

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

**CALL TO ORDER**

Mayor Henry called the May 2, 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, and remembrance of the two year anniversary of our beloved police officer Richard Morales. This was 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 John Andrus  
Councilman David Sharkey  
Councilwoman Veronica Daly

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

Absent: Councilman Stanley Witczak

**CONSENT AGENDA:**

Raffle License-Mendham HSA-10/1/11/Off-Premise 50/50 Cash Raffle  
Raffle License-Pastime Club, Inc./Off-Premise 50/50 Cash-9/5/11  
Raffle License-Pastime Club, Inc./On-Premise (Wheels/Games)-9/2/11-9/5/11  
Request For Road Closure-Garabrant St./Mtn. Ave.-Maple Ave.-5/28/11-4PM-11PM

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: Badal, Andrus, Sharkey, Daly, Garubo

Opposed: None

Abstain: None

Absent: Witczak

Mayor Henry announced that Senator Anthony R. Bucco, Assemblyman Anthony Bucco and his wife Amy from the 25<sup>th</sup> Legislative District were in the audience. The Mayor further commented that Mendham Borough has been reassigned from the 16<sup>th</sup> Legislative District to the 25<sup>th</sup> Legislative District.

**DISCUSSION:**                    **Municipal Consent Hearing**  
**Cable Application-Comcast**

Mayor Henry opened the discussion with an overview of the application process and commented that negotiations will begin and continue through the summer.

Atty. Semrau introduced Mr. Charles Smith the representative from Comcast who was present to give a statement and answer any questions on this process.

Atty. Semrau commented that the beginning of the process with regard to Comcast's request and before any agreement is finalized this will be placed before the Council for

review and to the public for comments. Mr. Semrau also noted that rates for services offered by Comcast are not controlled by a franchise agreement.

Mr. Smith, Director of Government Regulatory Affairs at Comcast, made a statement which included that Comcast preferred this process over seeking a State franchise agreement as Verizon and outlined compliance and quality of service provided to its customers. He concurred with Atty. Semrau that a franchise agreement does not control rates for service which are controlled by State Statues and Federal law. This agreement cannot regulate programming which is covered by the First Amendment.

Mr. Smith clarified that granting Comcast a franchise agreement does not inhibit other providers from serving residents of the Borough.

Mayor Henry opened the meeting to public comments.

Joe Abbins, 4 Aberdeen Drive South, requested that Comcast continue the limited basis service now available and commented on the use of cable boxes and the change from analog to digital service.

Mike Monahan, 28 Drake Road, commented on the importance of Channel 29 and asked for continued support of Mendham TV.

Bob Cleary, 2 Cosma Place, commented on the accomplishments of the public channel 29 and his many contributions of videos of events in the towns. He further commented on how important this work for Channel 29 and the sense of accomplishment and what it means to him.

Daryl Brewster, 10 Michael Road, commented that Mendham TV educates, informs and entertains the residents of the Mendhams.

Councilman Badal commented that Channel 29 brings the community together and is of value to the consumer.

Mr. Smith responded that the law requires that 30 days in advance notification be given to consumers and municipalities of any channel changes. He further stated that decisions like this are not make too far in advance.

Donald Williams, 1-2D Boundry Oak Lane, asked why the Mendham TV channel was changed from Channel 25 to 29. Mr. Smith responded that at times a change is necessary to align channel lineup. The change to digital from analog signals also could have played a part in the change.

Geri Baines, 8 Gunther Street, requested that basic service always be available to the consumer.

Mike Monahan, 28 Drake Road, wanted to know if the consumer will benefit from upcoming planned Comcast expenditures. Mr. Smith commented that the Comcast system will undergo a comprehensive upgrade.

Robert Greenberg, 1 Samantha Lane, commented on the contribution of Mendham TV to the community and the impact on the viewers when there is a channel change. He also questioned pending litigation and the impact it may have on cable providers. Mr. Smith responded that Comcast elected to seek the municipal consent franchise and not a statewide franchise so that it can provide specific local needs.

Ellen Greenberg, 1 Samantha Lane, suggested keeping the public access channel 29 as part of the franchise agreement.

Geri Baines, 8 Gunther Street, thanked everyone.

Mayor Henry remarked that the Public Works and Utility Committee under Councilman Witczak will start the review process and report to the Council.

Frank Lupo, 17 Dean Road, asked Mr. Smith if Comcast could remove their equipment attached to the poles in Mendham that is no longer being used. Mr. Smith responded that he will look into it and report back.

Mayor Henry closed the public hearing.

Motion to close the Municipal Consent Hearing/Cable Application-Comcast was made by Councilman Garubo  
Seconded by Councilman Sharkey  
Discussion: None  
Roll Call – the vote was as follows:  
In favor: Garubo, Badal, Andrus, Sharkey, Daly  
Opposed: None  
Abstain: None  
Absent: Witczak

**Mendham Co-Op /Pre K-Kickers: Councilman Garubo**

Councilman Garubo started the discussion and commented on the three applications received for this group. He stressed the fact that the fields are not to be used by any business to make a profit but are to be used by non-profit groups for community use. If it is determined that this procedure should be changed then the Borough would need to obtain the best proposal and require escrow funds for preservation of the fields.

Mayor Henry asked Atty. Semrau to contact the Mendham Cooperative Nursery and explain the comments made this evening and invite them to the next meeting. This item was tabled to the May 16<sup>th</sup> meeting.

**Budget: Self Exam Resolution:**

**RESOLUTION #60-11**  
**RESOLUTION AUTHORIZING PARTICIPATION IN SELF-EXAMINATION PROGRAM OF THE MUNICIPAL BUDGET FOR THE 2011 BUDGET YEAR**

Motion to adopt Resolution #60-11 was made by Councilman Andrus  
Seconded by Councilman Sharkey  
Discussion: None  
Roll Call – the vote was as follows:  
In favor: Garubo, Badal, Andrus, Sharkey  
Opposed: None  
Abstain: None  
Absent: Witczak

**Public Hearing: Budget Adoption:**

Motion to open the Public Hearing on the 2011 Budget was made by Councilman Sharkey  
Seconded by Councilman Andrus  
Discussion: None  
Roll Call – the vote was as follows:  
In favor: Badal, Andrus, Sharkey, Daly, Garubo  
Opposed: None  
Abstain: None  
Absent: Witczak

Mayor Henry asked Auditor Bud Jones if he had any comments to which he responded that it was a good budget process even with the changes in the law for 2011 in part due to the Borough's good financial standing.

There were no public comments or further comments from the Council. Mayor Henry closed the public hearing and requested the Council's consideration of resolution\ #61-11.

**RESOLUTION #61-11 (Page 41/42 Budget Document)**

Motion to adopt Resolution #61-11 was made by Councilman Sharkey  
Seconded by Councilman Garubo  
Discussion: None  
Roll Call – the vote was as follows:  
In favor: Daly, Garubo, Badal, Andrus, Sharkey  
Opposed: None  
Abstain: None  
Absent: Witczak

**ORDINANCE INTRODUCTION:** None

**ORDINANCE PUBLIC HEARING/ADOPTION:** None

**ACTIONS TO BE TAKEN:**

**Res. #62-11 Award Bid-Weekly Bulk Pick Up**

Motion to adopt Resolution #62-11 was made by Councilman Andrus  
Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

**Res. #63-11 Mendham Holding, LLC-Release of Bonds/Escrow**

Motion to adopt Resolution #63-11 was made by Councilman Badal  
Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

**Res. #64-11 Fireworks Display-Roxiticus Golf Club-6/4/11/RD 6/5/11**

Motion to adopt Resolution #62-11 was made by Councilman Garubo  
Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

**Res. #65-11 Cancel General Capital Account-“Reserve for Phoenix House”**

Motion to adopt Resolution #62-11 was made by Councilman Badal  
Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

**Res. #66-11 State Tax Appeal Settlements**

Motion to adopt Resolution #66-11 was made by Councilman Andrus  
Seconded by Councilwoman Daly

Discussion: Atty. Semrau responded in answer to questions on whether this settlement would have a financial impact to the Borough. Atty. Semrau explained that the Borough Assessor had set the values prior to settling this assessment for this year. There would be no refund for 2010-2011 with regard to this settlement. For the calendar year 2009 there would be a refund and he would request Scott Holzhauer to provide the details for the Council in writing with regard to this settlement.

Roll Call – the vote was as follows:

In favor: Andrus, Sharkey, Daly

Opposed: None

Abstain: Council Badal and Councilman Garubo recused due to a conflict and did not vote on the adoption of this resolution.

Absent: Witczak

**Res. #67-11 Approving the Morris County Multi-Jurisdictional Hazard Mitigation Plan**

Motion to adopt Resolution #67-11 was made by Councilman Andrus

Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

**ADMINISTRATOR REPORT:**

Administrator Sandman reported that the grant for the new boiler and light fixtures for the Police Department has been received and work should begin shortly and completed by June; check was received from the High School in the amount of \$18,550 for our High School Resource Officer.

Councilman Sharkey recommended investigating shared services for bulk pick up before entering into another 3 year contract.

Administrator Sandman commented that Blue Diamond was the only bid received.

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

Councilman Badal reported that there was a good turn out for the Police hosted 'turn in old prescription' day, sponsored by the DEA Drug Enforcement.

Councilwoman Daly reported that the personnel evaluation forms are a work in progress.

Councilman Garubo reported that the fishing derby was great. He noted that Jim Cilo has accepted the invitation to be the Grand Marshall for the Labor Day Parade.

Councilman Sharkey reported on shade tree planting locations and receipt of a check from the Department of Forestry. He further reported that work on revising the sign ordinance continues.

**ATTORNEY ITEMS:**

Atty. Semrau reported that negotiations will begin on the franchise agreement with Comcast, a draft will be forthcoming for Council discussion on a towing ordinance which is necessary due to changes in State law and his continued work on the police promotion ordinance with Councilman Badal.

**MAYOR'S ITEMS:**

Mayor Henry reported that he met with a resident who still had concerns regarding the Historic District Phase II and their property. The Master Plan amendment tentatively will be ready for consideration in the June-July time frame. He will be attending a meeting with Mendham Township on or around May 18<sup>th</sup> to discuss shared services. The Mayor suggested meetings in the Borough for discussion prior to the 18<sup>th</sup>.

It was suggested by the Mayor that a tree be planted in memory of Earl Barnes.

**PUBLIC COMMENT:**

Joe Abbins, Aberdeen Drive suggested that some items being recycled be considered by the Borough for a reuse program. Ken O'Brien responded from the audience that the Municipal Utilities Authority has a reuse facility in Mine Hill.

Dave Charin, 8 Emery Avenue, President First Aid, reported 54 calls responded to in April, and a total of 178 calls year-to-date.

Dave Murphy, 57 Hampshire Drive, thanked the First Aid Squad for their continued help and assistance during this and prior Borough sponsored fishing derby.

**APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated May 2, 2011

Motion to approve the May 2, 2011 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, Andrus, Sharkey, Daly

Opposed: None

Abstain: None

Absent: Witczak

**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 9:50 P.M. next to convene at the Regular Meeting on May 16, 2011 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