

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

CALL TO ORDER

Mayor Henry called the November 2, 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
Council President John Andrus
Councilman David Murphy
Councilman Stephen Carr

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

Absent: Councilman Louis Garubo
Councilman Brad Badal

CONSENT AGENDA:

Approval of the minutes of the Regular Session meeting of October 5, 2009
Approval of the minutes of the Regular Session meeting of October 19, 2009
Res. #145-09 Return Escrow (Site Plan Waiver) B301/L38
On-Premise Draw Raffle License-Minutemen Sports Club-11/19/09

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.

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

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrus, Murphy, Carr, Witczak

Opposed: None

Abstain: Cm Witczak abstained from the approval of the October 5, 2009 minutes as he was not present at this meeting.

Absent: Garubo, Badal

DISCUSSION ITEMS: None

ORDINANCE INTRODUCTION:

ORDINANCE #16-09

**AN ORDINANCE OF THE BOROUGH OF MENDHAM,
COUNTY OF MORRIS, AND STATE OF NEW JERSEY
TO AMEND CHAPTER 102, FEES, OF THE CODE OF
THE BOROUGH OF MENDHAM WITH REGARD TO
SEWER RATES**

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

ORDINANCE #16-09

**AN ORDINANCE OF THE BOROUGH OF MENDHAM,
COUNTY OF MORRIS, AND STATE OF NEW JERSEY
TO AMEND CHAPTER 102, FEES, OF THE CODE OF
THE BOROUGH OF MENDHAM WITH REGARD TO
SEWER RATES**

Ordinance #16-09: (Cont'd.)

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 December 7, 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 Andrus

Discussion: Atty. Semrau explained that this calculation is based on the format that exists in the Borough Code Book and Chapter 102 will be amended accordingly.

Roll Call-the vote was as follows:

In favor: Andrus, Witczak, Murphy, Carr

Opposed: None

Abstain: None

Absent: Garubo, Badal

ORDINANCE PUBLIC HEARING/ADOPTION: None

ACTIONS TO BE TAKEN:

Res. #146-09 Opposing Adoption P.L. 2009, C.118 (Tax Assessing)

(A copy of Resolution #146-09 is attached to these minutes)

Motion to approve this resolution was made by Councilman Andrus

Second by Councilman Murphy

Discussion: Atty. Semrau commented that this action was in the best interest of the Borough. The local tax assessors are familiar with the properties within a municipality and this position should continue at the local level of government.

Roll Call - the vote was as follows:

In favor: Witczak, Andrus, Murphy, Carr

Opposed: None

Abstain: None

Absent: Garubo, Badal

ADMINISTRATOR REPORT:

Administrator Sandman confirmed with Councilman Murphy a LOSAP meeting to be held on November 18th at 5pm. She asked Council to note the handouts given to them this evening regarding a training seminar which will reduce the Borough's liability claims premiums by \$250 for each elected official who attends and an update on the reassessment of the Borough. Ms. Sandman announced that the annual Holly Trail is scheduled for December 5th and the Recreation Director Bruce DiBisceglie's attendance at the 4-Town meetings on the 2009 'Recreation Plan'.

Ms. Sandman was asked the status of the school resource officer. She responded that she has been in contact with Doug Pechanec. She concluded that the talks have been positive and she will update the Council on the plans.

Mayor Henry reported that he received a complaint about the replacement bulbs being utilized by JCP&L and requested that a meeting be set up with their representative Mr. John Anderson to discuss this and the condition of the sub-station in the Borough.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Murphy gave the Council a revised and positive update on the injured police officers. Police Officer McNichol was released for work today and Police Officer Barnes to return to work on 1/1/2010.

Councilman Murphy reported for Councilman Badal that DPW Superintendent Ken O'Brien has removed leaves at the park and municipal buildings, brush pick up calls are still heavy and the plows are ready to go.

COUNCIL REPORTS, OLD & NEW BUSINESS: (Cont'd.)

Councilman Carr has been away but has caught up and reported that the Highlands work is on schedule and that he has received position feedback on the Mayor's letter on the sign ordinance.

Councilman Andrus reported that the budget committee met, set parameters and this information will be circulated to the Council so that they will have it before the departmental budget meetings.

Councilman Witczak reported that the Department of Public Works had a target date of November 1st to hire a replacement for an employee who resigned. Council gave their input and recommended moving forward before the onset of winter.

ATTORNEY ITEMS:

Atty. Semrau reported that he attended a meeting with the Borough Engineer, Administrator Sandman, Land Use Coordinator and Planning Board Attorney regarding a Sanitary Sewer Ordinance which will impact State regulations and the Highlands Act. He further noted that Resolution #147-09 that was adopted this evening was a critical decision. He also received information regarding an FCC (Federal Communications Commission) 'shot clock' regulation from resident Frank Lupo. Mr. Lupo will explain at length during the public portion of the meeting. Atty. Semrau suggested action in the form of a resolution by the Council and stressed that it is critical to keep the assessment process at the local level.

MAYOR'S ITEMS:

Mayor Henry mentioned that he will meet with the Administrator to discuss the minimum and maximum salary ranges. A procedure which allows interaction and outlining expectations and areas of improvement will be used by the Administrator when interviewing the department heads. The department heads will then interact with their individual staff members.

Mayor Henry requested Administrator Sandman to research the parameters and salary for a grant writer.

PUBLIC COMMENT:

Recreation Director, Bruce DiBisceglie reported positive feedback on the 4-Towns meeting and noted the recreation plan is on the Borough web page for review. He concluded that the plan is subject to review by the four governing bodies and it is anticipated that this will be completed by March or April 2010.

Frank Lupo, 17 Dean Road, informed the Council on an FCC request to push approval for wireless antennas and tower zoning applications to a 45 and 75 day period. This request called a "shot clock" would dramatically interfere with the municipal process and the rights of the citizens they serve. Atty. Semrau concluded that this would bring the Federal Government into the municipal application process and suggested that the governing body should voice an objection with the FCC. The Council agreed and took action by motion.

Motion was made by Councilman Murphy to authorize Atty. Semrau to voice an objection to the specific aspect of the 'shot clock' regulation which will impose a 45 or 75 day deadline on an application before a planning board. This legislation will impact greatly cell tower and wireless antenna applications.

Second by Councilman Carr

Discussion: It the consensus of the Council that this written objection should be circulated to surrounding municipalities and Congressman Rodney P. Frelinghuysen.

Roll Call - the vote was as follows:

In favor: Witczak, Andrus, Murphy, Carr

Opposed: None

Abstain: None

Absent: Garubo, Badal

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated November 2, 2009

Motion to approve by Councilman Andrus

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was unanimous as follows:

In favor: Witczak, Andrus, Murphy, Carr

Opposed: None

Abstain: None

Absent: Garubo, Badal

EXECUTIVE SESSION:

Res. #147-09 Executive Session: Personnel

(Interviewing prospective police officers for employment)

(A copy of Resolution #147-09 is attached to these minutes)

Motion to adopt this resolution was made by Councilman Murphy

Second by Councilman Witczak

Discussion: Atty. Semrau clarified that this was an interview process for the prospective hiring of a Police Officer so as not to be confused by any member of the present force.

Roll Call - the vote was as follows:

In favor: Witczak, Andrus, Murphy, Carr

Opposed: None

Abstain: None

Absent: Garubo, Badal

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 10:20 P.M. next to convene at the Regular Meeting to be held on November 16, 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