

**MINUTES OF A MEETING
OF THE
MAYOR AND COUNCIL** (April 7th, 2014 Meeting was Cancelled)
(Amended at 5.5.14 Mtg.)

CALL TO ORDER

Mayor Henry called the April 21, 2014 special 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 Louis Garubo
Councilman Brad Badal
Councilman Stanley Witzak
Councilman John Andrus
Council President David Sharkey
Councilwoman Veronica Daly

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

Absent: None

CONSENT AGENDA:

Approval of the minutes of the regular meeting of 3.24.14
Approval of deletions from the membership rolls Mendham Hose Company
Approval of appointments/Michael Bruin/Brandon Taylor/Member-Mendham Hose Company
Approval of Pastime Club 50/50 Cash Off-Premise Raffle-9/1/2014

Motion to approve the consent agenda was made by Councilman Andrus

Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrus, Sharkey, Garubo

Opposed: None

Abstain: Badal, Witzak, Daly recused from approval of minutes due to their absence from that meeting.

Absent: None

DISCUSSION:

Board of Chosen Freeholders 2014 Budget Presentation: Rescheduled for next meeting.

Parking on Orchard Street: The Mayor opened the meeting to public comments.

Britta Gangemi, 13 Orchard Street, commented on the hazards of driving on Orchard Street this winter with all the snow and parking, making it only one lane wide in and out of the street. She continued that this has been on-going safety issue with Audi cars parking on Orchard Street. Ms. Gangemi noted that she welcomes businesses to the Borough but the test driving and speeding up to the end of the street is not acceptable. She continued that Orchard Street is a passageway for school buses as well. Residents of Orchard Street have single driveways with at least 2 cars per household, resulting in less than adequate parking.

Tom Berenbak, 1 Orchard Street, noted that his driveway is directly across from the Audi Dealership. His complaint was that the Audi driveway was to be 'exit only-right turn', there are no longer signs posted and this is not being done. He further complained about the parking issue and the blocking of his driveway leaving him unable to back out his car. Mr. Berenbak then has

to go to the Audi Dealership to have the car removed. He did comment that the last two times he has done this he has been met with unfavorable comments. He also felt that Audi is not a friendly neighbor.

Dan Hatton, 3 Orchard Street, stated that he has two children ages 1 and 3 and has lived in the Borough approximately 5 years. He feels that there is a safety issue for him every time he goes in or out of his driveway. He complained of trash such as Dunkin Donut cups in the road stemming from the Audi Dealership. He has taken pictures.

Tim McChesney, 21 Orchard Street, stated he could attest to the parking issues during the hours of 6-6:30 and later. He reported that cars are speeding and there is test driving on Orchard Street. He has called the police and feels this is a danger. He noted that Mountain View School, fields, tennis courts are all located at the end of Orchard Street. He requests suggestions on these safety issues and on the elimination of the parking problem.

Mayor Henry noted for the record that:

- Section of a resolution dated October 6, 1998 that refers to an August 4, 1998 hearing during which JPS Motors, LLC testified that the "...intensity of the use of the site will not exceed or expand beyond...the boundaries of the subject property".
- Correspondence dated August 2, 2007 from Geoffrey Price, Borough of Mendham, to Mr. Ritigliano, Audi of Mendham, in which Mr. Price informed Mr. Ritigliano that Orchard Street parking "must cease and on-site parking, as approved, is required to be implemented". Mr. Price further instructed Mr. Ritigliano that if on-site parking is not possible, an application for amended site plan must be filed.
- Memorandum dated October 27, 2007 from Fred Semrau, Esq. to Neil Henry, Mayor, in which Mr. Semrau provides his legal opinion that parking should be "self-contained on the premises".

Lisa Panfile, 11 Orchard Street, commented as another concerned party about the un-neighborly attitude of Audi employees, parking on Orchard Street and for example how even the mailman parks in the middle of the street, litter, cigarette butts and employee lounging and eating lunch in the street.

Ms. Panfile continued commenting that she witnessed the test driving, has taken photos, and confirmed that there is parking by employees at the Mendham Fire House location. She further mentioned the faded signs, the exit/entrance have been taken down, and the selling of cars on the street. She concluded she has called the dealership and has asked for Mr. Branch and was told he was not available and after asking to be transfer to a higher management the transfer did not take place. She is worried about accidents when residents pull out of their driveways.

Phillip St. Jacques, 17 Orchard Street, commented that there are young drives on the street and he is in support of his neighbors. He agreed that parking is limited on this street and as Audi grows there will be more employees.

Mayor Henry noted that on the West side of Orchard Street there is no parking. Starting April 15th of each year overnight parking is allowed and the seasonal ban is lifted.

Kathryn Maresca, 9 Orchard Street, noted that she was at the meeting 17 years ago when the Board of Adjustment passed the resolutions mentioned by Mayor Henry. She commented that Orchard Street has lots of traffic, racing to the Fire House on a call, school traffic, and with single lane driveways all the residents have to park on one side of the street because of no parking on the Westbound side.

Jenny Kervick, 25 Orchard Street, suggested parking in front of the tennis courts as an Audi employee parking option. She commented on having neighborly attitudes and Audi does not exemplify same, and this years' snow fall being a major safety issue for this street. She further noted a test driving issue and kids walking from school with no sidewalks and no bus transportation.

The Mayor asked how often the tennis courts are used and there is parking in front of her house and on Adams Place.

Ms. Kervick noted that there are kids walking from school and parents park in the Park to pick them up.

The Mayor commented on the good job accomplished by DPW Superintendent O'Brien handling the back to back storms. He commented further on this past winter and that there were also ice storms and no place to put all the snow that was plowed from the streets.

Alice Boushie, 20 West Main Street, commented on having to park far from the bus stop at Main and Orchard for Assumption School students.

Mr. Matthew Luzio, Executive Vice President of Audi introduced himself. He shared that he spoke with David Branch stated that Audi employees complained about it being dark and unable to see at night when parking in the municipal lot as suggested by the Borough. Mr. Luzio asked the Borough to install lighting. Atty. Semrau commented that there is also a parking lot behind St. Mark's church and the Borough would not consider installing lighting at this time at the Ward Sands lot. Mr. Semrau stressed that the employees should be parking on Audi property to comply with their site plan approval. Mr. Luzio shared that Audi is in the process of purchasing the TD Bank property. This site maintains 45 parking spots and the completion of this real estate transaction is approximately 15-20 days away.

Administrator Sandman commented that there is no communication from Audi. She referenced that prior to this Branch Manager, David Branch she, the Police Chief and Councilman Badal spoke with prior management recommending that Audi file for an amended site plan.

Administrator Sandman in response to David Branch comment about communication, she proclaimed that communication came from the Borough and not from Audi.

Mayor Henry advised that Administrator Sandman and David Branch met to discuss these concerns before the winter. Matt Luzio commented that he has only owned this dealership for 13 months. Mr. Luzio commented that he has 9 other larger operations and these same issues were alleviated. Once the TD property is purchased there will be parking only at this new building.

Atty. Semrau asked Mr. Luzio if until this property is purchased he instruct his employees not to park on Orchard Street and have a reprimand system in place if this is not done. Mr. Luzio responded that he would not.

Atty. Paul Pawlowski commented that he read the resolutions referenced by Mayor Henry. He firmly stated that he does not agree with this board's interpretation of the referenced resolutions.

Atty. Semrau responded that Audi is in violation of their site plan and the Borough Code. Parking is shown on the site plan and the test driving down Orchard Street.

Atty. Paul Pawlowski responded that he would not discuss these issues at this time.

Resident Britta Gangemi commented that she was told about the property purchase by the General Manager David Branch and that there is presently a Phase II Environmental study in progress at the site.

Mayor Henry noted that the Borough will do what is good for the residents and businesses. He will open the meeting to comments regarding the introduction of an ordinance (#3-14) that will initiate a resident permit parking system that will include permits for visiting guests as well.

Ned Panfile, 11 Orchard Street is a Teacher at Mendham HS, commented that residents want to park in front of their homes and with single land driveways there is a need for street parking.

Atty. Semrau commented that the governing body and administration will address the parking with the issuing of parking decals. He will address the other issues with the Borough Zoning Officer and address on all fronts.

There was discussion held with regard to how many sign would be required to post the permit requirement. Chief Libertino was in the audience and responded that there would be a sign every 75ft. All signs on the east side of Orchard Street.

Councilman Sharkey questioned the test driving behavior. It was stated that the Chief Libertino and David would address this and have this cease immediately. The littering and sitting in the cars would also be addressed.

Mayor Henry asked for ordinance #3-14 be introduced and read by the Clerk;

ORDINANCE #3-14

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY SUPPLEMENTING THE CODE OF THE BOROUGH OF MENDHAM, NEW JERSEY, BY AMENDING CHAPTER 206, "VEHICLES AND TRAFFIC," TO ADD ARTICLE XVII, "RESIDENT PERMIT PARKING ONLY" TO PROVIDE FOR PARKING ON ORCHARD STREET BY PERMIT ONLY

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

ORDINANCE #3-14

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY SUPPLEMENTING THE CODE OF THE BOROUGH OF MENDHAM, NEW JERSEY, BY AMENDING CHAPTER 206, "VEHICLES AND TRAFFIC," TO ADD ARTICLE XVII, "RESIDENT PERMIT PARKING ONLY" TO PROVIDE FOR PARKING ON ORCHARD STREET BY PERMIT ONLY

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 May 19, 2014 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 introduce Ordinance #3-14 was made by Councilman Andrus

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Mendham Borough Police Request for Donation-Fishing Derby:

Councilman Witczak shared that this donation is now a line item in the recreation budget.

Banner Request-Mendham Garden Club:

The governing body received a copy of this request with the agenda. There were no questions. The Clerk confirmed that the Borough's insurance would cover this organization with their coverage. The Clerk responded affirmatively to the Mayor's query regarding the Garden Club obtaining BOCF approval.

Motion to approve the banner request for the Mendham Garden Club and is conditional on the submission of a letter of approval from the Morris County Board of Chose Freeholders was made by Councilwoman Daly

Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

2014 Budget Introduction: (A copy of this ordinance is attached to the minutes)

ORDINANCE #2-14
CALENDAR YEAR 2014
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)

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

ORDINANCE #2-14
CALENDAR YEAR 2014
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)

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 May 19, 2014 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 introduce Ordinance #2-14 was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Councilman Andrus briefly highlighted certain points such as a 1 ½% salary increase which is included and may or may not be used, increased budget of \$63,000 (Operating Budget increase of 1%); did not spend more that budgeted even with the storms; \$400,000 expected from FEMA. Mr. Andrus addressed the capital improvement account and noted that no bond ordinance is expected for 2014. The budget allows for some purchases including a pick up truck and traffic light conduit wiring. This budget will result in a \$40.00 increase per \$100,000 assessed home value.

RESOLUTION #64-14 2014 Budget Introduction (Resolution was read aloud by the Clerk)
(A copy of this resolution is attached to the minutes) **Public Hearing – May 19th, 2014**

Motion to adopt Resolution #64-14 was made by Councilman Andrus

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE INTRODUCTION: There were no further ordinances introduced.

ORDINANCE ADOPTION: None

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

Res. #65-14 Tax Sale Redemption-Block 203 Lot 82

Motion to adopt Resolution #65-14 was made by Councilman Badal

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #66-14 Sanitary Sewer App- Block 1501, Lot 41-James Bucci

Motion to adopt Resolution #66-14 was made by Councilman Witczak

Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #67-14 Contract QC Labs, Inc. - Discharge Monitoring Tests-Sewer Plant

Motion to adopt Resolution #67-14 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #68-14 Appoint Bob Patton Alt. I Member Historic Preservation Commission

Motion to adopt Resolution #68-14 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #69-14 Certification of 2013 Audit

The governing body was asked for their comments on the audit. It was noted that the Borough is efficient. There were no further comments.

Motion to adopt Resolution #69-14 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: The recommendations outlined in the audit were noted.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #70-14 Emergency Temporary Appropriation-2014 Budget

Motion to adopt Resolution #70-14 was made by Councilman Witczak

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #71-14 Emergency Temporary Appropriation-2014 Sewer Utility Budget

Motion to adopt Resolution #71-14 was made by Councilman Witczak
Seconded by Councilman Andrus
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrus, Sharkey, Daly, Garubo, Badal, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #72-14 Hire Part-Time DPW Employee-Alexander Cascais

Motion to adopt Resolution #72-14 was made by Councilman Witczak
Seconded by Councilman Badal
Discussion: None
Roll Call – the vote was as follows:
In favor: Sharkey, Daly, Garubo, Badal, Witczak, Andrus
Opposed: None
Abstain: None
Absent: None

Res. #73-14 Sanitary Sewer App- Block 1501, Lot 12, Katanya LLC

Motion to adopt Resolution #73-14 was made by Councilman Witczak
Seconded by Councilman Sharkey
Discussion: None
Roll Call – the vote was as follows:
In favor: Daly, Garubo, Badal, Witczak, Andrus, Sharkey
Opposed: None
Abstain: None
Absent: None

Res. #74-14 Amending/Updating Personnel Policy/Procedure Manual

Motion to adopt Resolution #74-14 was made by Councilwoman Daly
Seconded by Councilman Badal
Discussion: None
Roll Call – the vote was as follows:
In favor: Garubo, Badal, Witczak, Sharkey, Daly
Opposed: None
Abstain: Andrus
Absent: None

ADMINISTRATOR REPORT:

Ms. Sandman noted that the environmental commission on April 26th will be conducting a stream clean up with assistance from the Borough's DPW, Raritan Headwaters and the Mendham Racquet Club.

It was reported that the bids for Bulk pick-up are being reviewed by Atty. Semrau and that she will be meeting with Councilwoman Daly to discuss employee evaluations.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Badal reported that the new radios are in the Borough and will be distributed.
Councilwoman Daly will schedule a meeting with Ellen Sandman to discuss personnel evaluations.

Councilman Garubo reported that the fields and day camp are going well.

Mayor Henry confirmed the Grand Marshall will be David Crotsley.

Councilman Sharkey noted that the tree seedlings are in and will be distributed to the schools.

Councilman Witczak reported on the damage to the Phoenix House roof from the storms. It was noted that there are numerous pot holes and if anyone needs mulch the DPW has it available. The new employee hired as a part-timer is flexible with his available hours and is a Borough volunteer fireman.

ATTORNEY ITEMS: No further comments.

MAYOR'S ITEMS:

Mayor Henry reported back regarding the reduction in service for MASH bus riders. It was discovered that a payment from the Township was not made for October and November. The December payment was made in January. He noted that there is a meeting tomorrow and there will be discussion to recoup the money not paid from the Township.

Mr. Pendergrast of the regional school board approached him on security monitoring at the school. The Mayor suggested that the Police Chief Libertino, Administrator Sandman and Councilman Badal schedule a meeting to discuss revisiting the School Resource Officer position.

The Mayor reported the advertising for proposals for the high school funding formula again. No responses have been received.

Mayor Henry noted that the new municipal court hours have changed and asked Chief Libertino to find out **why**. The Chief responded that he sent an email requesting this information but has not received a response as of this evening.

PUBLIC COMMENT:

Alice Boushie, 20 West Main Street, complained about the smell and acid in her water. She shared that there has been a change in water sources. The Mayor asked Administrator Sandman to follow-up with American New Jersey Water Company.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated April 7, 2014/April 21, 2014
Motion to approve the April 7, 2014/April 21, 2014 bill list was made by Councilman Andrus
Second by Councilman Garubo
Discussion: None
Roll Call - the vote was unanimous as follows:
In favor: - Garubo, Badal, Witczak, Andrus, Sharkey, Daly
Opposed: None
Abstain: None
Absent: None

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 10:30P.M. next to convene at the Regular Meeting on May 5, 2014 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk