

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

CALL TO ORDER

Mayor Henry called the May 6, 2013 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 Stanley Witczak
Councilman John Andrus
Councilman David Sharkey
Councilwoman Veronica Daly
Councilman Louis Garubo
Councilman Brad Badal

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

Absent: None

CONSENT AGENDA:

Approval of the minutes of the regular meeting of 3.15.13
Approval of the minutes of the executive session meeting of 3.15.13
Social Affairs Permit-Bernardsville Library Foundation-Pleasant Valley Road
Raffle License-Pastime Club-50/50 Cash Off-Premise-9/2/2013

(It was noted that the minutes are from the 4.15.13 meetings)

Motion to approve the consent agenda was made by Councilman Andrus

Seconded by Councilman Witczak

Discussion: Councilman Witczak noted for the record that he is a member of the Pastime Club but is not an Officer in the club. Councilman Garubo and Councilwoman Daly were not present at the 4.15.13 meeting and did not approve the minutes of this meeting.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Mayor Henry introduced our new representative with JCP&L, Michael E. Obremski.

Mr. Obremski noted that there will be a review of the 'critical facilities' of the Borough which will be identified and coded accordingly. He recommended that our OEM Coordinator attend the Safety Program scheduled for June 4th.

Mayor Henry noted the death of Mr. Ralph Williams, a former Councilman of the Borough in the late 60's – 70's. Councilman Witczak commented that Ralph used to play Santa Claus in the town and that some of the present council members may remember that.

DISCUSSION:

**-Draft "Solar Panels-Permitted Accessory Use" Ordinance
Chuck McGroarty-Borough Planner**

Mr. McGroarty presented to the governing body the major points addressed in the draft ordinance before them and how the planning board and engineer worked with issues of ground mounting vs. roof mounting, size, keeping the historic nature of the town, and lot or impervious coverage to name a few. It was mentioned that some towns do not regulate solar panels. During discussion it was stated that 'size' was not imposed or a standard set in this draft and concerns with ground mounted solar panels was noted. Councilman Sharkey commented that in keeping with the historic nature of our town, the draft ordinance does state that the solar panels need to be invisible from the street to the extent possible.

Councilman Badal questioned the use of the word "reasonable" in this draft and considered that to be subjective. Mr. McGroarty responded that this word was recommended by the Board Attorney. Councilman Sharkey referred to the ordinance section (f) and quoted 'not visible from road' but questions and the concerns on ground mounted solar panels were still apparent. A reasonable distinction between large lots vs. smaller lots suggested as a consideration. Mr. McGroarty will bring concerns and comments back to the planning board with respect to ground mounted solar panels, Mendham Commons location as a potential for a solar field, and solar panels on utility poles.

Mayor Henry asked for public comments:

Frank Lupo, 17 Dean Road, questioned the pole mounted solar panels by PSE&G. Mr. McGroarty commented that the public right of way was not considered or regulated by this ordinance. Atty. Semrau will research 'use of public right of ways' and report back.

Further concerns over ground mounted solar panels and solar fields were expressed.

Laurie Felber expressed concerns over trees being cut down for solar panels and recommended a strong tree ordinance.

Mr. McGroarty briefly addressed the setbacks and noise and a wind ordinance. It was questioned and responded to that solar and wind can be combined into one ordinance.

ORDINANCE INTRODUCTION:

**ORDINANCE #6-13
ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY AMENDING THE BOROUGH
CODE, CHAPTER 215 "ZONING", ARTICLE I "TERMINOLOGY,"
SECTION 215-1 "WORD USAGE AND DEFINITIONS," SUBSECTION B
"DEFINITIONS," DEFINITION OF "FRONT YARD**

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

**ORDINANCE #6-13
ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY AMENDING THE BOROUGH
CODE, CHAPTER 215 "ZONING", ARTICLE I "TERMINOLOGY,"
SECTION 215-1 "WORD USAGE AND DEFINITIONS," SUBSECTION B
"DEFINITIONS," DEFINITION OF "FRONT YARD**

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 June 3, 2013 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.

Ord. #6-13: (Cont'd.)

Motion to introduce Ordinance #6-13 was made by Councilman Sharkey
Seconded by Councilwoman Daly

Discussion: Atty. Semrau gave an overview of the reasoning behind the introduction of this ordinance. He briefly summarized that the reconstruction of steps of a residence is not included in the setback requirement, but an awing is included in the measurement of a setback.

Currently the Zoning Officer could not issue a permit for our resident under the present code. Atty. Semrau has met and discussed this with Board of Adjustment Atty. Tom Germinario and Borough Engineer Paul Ferriero. For the record, Atty. Semrau did say that Paul Ferriero did resist making a change for one resident. Atty. Semrau commented that this change could benefit other residents as well.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE ADOPTION:

ORDINANCE #4-13

**AN ORDINANCE OF THE BOROUGH OF MENDHAM TO AMEND
ORDINANCE 21-99, “AN ORDINANCE OF THE BOROUGH OF MENDHAM
TO CREATE A LENGTH OF SERVICE AWARDS PROGRAM”**

(A copy of Ordinance #4-13 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 #4-13

**AN ORDINANCE OF THE BOROUGH OF MENDHAM TO AMEND
ORDINANCE 21-99, “AN ORDINANCE OF THE BOROUGH OF MENDHAM
TO CREATE A LENGTH OF SERVICE AWARDS PROGRAM”**

Motion to adopt Ordinance #4-13 was made by Councilman Badal

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE ADOPTION:

ORDINANCE #5-13

**AN ORDINANCE OF THE BOROUGH OF MENDHAM TO INCREASE THE BASE OF
CONTRIBUTIONS TO THE LENGTH OF SERVICE AWARDS PROGRAM (LOSAP)**

(A copy of Ordinance #5-13 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.

Ord. #5-13: (Cont'd.)

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

ORDINANCE #5-13

AN ORDINANCE OF THE BOROUGH OF MENDHAM TO INCREASE THE BASE OF CONTRIBUTIONS TO THE LENGTH OF SERVICE AWARDS PROGRAM (LOSAP)

Motion to adopt Ordinance #5-13 was made by Councilman Badal

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

ACTIONS TO BE TAKEN:

Res. #63-13 Refund Erroneous Property Tax Payments- B1704/L14-8 Franklin Road

Motion to adopt Resolution #63-13 was made by Councilman Witczak

Seconded by Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #64-13 Award Contract-QC, Inc.,-Perform Sampling/Testing of monitoring wells WRF

Motion to adopt Resolution #64-13 was made by Councilman Witczak

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #65-13 Fireworks Approval-Roxiticus Golf Club-6/1/13/RD 6/2/13

Motion to adopt Resolution #65-13 was made by Councilman Andrus

Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #66-13 Reject Bids–DPW Generator Installation Project

Atty. Semrau reported that after discussing this with Borough Engineer

Paul Ferriero it was determined that the bidder would be put on notice and given time to cure the defect. This will be addressed at the next meeting.

Motion to table Resolution #66-13 was made by Councilman Garubo

Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ADMINISTRATOR REPORT: (Written report circulated before the meeting to the Council)

Administrator Sandman reported on the attendance at the 'Everbridge' Social Media class by one of our police officers. It was recommended that another officer also be trained so that there will be 24/7 coverage. Ms. Sandman further reported on the upcoming painting of the concrete street pillars and the purchase of the paint by the DPW Superintendent. Councilman Andrus asked about the status of the paving of the streets. The Administrator explained that there will be an ordinance introduced to include Park Avenue. Mayor Henry asked about the paving schedule and the projected completion of the roads.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Witczak reported that the lawns are being cut and the hiring of additional summer help to offset the 1 vacant full time position at the DPW is ongoing. Mr. Witczak further commented that a shared service is working out well. He noted the DPW "Open House" this coming Saturday along with the Shred/Electronics Day program.

Laurie Felber, Environmental Commission Chair, reported that he members of the EC commission volunteer their time to the Shred/Electronic program along with Mendham Township members. She reported on the success of the stream clean up and the 'friends of Rachael' program. The tree seminar had a low turn out due to conflict in scheduling.

Ms. Felber noted that Rutgers has informed her that the Borough 'traffic assessment' will be ready by May 31st.

Ms. Felber is working on getting a bulk price offer for residents to purchase a 'food recycle composter'.

Councilman Witczak further noted that the fishing derby was well attended and volunteers from Fire, First Aid, PD, and Pastime Club were all present. The basketball courts will be resurfaced by the end of the week and the volley ball court was upgraded today.

Councilman Garubo reported that summer day camp will be going to the Tennis Court pool and the agreement reached will work well. The possible use next year of the Chester Borough pool and day camp was discussed briefly.

Councilwoman Daly reported work on the 2013 salaries in progress.

Chief Libertino reported reviewing with the County the Radio Dispatch Service agreement. The increase of \$1,349 (1.25%) in the agreement this year was for additional radios added by the First Aid Squad.

Chief Libertino shared the information and procedures that will be followed regarding the installation of a secured box at Police headquarters where the public can drop off their expired/unused prescription medications. This procedure has been approved by the Morris County Prosecutor's office.

ATTORNEY ITEMS:

Atty. Semrau reported on a sign ordinance issue. After discussion with our Zoning Officer and the Administrator he will prepare a response and summary finding for discussion during executive session at the next meeting.

Mr. Semrau has a shared services matter regarding a municipal court to discuss in closed session.

MAYOR'S ITEMS:

Mayor Henry reported that Mr. Marion is waiting for an answer from Mendham Township regarding the high school funding formula study. The Mayor thanked the Police, Fire, and First Aid for their efforts with the Emergency Services Open House.

PUBLIC COMMENT: There were no public comments.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated May 6, 2013
Motion to approve the May 6, 2013 bill list was made by Councilman Witczak
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

EXECUTIVE SESSION:

Res. #67-13 Executive Session-Personnel/Atty. Client Privilege/Contract Negotiations

Motion to approve Resolution #67-13 was made by Councilman Sharkey
Second by Councilman Badal
Discussion: None
Roll Call - the vote was unanimous as follows:
In favor: Garubo, Badal, Witczak, Andrus, Sharkey, Daly
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 9:45P.M. next to convene At the Regular Meeting on May 20, 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