

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

CALL TO ORDER

Mayor Neil Henry called the August 3, 2009 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 Witczak
Councilman David Murphy
Councilman Stephen Carr
Councilman Louis Garubo
Councilman Brad Badal

Also present: Fred Semrau, Esq.
Connor Monahan, Student Representative

Absent:: Council President John Andrus
Ellen Sandman, Administrator

CONSENT AGENDA:

Approval of minutes of the Regular Session meeting of July 6, 2009
Approval of minutes of the Executive Session meeting of July 6, 2009
Raffle App-Assumption College-11/29/09-50/50 Off-Premise-Cash Raffle
Res. #116-09 Approval Fireworks-Pastime Club-Labor Day
Request For Road Closure – Garabrant-Mtn. Ave.-Gunther-9/12/09
Raffle App-Sisters of Christian Charity-10/17/09-On-Premise Draw Raffle

Mayor Henry asked if any member of the Council or any member of the public wished to have any item removed from the Consent Agenda. No requests were made.

Councilman Badal requested that the "Request For Road Closure" form included the hours of the closure. The Borough Clerk will revise and post the form.

Motion to approve the Consent Agenda was made by Councilman Murphy
Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

In favor: Murphy, Carr, Garubo, Witczak, Badal

Opposed: None

Abstain: None

Absent: Andrus

Mayor Henry read Resolution #117-09 aloud for the public. Mayor Henry commented that the goal of the Borough Council is to promote financial stability by managing debt. A capital improvement project plan was created and has been instrumental in managing major projects and Borough debt, as the governing body has worked hard to adhere to the plan as close as possible.

Mayor Henry noted that he met with Mendham Township Mayor Frank Cioppettini, Township Administrator Steve Mountain and Borough Administrator Ellen Sandman. At this meeting Mayor Cioppettini asked that the Borough advise him and the Township committee by July 15th if the Borough wanted to continue to pursue a joint library on the Pitney property. An executive session with the Council was held on July 6th, where the consensus was to withdraw from the joint library project. On the advice of the Borough Attorney, formal action will be taken this evening with the adoption of Resolution #117-09.

The Mayor cited from the Master Plan, major facility projects the Borough would be addressing in the coming years, for example the Public Works facility, Fire House, First Aid facility, Garabrant Center and Phoenix House; purchase of a new ladder truck for the Fire Department. The projected renovations, additions and equipment purchases will be monumental tasks and expensive.

It was further noted by the Mayor that the Borough has already been notified of significant increases for the 2010 budget for pension and health benefits.

Mayor Henry opened the meeting to public comments.

David Bailen, Brookside-Mendham Twp.- commented on consolidation as necessary for both the Borough and the Township. He cited an open offer in 2004 for consolidation of police services. Mayor Henry noted for the record, in response to Mr. Bailen's comment, in 2004 there was an open offer for discussion on contracting of police services. Mayor Henry further commented that shared services are part of the open dialogue he continues to have with Mayor Cioppettini. Mayor Henry noted that the two towns share a Municipal Court and that dispatching services and the position of construction code official could be "low lying fruit" which could potentially be reviewed.

Craig Bellamy, 6 Garabrant Street, voiced his support for Resolution #117-09 and would like to keep Borough funds and control in this town.

Frank Lupo, 17 Dean Road, commented that he is also in support of Resolution #117-09 and believes libraries to be a thing of the past with all the information available on-line.

Rick Blood, 32 Tenny Road-Brookside-Mendham Township expressed his disappointment that this will not be a joint venture which he has been working towards with the formation of LOTM (Library of the Mendhams) for many years. He noted that this project will be built with private funds and will not be completed for up to 10 years from now which gives the economy time for recovery. Building at the Pitney site in the Township would lower the site work cost. Finalizing, knowing that the Council would probably adopt Resolution #117-09, he extended his appreciation for the Borough's time and effort working with LOTM.

Mayor Henry responded that there was no support on the Council to move forward and this was a unanimous consensus. Conversations with Borough residents concluded that they liked the present library located in the town center and next to the schools so the children could walk there. Expanding the present library was a suggestion made by Borough residents.

Michael Ackerman, 58 Cold Hill Road, thanked the Mayor and Council for the research involved in their decision. He concluded that the County Library was available to all Borough residents.

Betsy Bellamy, 6 Garabrant Street, expressed her support for the Council and for Resolution #117-09 and noted that the Chester Library was also available to all Borough residents.

Boy Scout Connor Brady, 8 Loryn Lane, commented that he liked the Borough Library and saw no need for a new one.

Marian Mundy-Hooper, 13 Pembroke Drive, shared information regarding in-depth studies on the expansion and building of libraries contrary to Mr. Lupo's comment that they are a thing of the past. She concluded that in summary they were still considered to be active-vibrant centers of information, community hubs, and preserve our heritage.

Mayor Henry responded that in 2008 approximately \$190,000 was allocated to support the Mendham Borough library and this figure could increase going forward.

Richard Moore, 13 Aberdeen Drive, commented that the present Borough library has limited parking and access. Mayor Henry commented that these restrictions could be combined with the Borough's future priorities.

Charles Topping, 13 Aberdeen Drive, commented that there has been approximately \$100,000 worth of artifacts given to the Borough and would like to see suitable space allocated for public viewing in the form of a Borough museum.

Peter Dumerick, Mendham Township, commented that the Borough Council is responding to the current economic situation and shows interested-dedicated people making a touch decision. He applauded the Mayor and Council.

Mayor Henry commented that the Council made a decision on behalf of the residents of the Borough. He further commented that the Mayor and Council have a big responsibility when it comes to managing taxpayer dollars which they take seriously.

The public comment session was closed.

Atty. Semrau commented that Resolution #117-09 will end a long history with regard to the building of a joint library. He suggested that the a minor amendment be made to the last paragraph to include wording that will be all inclusive of any and all agreements between the Borough and the Township.

Res. #117-09 Joint Library-Mendham Township
(A copy of Resolution #117-09 is attached to these minutes)
Motion to approve Resolution #117-09 with minor revision (“...all agreements relating to a joint library with the Township of Mendham”) was made by Councilman Murphy
Second by Councilman Garubo
Discussion: None
Roll Call - the vote was as follows:
In favor: Witczak, Murphy, Garubo, Badal, Carr
Opposed: None
Abstain: None
Absent: Andrus

Mayor Henry called a 5 minute recess.
Council returned to open session.

DISCUSSION ITEMS: None

ORDINANCE INTRODUCTION:

ORDINANCE #12-09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 168, SEWERS, OF THE CODE OF THE BOROUGH OF MENDHAM WITH THE ADDITION OF ARTICLE IX, ENTITLED, “FERTILIZERS, APPLICATION OF”

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

ORDINANCE #12-09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 168, SEWERS, OF THE CODE OF THE BOROUGH OF MENDHAM WITH THE ADDITION OF ARTICLE IX, ENTITLED, “FERTILIZERS, APPLICATION OF”

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 8, 2009(Tuesday)** 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 by Councilman Badal
Second by Councilman Carr

Discussion: Atty. Semrau noted that this is the model ordinance, with minor adaptations, mandated by the DEP (Department of Environmental Protection) for adoption by the Borough. Failure to do so would result in monetary fines. Atty. Semrau concluded that

Ordinance #12-09: (Cont'd.)

this ordinance will be codified in the Borough Code under "Sewers". The section numbers may change before adoption if it is determined that this would be better placed under a different chapter in the Borough Code. This would not be a substantive change and would not impact the adoption of this ordinance. Atty. Semrau will request the Borough Engineer to attend and summarize this ordinance at the next meeting.

Roll Call-the vote was as follows:

In favor: Garubo, Badal, Witczak, Murphy, Carr

Opposed: None

Abstain: None

Absent: Andrus

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #11-09

**AN ORDINANCE CONCERNING SALARIES FOR OFFICERS
AND EMPLOYEES OF THE BOROUGH OF MENDHAM**

Was published in full in the Observer Tribune.

(A copy of Ordinance #11-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #11-09. There were no comments from the public.

The public hearing was closed.

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

ORDINANCE #11-09

**AN ORDINANCE CONCERNING SALARIES FOR OFFICERS
AND EMPLOYEES OF THE BOROUGH OF MENDHAM**

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 approve by Councilman Carr

Second by Councilman Badal

Discussion: None

Roll Call-the vote was as follows:

In favor: Garubo, Badal, Witczak, Murphy, Carr

Opposed: None

Abstain: None

Absent: Andrus

ACTIONS TO BE TAKEN:

Res. #110-09 Establishing 2009 Employee Salaries(Non-Contractual)

(A copy of Resolution #110-09 is attached to these minutes)

Motion to approve was made by Councilman Murphy

Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

In favor: Murphy, Carr, Garubo, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus

Res. #111-09 Establishing 2009 Police Salaries (Non-Contractual)

(A copy of Resolution #111-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

In favor: Murphy, Carr, Garubo, Badal

Opposed: Witczak

Abstain: None

Absent: Andrus

Res. #112-09 Approve Sanitary Sewer Application- B1501, L1

(A copy of Resolution #112-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

In favor: Carr, Garubo, Badal, Witczak, Murphy

Opposed: None

Abstain: None

Absent: Andrus

Res. #113-09 Execute Deed Restriction -106 Mendham LLC (COAH Rental)

(A copy of Resolution #113-09 is attached to these minutes)

Motion to approve was made by Councilman Carr

Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

In favor: Garubo, Badal, Witczak, Murphy, Carr

Opposed: None

Abstain: None

Absent: Andrus

Res. #114-09 Appointment of Members-Jt. Emergency Mgmt. Council

(A copy of Resolution #114-09 is attached to these minutes)

Motion to approve was made by Councilman Murphy

Second by Councilman Carr

Discussion: None

Roll Call - the vote was as follows:

In favor: Badal, Witczak, Murphy, Carr, Garubo

Opposed: None

Abstain: None

Absent: Andrus

Res. #115-09 Approve Sanitary Sewer Application- B 601, L2

(A copy of Resolution #115-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

In favor: Witczak, Murphy, Carr, Garubo, Badal

Opposed: None

Abstain: None

Absent: Andrus

Res. #118-09 Award Bid WRF Upgrade

(A copy of Resolution #118-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

In favor: Murphy, Carr, Garubo, Badal, Witczak

Opposed: None

Abstain: None

Absent: Andrus

ADMINISTRATOR REPORT:

Administrator Sandman was not present at this meeting. An administrator's report was submitted to the Mayor and Council prior to this meeting.

Mayor Henry asked the Council if they had any action or follow items with regard to the Administrator's report.

Councilman Badal referred to item #1 of the report and asked what the intention is with regard to signage at this site. It was noted that property signs would prevent crossing the neighboring private property. Administrator Sandman will be consulted.

Mayor Henry mentioned that Connor Brady is looking for a Boy Scout Eagle project, and will pass the on to the Borough Administrator. It was further noted that the Administrator is working on the lot survey and seeking grant money for work on the rock wall.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Badal reported that on Sunday there were 3 DPW workers dealing with the downed trees and flooding. Part of Drake Road was washed away. DPW Superintendent Ken O'Brien scheduled work on Drake Road for tomorrow. The brush program is going well with approximately 100 calls for pick up, per month. A good job-site survey report was received from the Morris County Municipal Joint Insurance Fund after observing the Borough's DPW work crew. Mayor Henry noted receiving a letter from a resident extending a thank-you to the DPW employees for a good job done.

Councilman Murphy reported that there will be an upcoming public safety meeting and requested that Atty. Semrau attend. The Councilman commented that the "no parking signs" for the Borough employees need to be reinstalled and creative ways of accomplishing without affecting the new rock wall and Phoenix House Garden are being discussed.

Councilman Garubo reported that day camp attendees have risen by 10% this year. The viewing of the movies in the park and concerts due to rain has been a problem this year. The Recreation Director is trying to organize a back to back concert with the two bands for the Sunday. The Labor Day Parade plans are going well.

Mayor Henry, on behalf of himself and the Council, thanked and wished Connor Monahan good luck in College.

Connor Monahan, Student Representative, commented from a student's prospective that the joint library was a good idea but with respect to the expense he noted a student does not pay taxes.

Councilman Carr reported that an Ad Hoc Committee meeting will be held to discuss the highlands and state plan endorsement, formulating a recommendation to the Mayor and Council.

Councilman Witczak recommended that Zoning Officer Geoff Price notify the Council on issues involving temporary signs.

ATTORNEY ITEMS:

Atty. Semrau reported that he has met with Land Use Coordinator, Diana Callahan to review the data, information and analysis of the modules necessary for a decision on the highlands. He will push the professionals to give a preliminary recommendation to the Council in September. He further reported receiving a modified proposal and cost estimate for Phase II from Comp Comm. The cost estimate is within the balance remaining that was originally set aside for the DAS evaluation.

Atty. Semrau briefly outlined the next steps toward reassessment of the Borough. A proposal for services and signing of a contract will be the next step. Atty. Semrau expects the new assessments to be completed in mid-November. Meetings between the residents and reassessment teams would then be scheduled for any resident with questions.

MAYOR'S ITEMS:

Mayor Henry complimented the work done on the Master Plan. The Master Plan is on the Borough's web page.

PUBLIC COMMENT:

Jacke Schram, 2 Melrose Lane, asked is the revaluation would be effective January, 2010. She was asked to call and confirm with the Tax Assessor, Scott Holzauer.

Public Comment: (Cont'd.)

Roger Nettune, 18 East Main Street, was present with three (3) of his employees who asked for help with the lack of parking for themselves and their patients and safety issues of walking to their cars behind the fire station in the dark and ice and snow covered walkways in the Winter months. The parking of Audi employee in the lot behind Dr. Nettune's office, the restriction of street parking and the limited parking the Borough was addressed by Councilman Murphy. Kathy Mongo, employee, suggested allowing them to park in the first responders parking spots as they would be willing to move their cars as the siren goes off. Issuing of permits to the employees was another suggestion. Councilman Badal commented that permits could not be issued only to Dr. Nettune's employees.

Carol Brady, 8 Loryn Lane, commented on all the parking spaces allotted for Fire and First Aid responders on Election Day.

Lucy Monahan, 78 Drake Road, commented on the enhanced and rapid response of the DPW employees. She mentioned that the contractors who worked with the Borough employees spoke highly of them. She thanked the Council on behalf of the Garden Club for their financial support for the Phoenix House Garden. She further commented on the new and improved web page and the hard work on a limited budget of Recreation Director Bruce DiBisceglie.

Barbara Nelson, 10 Horseshoe Bend Road, commented on the condition of a property previously known as 'Mariques French Restaurant' now owned by PNC Bank. The property needs to have the grass cut and the cars for sale removed. Mayor Henry noted that the present property maintenance code is under much needed review for revision. It was suggested that a call be placed to PNC and a letter also be sent regarding the poor conditions of this property. Atty. Semrau will discuss with the Administrator and the Zoning Officer.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated August 3, 2009

Motion to approve by Councilman Garubo

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was unanimous as follows:

In favor: Garubo, Badal, Witczak, Murphy, Carr

Opposed: None

Abstain: Councilman Badal did not approve check #1022 (Misc. Bill List) and #002038 (Current Account)

Absent: Andrus

EXECUTIVE SESSION: No executive session 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, the meeting was adjourned at approximately 9:55 P.M. next to convene at the Regular Meeting to be held on September 8, 2009 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk