

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

CALL TO ORDER

Mayor Henry called the August 15, 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, 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 Stanley Witczak
Councilman John Andrus
Councilman David Sharkey
Councilwoman Veronica Daly
Also present: Fred Semrau, Esq.
Ellen Sandman, Administrator
Maureen Massey, Borough Clerk
Absent: None

CONSENT AGENDA:

Approval of the minutes of the Regular Session Meeting of 7/18/11*
Approval of the minutes of the Executive Session Meeting of 7/18/11
Social Affairs (Catering/Extension of Premises) Permit-Mendham Boro Fire Dept. 10/8/11
Request For Road Closure-9/10/11-Garabrant/Mountain/Gunther-4:00PM-11:00PM
(Block Party)
Request For Road Closure-9/10/11-25/35 Franklin Road-4:00PM-11:00PM
(Block Party) RD 9/11/11
Request For Road Closure-9/17/11-Forest Drive-4:00-9:00PM (Block Party)
(*Councilman Sharkey made a correction to the 7/18/11 regular minutes. He requested a correction to his vote on a motion for conditional approval of an Application/Permit Temporary Freestanding Sign:Hidden Pond Farm-Chris Nicholson (Main St. /West Field Rd.) from 'in favor' to 'abstain'. The Clerk apologized and the minutes will be corrected as requested.

Motion to approve the consent agenda was made by Councilman Badal
Seconded by Councilwoman Daly
Discussion: None
Roll Call – the vote was as follows:
In favor: Badal, Witczak, Andrus, Sharkey, Daly, Garubo
Opposed: None
Abstain: None
Absent: None

DISCUSSION:

Resolution #93-11-Refund Camp Fee-K. Walsh:

Mayor Henry summarized the above request and noted that he had no issues with refunding this camp fee. A resolution was prepared and attached to this agenda. The Mayor asked if there was any disagreement with the adoption of this resolution and hearing none he asked for a motion.

Motion to adopt Resolution #93-11 was made by Councilman Witczak
Seconded by Councilman Andrus
Discussion: There were no further comments.
Roll Call – the vote was as follows:
In favor: Daly, Garubo, Badal, Witczak, Andrus, Sharkey
Opposed: None
Abstain: None
Absent: None

Facility Use Agreement-Gazebo-Miriam/Joshua Rosenberg:

-Entertainment-Solicitation of Contribution/Products

Mayor Henry noted that this was not a “for profit request” and commented that it has been the policy of the Borough to deny such requests for use of Borough facilities. The Mayor asked the Council for any further comments or objections and hearing none called for a motion.

Attorney Semrau clarified in order to have a ‘for profit’ event, the Borough would have to put this out for bid to be certain everyone has an opportunity to use the Borough owned land.

Motion to deny the Facility Use Request for the Borough Park Gazebo by Miriam/Joshua Rosenberg due to this being a “for profit request” was made by Councilman Andrus
Seconded by Councilman Garubo

Discussion: There were no further comments.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE INTRODUCTION:

ORDINANCE #5-11 (Tabled @7/18/11 Mtg.)

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 206, VEHICLES AND TRAFFIC, ARTICLE XIV, SCHEDULES, SECTION 206-43, SCHEDULE I, NO PARKING, AND SECTION 206-44, SCHEDULE II NO PARKING CERTAIN HOURS, OF THE CODE OF THE BOROUGH OF MENDHAM

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 **September 6, 2011** 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 approve the introduction of Ordinance #5-11 was made by Councilman Badal
Second by Councilman Garubo

Discussion: A map of the cited location was given to Councilmembers for review. There was no further discussion.

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE PUBLIC HEARING/ADOPTION: None

ACTIONS TO BE TAKEN:

Res. #94-11 Renewal Membership MCMJIF (Morris Cty. Mun. Jt. Ins. Fund)

Motion to adopt Resolution #94-11 was made by Councilman Andrus

Seconded by Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #95-11 License Agreement-Borough/ASCAP (American Society of Composers/Authors/Publishers)

Motion to adopt Resolution #95-11 was made by Councilwoman Daly
Seconded by Councilman Garubo

Discussion: There were questions posed with regard to why the Borough needs to enter into this agreement, increases in the annual fee going forward, the availability of what songs, and copyright protections. Atty. Semrau commented that this has been coming for awhile now and just recently this was sanctioned by the New Jersey League of Municipalities as an agreement for all municipalities for their protection. It was also noted that the Joint Insurance Fund will be consulted with regard to the possibility of adding this protection for all its members through their coverage. Administrator Sandman was requested to contact this Society for a list of songs that can be utilized by the Borough under this agreement and to follow up with the JIF for possible future coverage.

Roll Call – the vote was as follows:

In favor: Witczak, Andrus, Daly, Garubo

Opposed: Badal, Sharkey

Abstain: None

Absent: None

Res. #96-11 Sanitary Sewer Application-B2701/L5-5 Cold Hill Road

Motion to adopt Resolution #96-11 was made by Councilman Badal
Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #97-11 Salary Non-Contractual Borough Employees

Motion to adopt Resolution #97-11 was made by Councilwoman Daly
Seconded by Councilman Garubo

Discussion: The question of Judge Troxell's raise and Mendham Township contributing 50% was discussed. There was no clear response. The Administrator will contact the Steve Mountain Mendham Township Administrator to discuss this increase and the 50/50 split between municipalities. Council asked that the agreement for the 50/50 share of all Court expenses and the salary of the Judge be reviewed and outlined by the Administrator and made available for Council. It was decided not to condition this approval on whether or not the Township agrees to the 50/50 split for the monetary compensation for the Magistrate position. Approval of this resolution will be as it is introduced with the understanding that the Township/Borough agreement is made clear and available to the Council. Councilman Sharkey requested and felt that the employees should be made aware of the amount of money the Borough allocates for pension and health benefit contributions. Councilman Sharkey stressed that employees should consider these contributions toward their benefits to be a part of their yearly compensation in conjunction with their salary. Councilwoman Daly commented that the evaluation of employees should begin at the beginning of the year and before the adoption of a budget.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #98-11 Salary Public Safety-Class 3 Employees

Motion to adopt Resolution #98-11 was made by Councilman Badal
Seconded by Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: Andrus

Absent: None

ADMINISTRATOR REPORT:

Bids were received for the Co-op Building Basketball Courts Resurfacing Project and discussion was held regarding the significant difference between the bids received and the estimated costs provided prior by the Borough Engineer. In an effort to reduce the cost, Ken O'Brien, DPW Superintendent was asked if the milling could be completed by his department. Mr. O'Brien responded that the Borough does not have the equipment to do this type of milling.

Ken O'Brien noted that there will be monies available from the removal of Pleasant Valley Road from the overlay project which will now be completed in conjunction with the Township and grant money.

Administrator Sandman addressed items from her written report with regard to the progress on the sign ordinance and comments received from our new Planner; Atty. Robert Beinfield's lengthy response to Councilman Andrus' question on the "hard call rate" on the last bond sale had been distributed and noted; scheduling of a joint Borough/Township DPW meeting with the shared services ad hoc committee; September 24th Mr. Charles Topping will submit historical artifact for the newly installed cabinet at Police Headquarters-all were invited; and single stream recycling. Administrator Sandman requested Superintendent O'Brien to address the Council with regard to this new feature and the benefits.

Mr. O'Brien asked for Council consent to agree and bring this new feature to the Borough. The Council was in agreement and Superintendent O'Brien hopes this can be put into effect by the next recycling date.

It was noted that there was a demonstration in the Borough at the home of a Verizon executive. It has been determined that a formal and larger demonstration has been scheduled for Thursday. Police Chief Taylor and Atty. Fred Semrau are in discussions to balance public safety with the rights of citizens to assembly and demonstrate.

Councilman Badal noted that an ordinance was discussed but not considered at an earlier meeting with regard to demonstrations and rally's held in the Borough. It had been decided the Borough will handle it on a case by case situation and not by ordinance.

In conclusion the Administrator noted that the Public Safety Committee meeting had to be rescheduled and new guidelines for the deer program have been discussed.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilwoman Daly reported on that the committee is addressing a personnel issue.

Councilman Garubo commented on the need for a plan for repair of the tennis courts. It was noted by the Councilman that for two Sundays in a row the concerts in the park had to be cancelled due to the weather and that plan for the Labor Day parade are ongoing.

Councilman Sharkey reported on the continuing review and amending of the Borough's sign ordinance presently with the assistance of the new planner Mr. McGroarty.

Councilman Andrus noted that the gas/diesel fuel budget is low and commented that consideration by Council should be given to raising the amount charged for gas on special duty police assignments.

ATTORNEY ITEMS:

Attorney Semrau reported that he would like to discuss in executive session at the next meeting the cable renewal franchise agreement (Comcast). Once it has been reviewed and discussed by the Council it will be shared with the public and Mendham TV.

MAYOR'S ITEMS:

Mayor Henry will be meeting with Borough Engineer Paul Ferriero on our sanitary sewer allocation.

The Mayor reported that he will be meeting with the three mayors (Chester Twp., Chester Borough and Washington Twp.), the County Business Administrator to discuss the funding formula with regard to West Morris Regional HS. Mayor Henry further stated that in January he will meet with Senator Bucco to discuss legislation to correct the inequities in this formula.

PUBLIC COMMENT: There were no public comments made.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated August 15, 2001

Motion to approve the August 15, 2011 bill list was made by Councilman Andrus

Mayor Henry removed the concert checks due to cancellations. He requested the Administrator to hold until it can be verified that both checks are to mailed but would not hold the approval of the voucher list.

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

EXECTUIVE 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 9:40 P.M. next to convene at the Regular Meeting on September 6, 2011 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk