

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

CALL TO ORDER

Council President Andrus called the October 19, 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

Council President Andrus 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

Councilman Stanley Witczak
Council President John Andrus
Councilman David Murphy
Councilman Louis Garubo

Also present: Fred Semrau, Esq.
Ellen Sandman, Administrator

Absent: Mayor Neil Henry
Councilman Stephen Carr
Councilman Brad Badal

CONSENT AGENDA:

Approval of the minutes of the Regular Session meeting of September 21, 2009
Approval of the minutes of the Regular Session meeting of October 5, 2009 (Tabled)
Res. #140-09 Refund Overpayment Taxes- 2nd Quarter, 2009

Council President Andrus 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.

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: Witczak, Andrus, Murphy, Garubo

Opposed: None

Abstain: Cm Witczak abstained from the approval of the October 5, 2009 minutes. This item will be tabled to the next meeting. The number of members present did not sustain a vote.

Absent: Carr, Badal

DISCUSSION ITEMS:

Proclamation:

- Pink Ribbon – Breast Cancer (Jason B. Fowler)

Council President Andrus read aloud a proclamation supporting breast cancer awareness and the tying of pink ribbons in the Borough of Mendham.

Mr. Fowler was present at this meeting and thanked the Mayor and Council for their support.

ORDINANCE INTRODUCTION:

ORDINANCE #15-09

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 102,
FEES, AND CHAPTER 124, LAND USE PROCEDURES,
SECTION 124-26E OF THE “CODE OF THE BOROUGH OF MENDHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY” TO AMEND
DEVELOPMENT FEES**

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

ORDINANCE #15-09

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 102, FEES, AND CHAPTER 124, LAND USE PROCEDURES, SECTION 124-26E OF THE "CODE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY" TO AMEND DEVELOPMENT FEES

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 November 16, 2009 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 Garubo

Second by Councilman Murphy

Discussion: None

Roll Call-the vote was as follows:

In favor: Garubo, Andrus, Murphy, Witczak

Opposed: None

Abstain: None

Absent: Carr, Badal

ORDINANCE PUBLIC HEARING/ADOPTION: None

ACTIONS TO BE TAKEN:

Res. #141-09 Sanitary Sewer Connection App-B301-L35-La Pergola, Inc.

(A copy of Resolution #141-09 is attached to these minutes)

Motion to approve this resolution was made by Councilman Murphy

Second by Councilman Garubo

Discussion: It was noted that this is a denial of this application.

Roll Call - the vote was as follows:

In favor: Witczak, Andrus, Murphy, Garubo

Opposed: None

Abstain: None

Absent: Carr, Badal

Res. #142-09 Endorsement "Green acres, water supply & floodplain protection & farmland and historic preservation bond act of 2009"

(A copy of Resolution #142-09 is attached to these minutes)

Motion to approve this resolution was made by Councilman Murphy

Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

In favor: Andrus, Murphy, Garubo, Witczak

Opposed: None

Abstain: None

Absent: Carr, Badal

Res. #143-09 Comp Comm/STM COMM, LLC -DAS System-C. Malone

(A copy of Resolution #143-09 is attached to these minutes)

Motion to approve this resolution was made by Councilman Murphy

Second by Councilman Garubo

Discussion: It was noted that this expenditure is part of the original proposed price. This resolution defines the Borough request for an evaluation of the viability of a Distributed Antenna System (DAS) in the Borough, in an amount not to exceed \$2,500.00 and in accordance with the firm's proposal dated October 16, 2009.

Roll Call - the vote was as follows:

In favor: Murphy, Garubo, Witczak, Andrus

Opposed: None

Abstain: None

Absent: Carr, Badal

Res. #144-09 BEMS Landfill Litigation/Non-Binding Settlement

(A copy of Resolution #144-09 is attached to these minutes)

Motion to approve this resolution was made by Councilman Garubo

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

In favor: Garubo, Witczak, Andrus, Murphy

Opposed: None

Abstain: None

Absent: Carr, Badal

ADMINISTRATOR REPORT:

Administrator Sandman commented that a sewer adjustment for seniors will be discussed at the committee level as soon as possible and the results will be addressed at the next Council meeting. Ms. Sandman noted that the Borough Attorney will address the pavement assessment program in regard to Bridge Street and the budget meeting dates were confirmed but the location for the December meeting will be made firm after checking with the availability of the Fire House meeting room.

Councilman Andrus requested that the Finance Committee meet prior to the first budget meeting for a review of questions and concerns.

Administrator Sandman announced that our Health Officer, Lucy Forgione reported that the H1N1 vaccine will be given to Fire, Police and EMS workers this Wednesday.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Garubo reported concerns expressed by residents Peter and Charles Rowe who own and operate a working farm located at 63 East Main Street on the introduction and of Ordinance #14-09. This ordinance amends the Historic District Overlay Zone to include their property. Administrator Sandman responded that they were presently attending the Historic Preservation meeting at the Phoenix House and will be here by the public portion of this meeting to speak.

Councilman Andrus thanked CFO Sue Giordano for the additional explanations of items on the bill list. He questioned a voucher for police equipment and the date it was signed by the vendor. Administrator Sandman explained that the work on the police cars was delayed but would obtain the information requested and get back to Councilman Andrus. A request was made by the Council to hold payment until the usual net 30 days.

Councilman Murphy reported that interviews for a new police officer will be held in executive session at the next two meeting. He further recommended that due to a recent request to use the Fire House and subsequent conflict, that this location be included in the facility use procedure in place for other Borough locations.

ATTORNEY ITEMS:

Atty. Semrau reported that a letter of explanation regarding the Historic District change will be sent by the Mayor and the preparing of a sewer allocation ordinance for introduction.

Administrator Sandman introduced and requested Mr. Chris Loeber, 3 Bridge Street for a short overview of the conditions of this street. Mr. Loeber reported that this is a private unimproved road. The Borough does snow plow and fill in potholes on this road. He further reported that the grading is thin; gravel is gone and when it rains it makes craters in the road.

Atty. Semrau explained that a letter to all the residents on this road would be sent to obtain whether or not there is an interest in improving the road. The residents can enter into a private contract and seek assistance from the Borough. A survey and bid spec preparation to improve the road to Borough standards would also be a cost to the residents. A second approach would be for the Borough to do the work and assume responsibility for the road and place a 10 year added assessment to the properties located on this street.

Attorney Items:(Cont'd.)

Council President Andrus concluded that Mr. Loeber talk to his neighbors about the options discussed. He further requested that the Public Works Committee discuss and the Borough Engineer visit the site and come up with a temporary resolution and report back to Mr. Loeber.

MAYOR'S ITEMS: Mayor was not present at this meeting.

PUBLIC COMMENT:

Craig Bellamy, 6 Garabrant Street, commented that the Fire Department did not deny the use of the Fire House for a blood drive for a Borough child, they suggested that it be combined with a previously scheduled one being sponsored by the Junior Women's Club.

Barbara Nelson, 16 Horseshoe Bend Road, reported on the cancellation of seasonal flu clinics. Administrator Sandman commented that she will contact Lucy Forgione for updates on availability and scheduling for both the seasonal and H1N1 flu.

Peter Rowe and Charles Rowe, 63 East Main Street, repeated the concerns expressed earlier by Councilman Garubo regarding the pending ordinance (#14-09) amending the Historic District Overlay Zone to include their property. They attended the Historic Preservation Committee meeting where their concerns were discussed to their satisfaction. Their major concern was the impact this ordinance would have on their maintaining their farm and doing business.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated October 19, 2009

Motion to approve by Councilman Garubo

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was unanimous as follows:

In favor: Garubo, Witczak, Andrus, Murphy

Opposed: None

Abstain: None

Absent: Carr, Badal

EXECUTIVE SESSION: 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 9:15 P.M. next to convene at the Regular Meeting to be held on November 2, 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