouchers for the First Aid Squad would be answered to his satisfaction. He did not feel that payment to the vendors should be put on hold. He would give his approval for payment of all vouchers.

Roll Call - the vote was unanimous as follows:

In favor: Garubo, Badal, Witczak, Andrus, Sharkey, Daly

Opposed: None

Abstain: None

Absent: None

**EXECUTIVE SESSION:** Res. #28-11 – Atty. Client Privilege\*/Contract Negotiations\*\*  
\*Horseshoe Bend Road and Lane-Snow Removal Reimbursement  
(Rev. @ meeting to include-Contract Negotiations/PBA\*\*)

Motion to adopt Resolution #28-11 as revised was made by Councilman Garubo

Seconded by Councilman Daly

Discussion: No further discussion.

Roll Call – the vote was as follows:

In favor: Badal, Witczak, Andrus, Sharkey, Daly, Garubo

Opposed: None

Abstain: None

Absent: None

On a motion duly made, seconded and unanimously carried, the Council returned to open session.

**ADJOURNMENT:**

There being no further business scheduled for the consideration of the Mayor and Council at this time, on a motion duly made, seconded and unanimously carried by a voice vote, the meeting was adjourned at approximately 9:00 P.M. next to convene at the Regular Meeting on February 7, 2011 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

---

Maureen Massey, RMC, CMC  
Borough Clerk