

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

CALL TO ORDER

Mayor Neil Henry called the February 19, 2013 (Tuesday) 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

Councilman Stanley Witzcak
Council President John Andrus
Councilwoman Veronica Daly

Also present: Fred Semrau, Esq.
Administrator Ellen Sandman
Maureen Massey, Borough Clerk

Absent: Councilman David Sharkey
Councilman Louis Garubo
Councilman Brad Badal

CONSENT AGENDA:

- Approval of the minutes of the regular meeting of 2.4.13
- Approval of Raffle App-Minutemen Sports Club/Off-Premise Draw Raffle (Merchandise)-April 30, 2013

Motion to approve the consent agenda was made by Councilman Witzcak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrus, Daly, Witzcak

Opposed: None

Abstain: None

Absent: Sharkey, Garubo, Badal

DISCUSSION: No items listed for discussion.

ORDINANCE INTRODUCTION: No ordinances for introduction.

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #1-13

**ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE,
CHAPTER 215 “ZONING”, SECTION 215-29, “SUPPLEMENTARY
HEIGHT AND BULK LIMITATIONS**

(A copy of Ordinance #1-13 is attached to these minutes)

Was published in full in the Observer Tribune

Mayor Henry opened the public hearing.

No one wished to be heard, the public hearing was closed.

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

ORDINANCE #1-13
**ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY AMENDING THE BOROUGH
CODE, CHAPTER 215 "ZONING", SECTION 215-29,
"SUPPLEMENTARY HEIGHT AND BULK LIMITATIONS"**

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 #1-13 was made by Councilman Andrus

Second by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

In favor: Daly, Witczak, Andrus

Opposed: None

Abstain: None

Absent: Sharkey, Garubo, Badal

ACTIONS TO BE TAKEN:

Res. #36-13 Return Escrow Fees/Board of Adjustment/Variances-Site Plans

(Copy of Res. #36-13 attached to these minutes)

Motion to adopt Resolution #36-13 was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Daly

Abstain: None

Absent: Sharkey, Garubo, Badal

Res. #37-13 Sanitary Sewer App-B1501/L1- Carla Fabrizi Cosmetics

(Copy of Res. #37-13 attached to these minutes)

Motion to adopt Resolution #37-13 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrus, Daly, Witczak

Abstain: None

Absent: Sharkey, Garubo, Badal

Res. #38-13 Sanitary Sewer App-B1501/L8- Stella P. Mellas, Mellas Orthodontics, PA

(Copy of Res. #38-13 attached to these minutes)

Motion to adopt Resolution #38-13 was made by Councilman Witczak

Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

In favor: Daly, Witczak, Andrus

Abstain: None

Absent: Sharkey, Garubo, Badal

Res. #39-13 Temporary Graduation Signs-West Morris High School Fund Raiser

(Copy of Res. #39-13 attached to these minutes)

Motion to adopt Resolution #39-13 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

In favor: Daly, Witczak, Andrus

Abstain: None

Absent: Sharkey, Garubo, Badal

ACTIONS TO BE TAKEN: (Cont'd.)

Res. #40-13 Recycling Coordinator-Shared Services Agreement-Mendham Township

(Copy of Res. #40-13 attached to these minutes)

Motion to adopt Resolution #40-13 was made by Councilman Witczak

Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Daly

Abstain: None

Absent: Sharkey, Garubo, Badal

ADMINISTRATOR REPORT:

A report was circulated by Administrator Sandman prior to this meeting. Ms. Sandman gave a brief FEMA update and reported that she will be meeting with a Mr. Nat King from FEMA this Thursday to furnish him with supporting documentation for the Borough's claim.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Witczak reported that employee Peter Paradise has resigned from the DPW. He expressed his best wishes and noted that he will be missed. Mr. Witczak continued further reporting that he shared his expertise and knowledge with other Borough employees. He further noted that the new hire for DPW, (Adam) is working out well. It was noted that there are a total of 8 employees in the DPW, with 2 positions to be filled. Superintendent O'Brien has been interviewing but has not found anyone who is up to the Borough standards. Interviews will continue.

Councilman Andrus reported that a finance meeting will be held on Thursday, February 28th to continue work on the 2013 budget.

Councilwoman Daly reported her continued work on revisions to the employee manual and employee evaluations.

ATTORNEY ITEMS:

Atty. Semrau reported that he has an item for executive session regarding contract negotiations.

MAYOR'S ITEMS:

Mayor Henry referenced a memo distributed this evening, addressed to the governing body and Borough Administrator, from Ptl. Joseph Kennedy making a formal request for \$2,000 for expenses associated with the annual fishing derby. The general consensus of the Council was to allocate the funds.

Mayor Henry reported receiving high praise for the Sisters of Christian Charity on the use of their facilities and the conducting of a shelter during storm "Sandy". At the 5-Mayor's meeting it was suggested that the 5 towns work together with the SCC for preparation of future emergencies.

PUBLIC COMMENT:

Laurie Felber, 9 Townsend Road, reported on the plans for an Arbor/Earth day celebration which included cleaning of the stream, education session from the Upper Raritan Watershed and the purchase and distribution of tree "plugs" to our children for planting. Ms. Felber has information which she will pass on to Councilman Sharkey for this event. This event will also fulfill a requirement for recently submitted grant and tree city application. She further reported that 'Oak' trees will be planted at Cosma Track with grant money received. Publicity for Earth/Arbor day is planned by circulating flyers and an article in the Observer Tribune.

PUBLIC COMMENT: (Cont'd.)

Brian Cavanaugh of 610 Cherry Lane asked to be recognized. After recognizing Mr. Cavanaugh, Mayor Henry briefly reviewed his prior conversations with Mr. Cavanaugh regarding the topic of the unfairness of the present high school funding formula. Mayor Henry said that while he and Mr. Cavanaugh disagreed over some of the points raised during their prior conversations, Mayor Henry said he agreed with Mr. Cavanaugh that the funding formula for the West Morris Regional High School District was not equitable. Even before Mr. Cavanaugh went into the presentation he wanted to give, Mayor Henry commented that the \$10,000 for a feasibility study would be in the upcoming 2013 budget which, as stated by Mr. Cavanaugh, was the primary reason he was before the council. Mayor Henry also stated that Mr. Cavanaugh was also asking for Borough Council support in studying just two configurations: (1) K-12 school district which would include the Mendhams and Chesters and (2) 4 separate K-8 school districts and one stand-alone 9-12 high school district which would encompass the Mendhams and Chesters. Mayor Henry said he was reserving a decision on this part of Mr. Cavanaugh's question as to what in fact study the council will support, until a full council was in attendance. He went onto say the issue is too big not to have each council member express their opinion on what options should be discussed.

Mayor Henry stated to Mr. Cavanaugh and members of the public that the money set aside in the 2012 budget did go back to the taxpayer through surplus. Mr. Cavanaugh said he had not seen a check sent to him for the refund of his tax dollar which was set aside for the 2012 study. Councilman Andrus did tell Mr. Cavanaugh that he did pay taxes for last year's study but that looking for a refund check was a simplistic approach.

Mr. Cavanaugh expressed his optimism of each municipality contributing \$10,000 as well as contributions for the local school boards. He noted that a prior request for a 'referendum' by the municipalities was 'tabled' and remains so as of this date with no anticipation for this status to change. Mayor Henry reminded everyone that a change in the funding formula is a complicated process. Mr. Henry suggested reviewing Atty. Vito Gagliardi's legal opinions on this topic as he has been active and is extremely knowledgeable in this area of law.

Mr. Cavanaugh distributed a presentation he developed and verbally summarized for the governing body and the public. He briefly referred to the subsidizing of Washington Township, provided bullet items on how to fix this issue, and the economics of a \$10,000 investment vs. the yearly and 20 year savings. He concluded by suggesting that the timing is now and the opportunity should be seized, making references to recent unsuccessful attempts by the municipalities and the materiality of the present situation.

Mayor Henry commented that he would like to hear more from our local Mendham Borough school of K-8. The Mayor received a negative response from the audience when he questioned whether a permanent Superintendent has been hired.

Discussion was finalized by a consensus of the Council concluding that the \$10,000 could be added as a line-item in the budget. Further discussions will be held when the full council is in attendance, and has the opportunity to express their opinions.

Don Hicks, 240 Mountainside Road, asked for clarification on the \$10,000 request not including Washington Township. Mr. Cavanaugh responded that requests will be made and are compliance anticipated from the other towns and school boards.

Alise Ford, 73 Hampshire Drive, wanted to be clear that the request was not for Mendham to allocate \$20,000 from our town and local school board and others involved in the study would be giving less. Mr. Cavanaugh responded that all towns will share equally in the cost of the study and there needs to be a commitment from at least 3 municipalities.

James Pohlman, 460 Cherry Lane, suggested we all be realistic and that doesn't anticipate money for this study from the local school boards.

Laurie Felber, 9 Townsend Road, commented that from her experience the new parents in town like the way the things are now. She suggested polling residents before moving forward.

PUBLIC COMMENT: (Cont'd.)

Bob Marino, 27 Florie Farm Road, thanked the Council for agreeing to the \$10,000 for a feasibility study. He gave his review and account of what has had been addressed this evening noting the 2 option study, splitting of the school districts and go forward with requests for money for the feasibility study. Councilman Andrus clarified for Mr. Marino his comments on past attempts to foster changes in the funding formula.

Carol Brady, 8 Loryn Lane, was not in agreement with the figures/percentages in Mr. Cavanaugh's presentation. She suggested that the information to be presented be done in an intelligent fashion. Ms. Brady continued that some facts cannot be quantified and continued that caution should be taken to give correct information since some information can be skewed. Ms. Brady continued that she attends the school board meetings and most times there is no public in attendance. She recommended that Mr. Cavanaugh attend one these meetings.

Frank Lupo, 17 Dean Road, asked about the status of the fence to be installed at the JCP&L power station. Administrator Sandman responded that the adoption of ordinance 1-13 tonight will move the work along.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated February 19, 2013
Motion to approve the February 19, 2013 bill list was made by Councilman Andrus
Second by Councilman Witczak
Discussion: None
Roll Call - the vote was unanimous as follows:
In favor: Witczak, Andrus, Daly
Opposed: None
Abstain: None
Absent: Sharkey, Garubo, Badal

EXECUTIVE SESSION: Res. # 41-13 Executive Session-Contract Negotiations
(Shared Services-Municipal Court)

Motion to adopt Resolution #41-13 was made by Councilwoman Daly
Seconded by Councilman Witczak
Discussion: None
Roll Call – the vote was as follows:
In favor: Witczak, Andrus, Daly
Abstain: None
Absent: Sharkey, Garubo, Badal

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 9:40 P.M. next to convene At the Regular Meeting on March 4, 2013 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk