

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

**CALL TO ORDER**

Mayor Henry called the October 6, 2014 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 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 Lou Garubo  
Councilman Stanley Witczak  
Councilman John Andrus  
Council President David Sharkey

Also present: Atty. Fred Semrau, Esq.  
Interim Administrator Bob Casey  
Maureen Massey, Borough Clerk

Absent: Councilman Brad Badal, Councilwoman Veronica Daly

**CONSENT AGENDA:**

Approval of the minutes of the executive session special meeting of 9.15.14  
Approval of the minutes of the regular session meeting of 9.15.14  
Raffle License-On Premise Draw Raffle-50/50 Cash- 11.15.14-Tourette Syndrome

Motion to approve the consent agenda was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Sharkey, Garubo

Opposed: None

Abstain: None

Absent: Badal, Daly

**DISCUSSION:**

-Review Draft Ice and Snow Removal Ordinance- Removed pending further review

**Property Maintenance Code:**

Administrator Casey let the discussion referencing changes made to the first draft of this ordinance such as removal of the section on 'nuisances', outdoor storage and including clean up fees billed to owners that do not comply with remediation of safety and clean up issue. The establishment of an administrative process and review board has been added to this draft due to the increase and current issues on several properties in the Borough. Councilman Andrus asked about enforcement based on this ordinance. Administrator Casey responded that it will be enforced by 'complaints' received and addressed by the Construction Official and Zoning Officer.

Mr. Casey continued that the Borough does want to get involved in 'public' disputes. The Borough would be involved in public related nuisances impacting the public health, safety, welfare and public hazards.

**2014 Salary Adjustments-Draft Resolution and Ordinance on Bonus:**

Administrator Casey presented two items for the governing body to consider. A resolution reflecting the Personnel Committee's recommendations for 2014 salaries, which was circulated prior to

the meeting for consideration. Councilman Andrus found a minor error which Administrator Casey corrected in the resolution. It was noted that any employee who has left the Borough mid-year will not be receiving retro-active pay. Administrator Casey commented that there are approximately 3-4 employees who are pushing the limit of the present salary ordinance.

Mayor Henry commented that the analysis of a salary ordinance takes time and has spoken with Mr. Merkt who will review this ordinance during the first quarter of 2015.

There was discussion held with regard to consideration of an ordinance for the next meeting that would establish a 'bonus' system for employees. Bonuses would not become part of the base salary and not considered in pension benefits. After further discussion with governing body members not in favor of this ordinance and others who would like to readjust the salary ranges.

#### **10 Orchard Street – Easement:**

Administrator Casey suggested this request be considered for a 'license' in lieu of an 'easement'. Discussion was held with members of the governing body expressing their concerns over this request creating a dangerous situation. Safety was a point of discussion due to the pre-school and the Mendham Borough Fire Department/First Aid Squad in the area. Mr. Casey reported that the Borough Engineer had no exceptions to the request.

Mr. Mike Davis was invited by Mayor Henry to speak since he is the owner of the property making the request. He added that he has met with the Borough Engineer and the Zoning Officer. Mr. Davis shared that he is faced with non conforming and impervious coverage issues with this property. This request for an easement would help with the zoning issues. The question was asked and answered in the negative that Chief Libertino looked at this request with regard to safety. It was further asked if this was Mr. Davis' primary residence. Mr. Davis replied that it was not and that he may or may not move to this location. Mr. Casey asked the governing body what period of time would be consider for a license. A range of 5-15 years was suggested. Mr. Davis responded that her would not consider a license unless it was for 50 years. Mr. Davis provided the history of the property with regard to the creation of the driveway. A poll of the governing body members was taken and it was suggested that Mr. Davis return to the Zoning Officer for guidance and the Board of Adjustment for the addition he is considering.

#### **Review Best Practices:**

Administrator Casey reviewed with the governing body the questions that needed their input. He will complete the document with their responses and forward to the Chief Financial Officer and Borough Clerk for signatures before submitting.

#### **New Jersey American Water Company Rebuilding Water Pump Station:**

The water pump station is located on Franklin Road behind the soccer field. There was some discussion on whether this can reviewed by the Planning Board as a 'capital improvement'. An application filled with the Planning Board as a full site plan review or capital project is required. Mr. Casey contended that since it is on municipal land and the existing station cannot be relocated he believes the capital review process would suffice. Atty. Semrau noted that the residents near the project can come to the planning board meeting with comments.

**Ordinance Introduction:** None

**Ordinance Public Hearing/Adoption:** None

**ACTIONS TO BE TAKEN:** (A copy of the resolution is attached to the minutes)

#### **Res. #131-14 Refund Overpayment of B601/L1- 2012 Tax Appeal Judgment**

Motion to adopt Resolution #131-14 was made by Councilman Garubo

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Garubo, Witczak, Andrus, Sharkey

Opposed: None

Abstain: None

Absent: Badal, Daly

**Res. #132-14 Authorizing of Contract for Fencing at Pastime Field**

Motion to adopt Resolution #132-14 was made by Councilman Garubo

Seconded by Councilman Witczak

Discussion: Councilman Andrus asked and received confirmation from Ken O'Brien that the funds for this contract are coming from the 2012-2013 Capital Budget.

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Sharkey, Garubo

Opposed: None

Abstain: None

Absent: Badal, Daly

**Res. #133-14 Authorizing-Dept. of Transportation (SAGE) Grant App-Orchard Street Project**

Motion to adopt Resolution #133-14 was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: Councilman Andrus asked the Administrator what this grant would be for. Mr. Casey responded that he did not know. It was later determined that these grants are for paving or sidewalks.

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Sharkey, Garubo

Opposed: None

Abstain: None

Absent: Badal, Daly

**Res. #134-14 Approve Sanitary Sewer Connection Application-B 402, L 7**

Motion to adopt Resolution #134-14 was made by Councilman Witczak

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrus, Sharkey, Garubo, Witczak

Opposed: None

Abstain: None

Absent: Badal, Daly

**Res. #135-14 Approval of Easement-4 Peacock Lane**

Motion to adopt Resolution #135-14 was made by Councilman Witczak

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

In favor: Sharkey, Garubo, Witczak, Andrus

Opposed: None

Abstain: None

Absent: Badal, Daly

Atty. Semrau asked and received confirmation that the salaries addressed in the following resolutions were all in range with the present Salary Ordinance.

Res. #136-14 Executive Session-Personnel (Withdrawn)

**Res. #137-14 Salary 2014**

Motion to adopt Resolution #136-14 as amended was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Garubo, Witczak, Andrus, Sharkey

Opposed: None

Abstain: None

Absent: Badal, Daly

**Res. #138-14 Police Department Non-Contractual Salary-2014**

This resolution was addressed and determined to be carried to the next meeting. Atty. Semrau commented that it could be adopted for the Secretary at the PD and the other employee salary will be addressed at the next meeting. The governing body was in agreement with this conclusion.

Motion to adopt Resolution #137-14 as amended was made by Councilman Witczak

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

In favor: Witczak, Sharkey, Garubo

Res. #138-14 Police Department Non-Contractual Salary-2014 (Cont'd.)

Opposed: None  
Abstain: (Recused) Andrus  
Absent: Badal, Daly

**ADMINISTRATOR REPORT:** No further reporting from the Administrator.

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

Councilman Witczak reported that compliments were received from residents on the work done on Mountain and Park Avenues; the ball fields look good; a box is being made for the truck to collect leaves; salt for the Winter has been ordered; and markings are done for the storm inlets and hydrants.

Mr. Witczak noted that the CERT applications are available and suggested something in the Mendham Messenger would be helpful.

Councilman Sharkey will work with the Land Use Committee on the 'Snow and Ice' ordinance.

Councilman Garubo commented that Recreation is going well.

The Mayor asked Mr. Casey if he circulated the arbitration letter from the League. Mr. Casey did confirm that he did.

**ATTORNEY ITEMS:**

Atty. Semrau commented on Mr. Casey's completing housekeeping items not limited to the property maintenance and salary ordinance.

**MAYOR'S ITEMS:**

**The Mayor stated that he has met with Mr. Merkt this evening before the meeting and he will again next week.**

The Mayor read a request received from Steve Morrel, the Mendham High School Football Booster Club for a Bon Fire on October 10, 2014 at 7:00 PM at the Borough Park. The Clerk had been in touch with Fire Official Craig Bellamy and this is the only outstanding item need for approval of their application.

Motion to approve the use of the Borough Park for the October 10<sup>th</sup> Bon Fire was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Garubo, Witczak, Andrus, Sharkey

Opposed: None

Abstain: None

Absent: Badal, Daly

The Mayor noted that as of November 1<sup>st</sup>, transfers are allowed but requested that the finance chairman be notified; a Mayors' meeting on the High School Feasibility Study will be held next Tuesday, and he asked the Clerk to draft an employment ad for the League of Municipalities.

Mayor Henry announced the retirement of the Borough Clerk, Maureen Massey at the end of the year. An ad will be placed with League of Municipalities tomorrow. The Mayor thanked Ms. Massey for her work and support of the Council during her tenure at the Borough. Mayor Henry noted that both practical experience and internal possibilities will be considered in hiring of a replacement for the Borough Clerk position.

**PUBLIC COMMENT:**

Diana Callahan, 48 Mountain Avenue, commented that she was pleased that the Council chose to proceed carefully on a Snow and Ice Ordinance. She noted issues with the adoption of the first ordinance on this topic.

Administrator Casey gave an overview of the part-time clerk position at the Police Department. He asked if the governing body in considering this position could consider part of the duties as a 'floater' for other departments. Councilman Andrus recused from commenting. The consensus was that this was acceptable.

**APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated October 6, 2014

Motion to approve the October 6, 2014 bill list was made by Councilman Andrus

Second by Councilman Sharkey

Discussion: None

Roll Call - the vote was unanimous as follows:

In favor: - Garubo, Witczak, Andrus, Sharkey

Opposed: None

Abstain: None

Absent: Badal, Daly

Res. #136-14 Executive Session: Personnel

This resolution was withdrawn. No executive session was held.

**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 9:15P.M. next to convene at the Regular Meeting on October 20, 2014 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

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Maureen Massey, RMC, CMC  
Borough Clerk