

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

CALL TO ORDER

Mayor Neil Henry called the October 5, 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

Council President John Andrus
Councilman David Murphy
Councilman Stephen Carr
Councilman Louis Garubo
Councilman Brad Badal

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

Absent: Councilman Stanley Witczak

CONSENT AGENDA:

Approval of Road Closure-Forest Dr.- 10/31/09-3:00PM-9:00PM
Res. #138-09 Special Item of Revenue

Mayor Neil 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.

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

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

DISCUSSION ITEMS:

Check for Tranquility Garden-Freeholder Director Gene Feyl:

Freeholder Jack Schrier presented a symbolic check in the amount of \$110,000 to Mayor Neil Henry representing open space funds from the Historic Preservation Trust Fund of Morris County for the open space acquisition of "Tranquility Garden" located at 34B East Main Street in the Borough of Mendham.

Debbie Miller GS Troop #892-Presentation:Haley Miller, Megan Reiling, Emily Niehoff:

Girl Scout Leader Debbie Miller briefly explained the project undertaken by Haley, Megan and Emily working for the Silver award in girls scouting. The brochure will be printed and made available to the public in Mendham Borough and Mendham Township. Mayor Henry read aloud a proclamation recognizing and expressing gratitude for a great project which will benefit the residents of the Borough.

2- Mile Walk-"Do It For Doyle": (November 1st)

Mr. and Mrs. John Dannenbaum discussed the reason for this event and noted the walking route would not require any street closings. After some discussion there were concerns expressed about crossing Mountain Avenue. Mr. and Mrs. Dannenbaum suggested a change in the route which would not be complicated. Atty. Semrau requested that a certificate of insurance from the "Alliance for Children Foundation" be submitted to the Borough. Discussion with regard to a police presence was held and it was decided that volunteers would be the direction to go in. First Aid Captain Barbara Nelson commented that there would be squad members who would volunteer.

DAS Wireless System:

Atty. Semrau summarized that the information received from Christine Malone of Comp Comm/Stratus Telecom Managers, LLC has touched on the areas of need in the Borough and the benefits. The next phase would be to obtain RFP's (Request For Proposal) or have vendors consider this as an alternative for the Borough. There was some disappointment expressed by the Council with regard to the lengthy time lapse in responses from Ms. Malone. Atty. Semrau responded that the time lapse was in part a result of an office move by Ms. Malone. It was agreed that there should be a meeting between Council members and Ms. Malone to review their expectations on moving forward before there is any further commitment made.

2010 Budget Meeting Dates:

Administrator Sandman reviewed suggested dates for upcoming budget meetings. It was decided that one or two could be held on an evening and the other on a Saturday morning. This remains a work in progress.

ORDINANCE INTRODUCTION:

ORDINANCE #14- 09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, ZONING, ARTICLE XV, HISTORIC DISTRICT OVERLAY ZONE, SECTION 215- 48, ESTABLISHMENT OF OVERLAY ZONE, OF THE CODE OF THE BOROUGH OF MENDHAM

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

ORDINANCE #14- 09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, ZONING, ARTICLE XV, HISTORIC DISTRICT OVERLAY ZONE, SECTION 215- 48, ESTABLISHMENT OF OVERLAY ZONE, 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 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 Murphy

Second by Councilman Garubo

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #13-09

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION OF \$67,500 FOR THE PREPARATION AND EXECUTION OF A PROGRAM TO UPDATE AND MAKE CURRENT A PREVIOUS REVALUATION PROGRAM IN THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, FOR THE USE OF THE LOCAL ASSESSOR OF THE BOROUGH

Was published in full in the Observer Tribune.
(A copy of Ordinance #13-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #13-09.

Mary Kay O'Neill, 20 Prospect Street, commented on cutting the Borough's budget and questioned this expenditure. Atty. Semrau explained that the reassessment will not change the tax revenue, but will create fairness and result in each resident paying their fair share of taxes.

The public hearing was closed.

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

ORDINANCE #13-09

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION OF \$67,500 FOR THE PREPARATION AND EXECUTION OF A PROGRAM TO UPDATE AND MAKE CURRENT A PREVIOUS REVALUATION PROGRAM IN THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, FOR THE USE OF THE LOCAL ASSESSOR OF THE BOROUGH

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.

The Clerk and Attorney explained the minor change of the dates of the prior revaluation and the year it became effective.

Motion to approve with the minor changes as noted was made by Councilman Murphy
Second by Councilman Garubo

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

ACTIONS TO BE TAKEN:

Res. #139-09 Farmland Preservation Project– Pyznar Farm- Block 2401/L 31

(A copy of Resolution #139-09 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, Carr, Garubo, Badal

Opposed: None

Abstain: None

Absent: Witczak

ADMINISTRATOR REPORT:

Administrator Sandman reported that due to illness the sewer rate review committee has been unable to meet. Ms. Sandman anticipates having a report for the next meeting. She further reported on recent information received on the Swine Flu vaccine which will be forwarded to Capt. Nelson of the First Aid Squad; the cooperative spirit of the Saturday run with over 400 runners and the tax sale. Ms. Sandman is currently working on a repair of the rock wall at the new open space acquisition, Tranquility Garden, and on an update from the Tax Assessor on the reassessment.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Mayor Henry and Administrator Sandman will be reviewing a performance appraisal and assessment plan for the 2010 budget.

Councilman Andrus commented on the use of an evidential review for the 2010 salaries, pension and health benefit increases, and the police contract expiration in December, 2010. All these are considerations for the budget process for next year.

Councilman Murphy commented on the parking in the Phoenix House lot and that the temporary individual sign is not working out. He updated the Council on the progress of the three officers who are currently out on sick leave and the interview process for replacement of Sgt. Morales.

Councilman Badal reported on an upcoming Public Works committee meeting, leaf collection on weekdays 7am-3pm and Saturday 8am-3pm and that the I & I (Inflow and Infiltration) Phase III is on schedule and may even be completed ahead of schedule. There was a brief discussion regarding a residential issue on Franklin Street. Use of the video equipment to scope the lateral to the residence which can help identify any problems. Mr. Badal notified the Council members that Borough Engineer Paul Ferriero will be scheduling a lecture on stormwater management that the Council members will be required to attend. He commented on all the temporary signs that have been placed around the Borough. This open further discussion on signs and the revisiting of the Borough's sign ordinance.

Mayor Henry concluded that a letter and a copy of the code regarding signs will be mailed to all business and property owners next week.

ATTORNEY ITEMS:

Atty. Semrau reported that there he attended a meeting with the Mayor, Administrator Sandman, and Diana Callahan regarding the Highlands and the use of grant monies for completion of the 7 modules. The Highlands Council has extended the deadlines and there is valuable information on file for the Borough's use. He commented on the settlement of the Combe landfill litigation and payments made by insurance with a short fall to the Borough of approximately \$3,000.

Atty. Semrau further commented on the repair of the rock wall at the new open space acquisition at 34B East Main Street and the Borough's responsibility of 1/3 of the cost as a condition imposed by the County at the time of acquisition. Atty. Semrau asked for a consensus for him to sign off on an agreement in concept. RFP's (Request For Proposal) will be sent and offers will be presented to the Council. It was further noted that the Borough is not partners on the use of wall, the resident is responsible for any repairs due to normal wear and tear.

The Mendham Area Senior Housing (MASH) construction fees, approximately \$5,000, for the new kitchens, will be waived. This is not a decision based on the Borough Code but pursuant to State law.

MAYOR'S ITEMS: No further comments.

PUBLIC COMMENT:

Mary Kay O'Neill, 20 Prospect Street, questioned the filling of the position held by Sgt. Morales with regard to the budget. Councilman Murphy responded that with 3 officers out on disability and not knowing the outcome of when and if they will return, this position needs to be filled and will have no impact to the Borough. This position has been vacant since June. Temporary officers are not allowed to be hired due to State, union and certification requirements.

Frank Lupo, 17 Dean Road, expressed concern over the Borough's involvement in another landfill litigation in the future. Atty. Semrau commented that Blue Diamond has signed an indemnity clause as well as present insurance coverage that was not available in the past, will limit the Borough's exposure.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated October 5, 2009

Motion to approve by Councilman Andrus

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was unanimous as follows:

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

Opposed: None

Abstain: None

Absent: Witczak

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, the meeting was adjourned at approximately 9:50P.M. next to convene at the Regular Meeting to be held on October 19, 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