

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

CALL TO ORDER

Mayor Neil Henry called the November 7, 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, Atty.
Ellen Sandman, Administrator
Maureen Massey, Borough Clerk

Absent: None

Mayor Henry thanked the employees of the Department of Public Works, the Police Department especially Sgt. Liberto, Patrolman Kennedy, Hostler, and Irons for their assistance during the recent storm and it's after effects. He further thanked Borough Clerk Maureen Massey and Administrator Ellen Sandman for their handling the numerous storm related calls received at the Borough offices.

CONSENT AGENDA:

- Approval of the minutes of the Regular Session Meeting of 10/17/11
- Approval of the minutes of the Executive Session Meeting of 10/17/11
- Approval of 'Blue Light Permit'-Gregory S. Grobels-Mendham Fire Department
- Raffle App-Mendham Borough Fire Department-Casino Night-11/12/11

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

Opposed: None

Abstain: None

Absent: None

DISCUSSION: No specific items listed.

ORDINANCE INTRODUCTION:

ORDINANCE #8-11

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS,
AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 102,
FEES, OF THE CODE OF THE BOROUGH OF MENDHAM**

(A copy of Ordinance #8-11 is attached to these minutes)

Ord. #8-11: (Cont'd.)

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 21, 2011** at 8:00 PM 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 approve the introduction of Ordinance #8-11 was made by Councilman Badal
Seconded by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE INTRODUCTION:

ORDINANCE #9-11
**AN ORDINANCE CONCERNING SALARIES FOR OFFICERS AND
EMPLOYEES OF THE BOROUGH OF MENDHAM**

(A copy of Ordinance #9-11 is attached to these minutes)

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 21, 2011** at 8:00 PM 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 approve the introduction of Ordinance #9-11 was made by Councilman Witczak
Seconded by Councilman Andrus

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #7-11
**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT
CHAPTER 215, ZONING, ARTICLE XV, HISTORIC DISTRICT OVERLAY
ZONE, SECTION 215-48, ESTABLISHMENT OVERLAY ZONE OF THE
CODE OF THE BOROUGH OF MENDHAM AND TO INCLUDE PHASE 2
OF THE MODIFICATION OF THE BOROUGH'S HISTORIC DISTRICT**

(A copy of Ordinance #7-11 is attached to these minutes)

Was published in full in the Observer Tribune

Ord. # 7-11: (Cont'd.)

Mayor Henry informed the public that Planner Dennis Bertland, Mike Zedalis of the Mendham Borough Historic Commission, Tax Assessor Scott Holzhauer and Land Use Coordinator were present to help in answering any public questions regarding Ordinance #7-11. The Mayor opened the public hearing.

Katherine Oram, 15 Orchard Street, asked why her house was chosen for the historic district. Mr. Bertland responded that this street was suitable for the expansion and that Orchard Street was listed in the NJ Registry (on the map). He continued by adding that the ordinance is intended to continue to keep the character of the Borough.

Mrs. Oram responded that she was concerned about the infringements this ordinance would mean on what she can do to her home. Mr. Bertland reassured her that the Borough's Historic Commission works with property owners and does not stop work on homes but is an advisory board. He noted that presently there is an ordinance in place that involves two sections of the Borough. Mayor Henry commented that the committee consists of residents of the Borough and some that live in the historic district.

Mike Zedalis added that the committee meets once a month and has approximately 1-2 applications each month. The committee gives guidance with historical and architectural content. He continued with an example and even referenced a situation where the homeowner completed a project without permits.

Petriz Javier, 6 Hampton Road, expressed concern for future indications and noted only 1 side of the street was listed.

It was noted that the other side of Hampton Road was covered under a prior ordinance establishing Phase I.

Mayor Henry noted the member composition of the commission and that approvals from other boards and or departments were necessary as well for most work done to a home.

Mike Zedalis further commented on the character of Mendham and it is recognized for this. He continued that this ordinance will connect the east and the west end of town and keep the historic fabric intact. The committee advises on applications that deal with what can be seen from the street (outside) of a property.

Mayor Henry commented that the State can dictate the widening of roads and build up in municipalities. The importance of the historic district adds another layer of protection in protecting the Borough's character. This was seen when the Borough was active in discussions regarding the Highlands Act and the Historic Preservation Area of this act.

Brad Keating, 7 New Street, reported that he has completed 3 projects on his home in the historic district and he never had a problem going through the Historic Commission. He further noted that he was also a member on this committee at one time.

Michael Pignatiello, 14 Park Avenue, expressed his desire to have his property excluded from this ordinance establishing the Phase II of the Historic District. Mr. Bertland briefly noted that when Phase II was under discussion it was determined from evidence reviewed that there was World War I and World War II characteristics. It was concluded that this street was relative to the character of a historic district. It made sense to draw the boundary including this property and not to go beyond into the different development that did not fit the character of a historic district.

Atty. Semrau responded that this property was included in the ordinance upon the recommendation of the Borough Planner. Mr. Semrau noted that Mr. Pignatiello's request to be removed voiced during resident meetings held prior to introduction of this ordinance, were reviewed. Upon review, it was determined that this property met the criteria outlined by the Borough Planner and it was the decision of the governing body to include this property in the ordinance. Mr. Semrau further commented that Mr. Pignatiello has 45 days to challenge the ordinance in Superior Court.

John Racioppi, 4 Peacock Lane, has a cottage on this property. He has waited for 14 years to build a home at this location and has concerns about this taking place with the adoption of this ordinance.

Ord. # 7-11: (Cont'd.)

Mike Zedalis recommended working with an architect and stated that this ordinance is mainly to keep a contiguous boundary throughout the town connecting one end of town to the other.

The discussion continued with regard to when a variance is needed, Board of Adjustment making the final decisions and the Historic Commission maintaining the fabric of the town.

Mr. Javier questioned the impact of historic district restrictions when selling a property. There was a brief discussion on whether properties in the historic district are restrictive or protective. It was noted that there are positives and negatives.

Diana Callahan noted that 'balance' was built in the historic district ordinances when they were developed by the Historic Commission and the Borough Council. The Historic Commission is represented by some members who live in the historic district. She further commented that the Historic Commission application is a simple process and the members work with the resident as much as they can.

Bob Klemme, 55 West Street, had a question with regard to changing of windows. It was responded affirmatively that windows can be changed.

Mayor Henry closed the public hearing.

Be it resolved, by the Borough Council of the Borough of Mendham that:

ORDINANCE #7-11

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, ZONING, ARTICLE XV, HISTORIC DISTRICT OVERLAY ZONE, SECTION 215-48, ESTABLISHMENT OVERLAY ZONE OF THE CODE OF THE BOROUGH OF MENDHAM AND TO INCLUDE PHASE 2 OF THE MODIFICATION OF THE BOROUGH'S HISTORIC DISTRICT

Motion to adopt Ordinance #7-11 was made by Councilwoman Daly

Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ACTIONS TO BE TAKEN:

Res. #117-11 Sale of Municipality Property on Gov Deals-Miscellaneous First Aid Squad Radios, Pagers, & Chargers

(Copy of Res. #117-11 attached to these minutes)

Motion to adopt Resolution #117-11 was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #118-11 Sanitary Sewer Connection App- Block 601, Lot 2

(Copy of Res. #118-11 attached to these minutes)

Motion to adopt Resolution #118-11 was made by Councilman Witczak

Seconded by Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ACTIONS TO BE TAKEN: (Cont'd.)

Res. #119-11 Sanitary Sewer Connection App- Block 801, Lot 20 (Denial)

(Copy of Res. #119-11 attached to these minutes)

Motion to adopt Resolution #119-11 was made by Councilman Witczak

Seconded by Councilman Badal

Discussion: Atty. Semrau requested additional time to review this item with the Borough Engineer and Borough Administrator and have his questions answered.

Councilman Witczak revised his motion to **TABLE** Resolution #118-11

Seconded by Councilman Badal

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #118-11 Sanitary Sewer Connection App- Block 601, Lot 2

(Copy of Res. #118-11 attached to these minutes)

Motion to adopt Resolution #118-11 was made by Councilman Witczak

Seconded by Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #120-11 Execution of Interlocal Agreement –Mendham TV

(Copy of Res. #120-11 attached to these minutes)

Motion to adopt Resolution #120-11 was made by Councilman Andrus

Seconded by Councilman Sharkey

Discussion: There were some questions posed with regard to why this agreement is only for one year vs. three and the submission of monthly financial statements. Administrator Sandman noted that the by-laws are near completion.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #121-11 Transfer of Funds

(Copy of Res. #121-11 attached to these minutes)

Motion to adopt Resolution #121-11 was made by Councilman Andrus

Seconded by Councilman Sharkey

Discussion: Councilman Andrus noted that due to the storms monies were transferred due to the additional expenses for the Department of Public Works.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Res. #122-11 Award of Bid-2012 Ford F550 Cab/Chassis,19,500 lb. GVW,
4x4 Regular Cab with Dump Body, Plow and Salt Spreader**

(Copy of Res. #122-11 attached to these minutes)

Motion to adopt Resolution #122-11 was made by Councilman Andrus

Seconded by Councilman Garubo

Discussion: It was noted that there was a challenge to the technical specs for this bid. After some discussion between Atty. Semrau, Superintendent O'Brien and Administrator Sandman prior to the meeting, it was requested that this resolution be tabled until this is reviewed. Atty. Semrau commented that the Borough has 60 days to award a bid and it is in the best interest of everyone that this get a thorough review before the bid is awarded.

Motion to **TABLE** Resolution #122-11 was made by Councilwoman Daly

Seconded by Councilman Witczak

Res. #122-11: (Cont'd.)

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ADMINISTRATOR REPORT:

Administrator Sandman reported that the new recycling schedule has been distributed for 2012 with a reduction of 5% in the cost to the Borough. She further reported that she is having conversations with Randolph and Hanover Townships with regard to 'health services' for 2012. Mendham Township is also seeking a change from Bernards Township and Administrator Sandman is in discussions with Administrator Mountain to see if combining the efforts could lower the financial exposure if both municipalities join at the same time.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Witczak discussed the need for DPW to hire part-time help clean up from the effects of the last storm. The over abundance of wood chips at the Ironia Road location was discussed. Superintendent O'Brien asked for agreement from the Council to allow drop off of brush to the DPW until January 1st. There were no objections voiced by governing body members. He further reported that employees are working 7-5:30 Monday-Friday; 8-4:30 Saturday.

Superintendent O'Brien reported using 200 gals/day of fuel for machinery and trucks. Mr. O'Brien asked and Administrator Sandman agreed that the request for the public put their brush out to the curb and not call in to DPW should be place on the web page and through Mendham TV. It was further noted by Superintendent O'Brien that reimbursement through FEMA has been requested. Dialog is continuing with FEMA.

Councilman Andrus requested the scheduling of budget meetings, with a meeting on capital budget as the first meeting.

Councilman Sharkey reported that the sign ordinance will be introduced next year. He commented that he has reviewed a draft copy of a document that will be given to residents answering 'frequently asked questions' and prepared by Dianna Callahan. He suggested added a historic district map.

Councilman Andrus complimented Dianna Callahan on the preparation of this document. His only suggestion was for an outline in the beginning of the document. Mr. Andrus recommended professional review by the Engineer, Zoning Officer and Land Use Attorney before formal release. Atty. Semrau complimented Dianna Callahan stating it was exceptionally well done and had a personal touch and appeal.

Councilman Badal complimented the first responders on how well they worked together during and in the aftermath of the last storm. He noted no injuries reported. Mr. Badal would like to discuss the failure of the County 911 system going down during the day of the storm at the next Public Safety meeting. He would like an answer to report back to the Council.

Administrator Sandman will discuss with Chief Taylor tomorrow morning and they will contact John Bonanni, County Administrator.

Dave Chakin reported that the First Aid Squad did not lose radio contact or paging capabilities. He reported 3 transports to the hospital and 21 calls in 36 hours. He complimented on how well the police, fire and first aid personnel all worked together. Looking into the future he would like to address the issue of residents that are on oxygen which is good for only 1 day. Mr. Chakin would also like to discuss making the area that is now available at the Squad into a duty room where crew members can stay the night or house members who are not living with the Borough.

Mr. Chakin reported that the First Aid Squad responded to 500 calls last year. This year as of today have already responded to 520.

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

A generator for the MASH (Mendham Area Senior Housing) was also noted as a future change that will need to be considered for times when the power is out for so long.

Chief Taylor reported 50/60 calls received and responded to regarding wires down and helping residents. He complimented all responders and DPW working so well together.

Councilman Badal suggested looking into a mass notification system through our web site provider and he will discuss with the public safety committee.

ATTORNEY ITEMS:

Atty. Semrau will report at the next meeting regarding snow removal for Carriage House Estates and Garrison Road after review of the documents provided.

Mr. Semrau further reported that the cell tower litigation (Kings Shopping Center) when to Court where the Board of Adjustment decision was upheld. The Court did give the applicant 60 days to present to the BOA an alternate site at the same location. The applicant has requested from the BOA additional time to come up with a new location.

MAYOR'S ITEMS:

Mayor Henry reported that he an alternative to the present engineering and zoning services is under consideration. He further recommended that additional school participation for their students during storms and subsequent long power outages.

PUBLIC COMMENT:

Linda Ruth, 32 Drake Road commented that JCP&L needs to put more money into the aging infrastructure. Administrator Sandman has some issues also will JCP&L and will be contacting the Board of Public Utilities with these concerns. It was recommended that these concerns be put in writing to the Board of Public Utilities on behalf of the Borough.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated November 7, 2011
Motion to approve the October 3, 2011 bill list was made by Councilman Andrus
Second by Councilman Sharkey
Discussion: None
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. #123-11-Atty. Client Privilege (High School Funding Formula)
Motion to adopt Resolution #123-11 was made by Councilwoman Daly
Seconded by Councilman Garubo
Discussion: None
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 10:35P.M. next to convene at the Regular Meeting on November 21, 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