

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

**CALL TO ORDER**

Mayor Henry called the December 6, 2010 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 David Murphy  
Councilman Louis Garubo  
Councilman Brad Badal  
Councilman Stanley Witczak  
Councilman John Andrus  
Councilman David Sharkey

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

Absent: None

**CONSENT AGENDA:**

Approval of minutes of the Regular Session Meeting of November 1, 2010  
Approval of minutes of the Regular Session Meeting of November 15, 2010  
On-Premise Draw Raffle-5/5/11(Merchandise) (Tricky Tray) Minutemen Sports Club  
On-Premise Cash Draw Raffle-5/5/11- Minutemen Sports Club  
Off-Premise Draw Raffle-5/5/11-(Merchandise) Minutemen Sports Club

Motion to approve the consent agenda was made by Councilman Murphy  
Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: Councilman Garubo abstained from the approval of the November 1, 2010 and November 15, 2010 and Councilman Badal and Andrus for the meeting of November 1, 2010.

Absent: None

**DISCUSSION:**

**Direction Sign Pleasant Valley Road:**

Mayor Henry reported that Schiff Natural Lands Trust will be placing three (3) directional signs on public roadways, one of which is requested for in front of 37 Pleasant Valley Road in the Borough right of way. This request will be considered this evening for Council approval. The Mayor added that the Borough Engineer Paul Ferriero has determined that this sign is consistent with Borough requirements and requires no site plan or permit. It was noted that feedback from the resident where the sign would be erected was positive.

Motion to give permission for the placement of a Directional Sign by Schiff Nature Preserve in the right of way in front of 37 Pleasant Valley Road, subject to written permission from the resident at this location was made by Councilman Witczak

Seconded by Councilman Murphy

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Permission-Mendham Little League Registration Signs-  
West Field and the Gazebo:**

Discussion was held with regard to the placing of signs throughout the Borough. Mayor Henry commented that he has been approached by residents agreeing with resigning of the sign ordinance to regulate the number of signs that can be posted. It was noted that the sign ordinance should be available for Council consideration during the month of January. This request from the Little League was forward to the Council for consideration by the Borough Zoning Officer Geoff Price due to the request to post signs on Borough property. After discussion, it was agreed to allow the posting of signs for Little League Registration with restrictions on how many signs can be posted and limiting the time they can remain up.

Motion to approve the posting of one (1) freestanding sign at the Gazebo, one (1) freestanding sign at West Field, and a maximum of ten (10) freestanding signs on residential properties. This motion has a time restriction of no more than two (2) weeks for posting and removal within 48 hours of the event and was made by Councilman Murphy.

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**ORDINANCE INTRODUCTION:** None

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**ORDINANCE #14-10** (Revised)

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 202 ARTICLE II ENTITLED “TREE CARE”**

Was published in full in the Observer Tribune  
(A copy of Ordinance #14-10 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #14-10. There were no comments from the public.

Patricia James, 18 Dean Road, had a question about tree roots and the damage they cause to the sidewalks. Ms. James commented that she has been on a list for repair of the sidewalk in front of her residence for a very long time and wanted to know how much longer she would need to wait. There was discussion held with regard to the Department of Public Works and their scheduling based on the monies available each year. DPW Superintendent Ken O'Brien asked for clarification on where or not sidewalk maintenance was the responsibility of the Borough commenting on the vague language in the ordinance. Councilman Andrus added some history regarding the Borough's decision to repair sidewalks. Atty. Semrau suggested that he review the ordinance and meet with Administrator Sandman and Superintendent O'Brien to discuss.

The public hearing was closed.

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

**ORDINANCE #14-10** (Revised)

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 202 ARTICLE II ENTITLED “TREE CARE”**

**Ordinance #14-10: (Cont'd.)**

Be passed and adopted on this, the final reading by title, and that the Clerk be authorized and directed to advertise final passage and adoption of said ordinance in the Observer Tribune, according to law.

Motion to adopt Ordinance #14-10 was made by Councilman Sharkey

Second by Councilman Garubo

Discussion: Atty. Semrau commented that this ordinance will allow the Borough to become a part of the "Tree City Program" with the State of New Jersey. He complimented Ken 'Brien and Councilman Sharkey for the time and effort they put into developing this ordinance which will suit the Borough of Mendham well.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**ACTIONS TO BE TAKEN:**

Atty. Semrau explained the sanitary sewer application review process followed by the Borough Engineer Paul Ferriero in particular resolution #140-10 which addresses a building modification increasing design flow. This was discussed with the Public Works and Utility Committee who recommended review by the Council for approval. Resolution #141-10 addresses the creation of 1 lot with a variance instead of creating 2 lots, which ultimately reduces flow that would be generated by 2 lots. This was discussed with the Public Works and Utility Committee with the recommendation that a resolution be considered for review and approval of the Council

Administrator Sandman explained Paul Ferriero's position on these two resolutions.

Councilman Andrus commented on the resolutions referring to the applicant's compliance with Chapter 168 when clearly they are asking for conditional approvals. Atty. Semrau agreed and verbally revised the resolutions to correct the wording to reflect Councilman Andrus' concerns.

**Res. #140-10 Sanitary Sewer App-B1501/L12-Anthony Paragano**

(A copy of Resolution #140-10 is attached to these minutes)

Motion to approve Resolution #140-10 as revised to include that the application requires a variance for compliance with Chapter 168 and noted that the application was reviewed by the Public Works and Utility Committee and determined that the increase in flows was not significant was made by Councilman Witczak

Seconded by Councilman Murphy

Discussion: No further discussion

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Res. #141-10 Sanitary Sewer App-B604/L7-Richard Krostek**

(A copy of Resolution #141-10 is attached to these minutes)

Motion to approve Resolution #141-10 was made by Councilman Witczak

Seconded by Councilman Murphy

Discussion: No further discussion

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Res. #142-10 New Jersey Sustainable Energy-Joint Contract-Natural Gas/Electric**

(A copy of Resolution #142-10 is attached to these minutes)

Motion to approve Resolution #142-10 was made by Councilman Andrus

Seconded by Councilman Murphy

Discussion: Administrator Sandman added that this contract would include electric service. She also reported that it has been confirmed that street lights will be included. Councilman Badal asked if this savings could include Borough residents.

**Res. #142-10: (Cont'd.)**

The Administrator did not know at this time but would pass on any further information as it is received by her.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

The Administrator asked the Council to consider adoption of this resolution due to the time sensitive nature for submitting paperwork, which is due before the next meeting.

**Res. #143-10 2011 Recreation Trails Program -Loop Trail**

(A copy of Resolution #143-10 is attached to these minutes)

Motion to approve Resolution #143-10 was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: There was no further discussion.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**ADMINISTRATOR REPORT:**

Administrator Sandman referred to item #7 of her Administrator's report regarding a \$20,000 grant for an energy review of all our municipal facilities and for improvements to become energy efficient. An additional \$30,000 will be available to have any of the recommended upgrades installed.

Administrator Sandman reported that that deadline is 12/15/10 for the loop trail grant paperwork. There will be a public hearing on January 24, 2011 at 7:30PM in the Garabrant Center.

The Administrator also reported that another vehicle has been sold on Gov Deals for approximately \$1,010. She also reported that Auditor Bud Jones will be attending the budget meeting on Saturday, December 11<sup>th</sup>.

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

Councilman Murphy reported that the Borough officials were meeting on Thursday with members of the PBA continuing contract negotiations.

The Mayor commented on a residents request for a Patriots Path crosswalk from Holly Manor to the Path. There was a brief discussion regarding the speed limit of 40 miles per hour and where this could be allowed. The Administrator will check with other townships and report back.

Councilman Sharkey reported on the continuing review of the sign ordinance and concluding with introduced at a meeting in January 2011.

Councilman Andrus commented on the budget process noting that pension, medical benefits and debt service are items outside the CAP. He noted that this is not an easy process and increasing the tax rate is a hard decision. The boiler at the Fire House and the MASH paving is complete and he reported that there is a special fund of approximately \$13,000 for the basketball courts.

Councilman Witczak reported that the roof on the Bowers Building and the Gazebo need to be replaced and the work will be done by the DPW. Radio communication is now being shared by the Borough DPW and Mendham Township DPW.

**ATTORNEY ITEMS:**

Atty. Semrau reported that a trial date for the Borough's complaint regarding the tax ratio and its impact the Borough's share of county taxes has been given a trial date of January 10, 2011. Atty. Semrau would like the Council to consider a professional service agreement with the Jefferson Tax Assessor with a limit of \$2,000 for his expertise in this area. He reported that he has given Councilman Garubo a draft ordinance received from Atty. Matt Giacobbe for discussion after the New Year on the process for the position of Police Chief promotional process.

**MAYOR'S ITEMS:**

Mayor Henry reported that the start time for borough council meetings will stay at 8PM for the calendar year 2011.

The Mayor noted that there are still 3 open positions on the Recreation Commission, 1 on the Board of Adjustment and 2 on the Open Space Committee.

Mayor Henry reported that work on the phase II of the Historic District Expansion is ongoing and it is expected that an ordinance will be introduced late winter of next year.

The Mayor thanked Superintendent Ken O'Brien and Mr. Zander for the donation of work and materials in the First Aid Bay.

**PUBLIC COMMENT:** No one from the public wished to be heard.

**APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated December 6, 2010  
Motion to approve the December 6, 2010 bill list was made by Councilman Murphy  
Second by Councilman Andrus  
Discussion: None  
Roll Call - the vote was unanimous as follows:  
In favor: Garubo, Badal, Witczak, Andrus, Murphy, Sharkey  
Opposed: None  
Abstain: None  
Absent: None

**EXECUTIVE SESSION:** 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 9:00 P.M. next to convene at the Regular Meeting on December 20, 2010 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