

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

CALL TO ORDER

Mayor Henry called the October 19, 2015 meeting of the Mayor and Council to order at 8:00PM in the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

INVOCATION AND FLAG SALUTE

Mayor Henry led a moment of silent 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

Councilman John Andrews
Councilman Brad Badal
Councilman Stanley Witczak

Also present: Fred Semrau, Borough Attorney
Richard Merkt, Borough Administrator

Excused: Councilman Andrus
Councilman Sharkey
Council President Daly

CONSENT AGENDA

Approval of the minutes of the regular meeting of 10/5/15

Motion to approve Consent Agenda

First: Councilman Andrews

Second: Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak,

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

DISCUSSION

JCP&L Montville-Whippany Reinforcement Project

Present: Mayor Scott Gallopo, Montville Township

Mayor Henry indicated that representatives from JCP&L were present at the last two (2) Council meetings and reiterated the Council's desire to hear Montville's position before taking any action on the matter. He introduced Mayor Gallopo and welcomed him to address the Council. Mayor Gallopo read a statement for the record asking the Borough to withhold its support of the project. He stated that, as proposed, the height of the poles and the increased voltage will affect not only the aesthetics, but also the health and safety of the area residents. He added that Montville is opposed to the current project but is willing to consider alternate plans. Mayor Gallopo further explained that the Township is seeking the opportunity to present their case before a judge and that a resolution opposing the project may have an impact on the BPU's decision to go forward.

Mayor Henry and Councilmen Andrews, Badal and Witczak agreed that Montville Township deserves the opportunity to be heard in administrative court. The Mayor requested a motion to approve Resolution #154-15 opposing the Montville-Whippany 230 kV transmission project proposed by JCP&L.

Res. #154-15 JCP&L Montville-Whippany Reinforcement Project

Motion to approve: Councilman Witczak

Second: Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

Snow Removal Ordinance

Mayor Henry stated that a snow removal ordinance was proposed by a number of residents on Dean Road and Forest Drive who are concerned about the safety of students and other pedestrians who are forced to walk in the street when sidewalks are not clear. He added that a similar ordinance was adopted in the mid-1990's then repealed a couple of months later.

The Mayor indicated that feedback from 30 respondents shows 27% in favor of an ordinance while 73% are opposed. One resident questioned enacting a new ordinance when existing ordinances are not enforced, e.g. speeding on Borough streets. Mayor Henry asked that Mr. Merkt and Council President Daly work with Chief Libertino to develop an analysis of traffic enforcement in the Borough.

Mr. Semrau stated that there is no law that mandates residential snow removal. He added that municipalities are able to enact legislation, but that it may present liability issues.

Mayor Henry confirmed that the Public Safety Committee has recommended an ordinance and summarized same. He opened the floor to the public for comments.

Ray Kelsey, Phoenix Drive, indicated his support for asking residents to comply but questioned the possibility of proper enforcement. He also recommended lowering the Mountain Avenue speed limit to 30 mph.

Jennie Kervick, Orchard Street, expressed concern regarding enforcement when snow accumulation from DPW road-clearing is significant, particularly on street corners. She added that plowing frequently covers sidewalks that had been previously shoveled. Ms. Kervick recommended that only those homeowners whose property falls within a certain radius of the schools be required to shovel.

Mayor Henry questioned how many children walk to school when there is snow on the ground. Mr. Merkt agreed to contact the Board of Education to check for any available statistics.

Britta Gangemi, Orchard Street, indicated her support of Ms. Kervick's suggestion but wondered how enforcement would be handled for empty homes located within the radius. Mayor Henry explained that ultimately a lien could be placed on the property which would have to be paid prior to any change in ownership.

David Sprandel, North Linden Lane, recommended that the sidewalks in front of West Field and Tranquility Garden be cleared for walkers as well.

Hearing no further comments, the Mayor closed the public portion of the meeting.

The Council was mixed regarding its position but generally it was agreed that enforcement should not be heavy-handed and consist primarily of warnings. Councilman Badal offered that the ordinance could be tweaked in the future, if necessary. Councilman Witczak questioned homeowner liability for a slip and fall and Mr. Semrau stated that a homeowner may be sued regardless of the adoption of an ordinance.

Mayor Henry announced that the proposed ordinance will be introduced at the November 2, 2015 Council meeting.

ORDINANCE INTRODUCTION:

ORDINANCE #7-15

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CERTAIN PORTIONS OF CHAPTER 215 ENTITLED "ZONING" TO ESTABLISH A NEW ZONE DISTRICT TO BE KNOWN AS THE 5-ACRE RESIDENCE / RELIGIOUS CAMPUS ZONE DISTRICT INCLUDING A DEFINITION AND DEVELOPMENT STANDARDS FOR SAME AND TO AMEND THE BOROUGH OF MENDHAM ZONING MAP TO REFLECT THIS NEW ZONE DISTRICT

BE IT RESOLVED, by the Borough Council of the Borough of Mendham that:

ORDINANCE #7-15

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CERTAIN PORTIONS

OF CHAPTER 215 ENTITLED "ZONING" TO ESTABLISH A NEW ZONE DISTRICT TO BE KNOWN AS THE 5-ACRE RESIDENCE / RELIGIOUS CAMPUS ZONE DISTRICT INCLUDING A DEFINITION AND DEVELOPMENT STANDARDS FOR SAME AND TO AMEND THE BOROUGH OF MENDHAM ZONING MAP TO REFLECT THIS NEW ZONE DISTRICT

Be passed on first reading by title; and

BE IT FURTHER RESOLVED, that said Ordinance be further considered for final passage and adoption at the meeting of the Borough Council of the Borough of Mendham to be held on November 16, 2015 at 8:00PM prevailing time, in the Garabrant Center, 4 Wilson Street in said Borough, at which time all persons interested shall be given an opportunity to be heard concerning said Ordinance; and

BE IT FURTHER RESOLVED, that the Clerk be authorized and directed to advertise said Ordinance in the Observer Tribune, according to law.

Motion to introduce Ordinance #7-15 was made by Councilman Badal

Second: Councilman Andrews

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak,

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

ORDINANCE ADOPTION: None

ACTIONS TAKEN

Res. #164-15 Tax Duplicate Payment Refund – 4 Garrison Lane, Block 2001/Lot 13.08

Motion to approve: Councilman Witczak

Second: Councilman Andrews

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

Res. #165-15 Sanitary Sewer Connection – 15 West Main Street, Block 307/Lot 9

Motion to approve: Councilman Witczak

Second: Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

Res. #166-15 Tax Settlement Refund – 26 Lowery Lane, Block 1602/Lot 1.01

Motion to approve: Councilman Badal

Second: Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

Res. #167-15 PSA: Behre Associates, PC – Survey and Title Work (Scott Farm)

Motion to approve: Councilman Badal

Second: Councilman Andrews

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

ADMINISTRATOR REPORT

The Administrator's report was distributed to the Council previously. Mayor Henry requested clarification on the Scott Farm septic closing. Mr. Merkt reiterated that the County grant is subject to the septic being closed prior to taking ownership of the property and added that the current owners will be invited to monitor the closing. Mr. Semrau indicated that he will work with the Seller's attorney to ensure a timely and appropriate system closing and opined that a representative from the Board of Health should be present to witness the pumping out and tank closure.

Mayor Henry also inquired about the status of the proposals for shared services with Chester Borough. Mr. Merkt stated that Chester has indicated a willingness to work with the Borough to secure a Class II Officer for court security but has not yet made a decision regarding the sewer system.

COUNCIL REPORTS, OLD & NEW BUSINESS

Councilman Andrews – The Land Use Committee will be meeting on October 28th to discuss the draft outdoor dining ordinance and the revised generator/AC pad language. Should the deadline for submitting an affordable housing plan to the State not be extended, a joint Council/Planning Board meeting may be held on November 21, 2015 in order to develop said plan and meet the January 7, 2016 deadline.

Councilman Andrus – no report due to absence.

Councilman Badal – Job descriptions have been completed and are being reviewed in anticipation of discussion at the November 2, 2015 Council meeting. Helen Cleary's last day is October 30, 2015 and Penny Andrus will take over the position. Resumes are coming in for the full-time Police Secretary position but a part-time person is required to ensure Department coverage. Advertisements should be placed for the part-time Police Secretary position.

Councilman Sharkey – no report due to absence.

Councilman Witczak – Work continues on the firehouse roof with completion by the end of the week. The DPW is repairing sidewalks and pruning trees and salt and brine are on hand for winter operations. A skid steer unit and a new truck are recommended.

Councilwoman Daly – no report due to absence.

ATTORNEY ITEMS

Mr. Semrau indicated that he met with the Mayor, Mr. Merkt, Councilman Andrews and Mr. McGroarty to discuss the affordable housing issue. He added that he will be in court on Friday to hear the decision regarding a deadline extension. Work continues on the Scott Farm acquisition.

MAYOR'S ITEMS

Mayor Henry confirmed that the Scott Farm presentation to the County Grant Committee is scheduled for October 22, 2015. He further stated that no feedback has been received from the local school boards regarding the Feasibility Study, thus no progress will be made until such feedback is provided. Mayor Henry also requested that Mr. Semrau research whether patrolmen are permitted to assist first responders in an emergency situation.

PUBLIC COMMENT

Mayor Henry opened the floor to comments/questions from the public.

Charles Topping, Aberdeen Drive, commended the Borough for its AAA bond rating for 2015. He further stated that Morristown was ranked no. 3 on the list of the 50 drunkest towns in New Jersey and requested that the Governing Body keep Mendham Borough off the list. Mr. Topping confirmed that it is outdoor drinking, rather than dining, that is the problem and asked that a balance between the two be determined. Mayor Henry informed Mr. Topping that Borough residents seem apathetic to the issue as only a few comments were received in response to the Messenger request for feedback.

Kathryn Oram, Orchard Street, added that outdoor dining can be done tastefully.

Ray Kelsey, Phoenix Drive, followed up on his suggestion to drain Cosma Lake. Mr. Merkt advised that the process would be complicated and require significant approvals from the DEP. He further stated that the Cosma Lake Association owns the lake and that if any action were

taken by the Borough, the Borough would then assume liability for the lake. Mr. Merkt confirmed that the Council has elected to take no action regarding Cosma Lake at this time.

Jennie Kervick, Orchard Street, questioned whether the Borough performed its due diligence when selecting the size, materials and location of the Borough Park PBA scoreboard. She distributed photos of the scoreboard as seen from her property and read sections of the sign ordinance as well as the Borough vision statement. Mayor Henry confirmed that the matter was presented during a public meeting and a discussion followed regarding the propriety of the scoreboard, particularly its height and location. Mr. Semrau added that the decision was not arbitrary and that the Borough Engineer had selected the most practical location based on aesthetic, visual and regulatory factors. Despite due diligence and proper procedure, Mayor Henry issued a stop-work order and agreed to revisit the issue. A meeting to address any concerns will be arranged by Mr. Merkt with Mr. O'Brien, Mr. Ferriero and Ms. Kervick in attendance.

Mayor Henry offered his apologies for the lack of individual notice to neighborhood residents and concluded that the Governing Body will take responsibility for any similar situations in the future.

Hearing no additional comments, Mayor Henry closed the public portion of the meeting.

APPROVAL OF VOUCHERS

Minute Book Attachment Bill List dated October 19, 2015

Motion to approve: Councilman Andrews

Second: Councilman Witczak

Discussion: Councilman Badal requested that the bill list be delivered the Wednesday before each Council meeting.

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus, Sharkey, Daly

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 10:17PM next to convene at the Regular Meeting on November 2, 2015 at 8:00PM at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Margot G. Kaye

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Borough Clerk