

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
January 14, 2013
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER

The regular and reorganization meeting of the Mendham Borough Planning Board was called to order by Peter Henry, Esq. at 8:00 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

CHAIR'S OPENING STATEMENT

Notice of this meeting was published in the Observer Tribune and the Daily Record on January 12, 2012 and was posted on the bulletin board in the Phoenix House in accordance with the Open Public Meetings Act, and furnished to all those who have requested individual notice and have paid the required fee.

OATHS OF OFFICE

Mr. Henry, Esq. administered the Oaths of Office to David Sharkey, Ellen Sandman, James Bradley and Brian Cavanaugh.

ATTENDANCE:

Mayor Henry – Absent
Mr. Bradley – Present
Mr. Cascais – Present
Mr. Gertler – Present

Mr. Kraft - Present
Mrs. Kopcsik – Present
Ms. Sandman – Present
Councilman Sharkey - Present

Alternates:

Mr. Cavanaugh, Alternate I – Present
Ms. Isaccson, Alternate II - Present

Also Present:

Mr. Henry, Attorney
Mr. Ferriero, Engineer
Mr. McGroarty, Planner
Ms. Callahan, Secretary

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2013 REORGANIZATION

Slate of Officers/Technical Review Committee

Election of Chair: Councilman Sharkey nominated Mr. Kraft as Chair. Mr. Gertler seconded. There being no additional nominations, Mr. Gertler made a motion to close the nominations. Councilman Sharkey seconded. A single ballot was cast for Chair. Mr. Kraft was elected Chair.

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Election of Vice Chair: Mr. Cascais nominated Mr. Gertler as Vice Chair. Mr. Bradley seconded. There being no other nominations, Ms Sandman made a motion to close the nominations. Mr. Cascais seconded. A single ballot was cast for Vice Chair. Mr. Gertler was elected Vice Chair.

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Appointment of Administrative Officer, Secretary and Recording Secretary: Mr. Bradley made a motion to nominate Ms. Callahan for appointment as Administrative Officer, Secretary and Recording Secretary. Mrs. Kopcsik seconded.

The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh,
Kraft
Opposed: None
Abstentions: None

The motion carried. Ms. Callahan was appointed to the positions.

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Technical Review Committee:

Chair Kraft named Mrs. Kopcsik as Chair of the Technical Review Committee. Mr. Bradley, Mr. Cascais and Mrs. Lichtenberger agreed to serve as regular members. Ms. Sandman will serve as first alternate and Mr. Kraft as second alternate.

TRC Meeting Dates: The proposed TRC dates as identified in the notice provided with the pre-meeting packages were reviewed by the Board:

**BOROUGH OF MENDHAM
TECHNICAL REVIEW COMMITTEE**

NOTICE IS HEREBY GIVEN that the Technical Review Committee of the Planning Board of the Borough of Mendham will meet to discuss or act upon public business at 9:00 a.m. prevailing time on each of the dates set forth below, at the Phoenix House, 2 West Main St., Mendham, NJ:

Monday, January 21, 2013
Tuesday, February 19
Monday, March 18
Monday, April 15
Monday, May 20
Monday, June 17
Monday, July 15
Monday, August 19
Monday, September 16
Monday, October 21
Monday, November 18
Monday, December 16

Mr. Gertler made a motion to approve the TRC meeting dates. Mr. Cascais seconded. All members being in favor, the TRC dates were approved.

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PB Meeting Dates: The Board received a resolution listing dates for 2013 in their pre-meeting packages. After reviewing the dates, the resolution was adjusted to reflect the January 2014 regular and reorganization meeting date in the text as January 13 to be consistent with the list.

Mr. Cascais made a motion to approve the resolution as amended. Mr. Gertler seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh, Kraft
Opposed: None
Abstentions: None

The motion carried. Ms. Callahan will make the appropriate public notification. Following is the revised resolution:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
PLANNING BOARD RESOLUTION
2013 MEETING DATES**

BE IT RESOLVED that the regular meetings of the Mendham Borough Planning Board for the year 2013 and January, 2014 will be held on the second Monday of every month with the exception of October and November which will be held on the second Tuesday. The meetings will be at 8:00 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey. Meeting dates will be as follows:

February 11	August 12
March 11	September 9
April 8	October 15
May 13	November 12
June 10	December 9
July 8	January 13, 2014

The regular and reorganization meeting of the Board will be held on January 13, 2014.

BE IT FURTHER RESOLVED that notice of any additions to the above schedule, or changes in time, date or place of any scheduled meeting, will be posted on the bulletin board in the Phoenix House and delivered to the official newspapers in advance as required by law.

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Official Newspapers: The following resolution, provided to members in their pre-meeting packages, was introduced:

**RESOLUTION
BOROUGH OF MENDHAM
PLANNING BOARD**

BE IT RESOLVED by the Planning Board of the Borough of Mendham, Morris County, New Jersey as follows:

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and hereinafter designated as the "Open Public Meetings Act" aforesaid, the Planning Board of the Borough of Mendham hereby makes the following designations:

1. The Observer Tribune and/or the Daily Record are hereby designated as the two newspapers to receive notice of meetings required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings. Notices required by the New Jersey Municipal Land Use Law or the Borough's Land Use Regulations may be placed, as required by law, in either of the designated newspapers.
2. The location for posting of notices of meetings shall be the bulletin board in the Phoenix House, 2 West Main Street, Mendham, NJ, where notices of this kind are normally posted.
3. The sum of \$12.00 per year is hereby fixed as the amount to paid by any person requesting individual notice of meetings as provided in Section 14 of the Open Public Meetings Act.

Councilman Sharkey made a motion to approve the resolution. Mr. Gertler seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh, Kraft
 Opposed: None
 Abstentions: None

The motion carried. The resolution was approved. Ms. Callahan will make the appropriate public notice.

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Appointment of Attorney: The following resolution, provided to the members in their pre-meeting packages, was introduced:

**RESOLUTION
BOROUGH OF MENDHAM
PLANNING BOARD**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional legal services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. has submitted a proposal indicating that they will provide legal services for 2013 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Peter E. Henry, Esq. of the firm Dillon, Bitar & Luther, L.L.C. to serve as Board Attorney for the year 2013, at a total cost not to exceed \$16,000 such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2013: and escrows as required; and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

5. This Resolution shall take effect as provided herein.

Mr. Cascais made a motion to approve the resolution. Mr. Gertler seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh, Kraft

Opposed: None

Abstentions: None

The motion carried. The resolution was approved. Mr. Henry, Esq. was appointed attorney. The Board Secretary will make the appropriate public notification.

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Appointment of Planner: The following resolution, provided to the members in their pre-meeting packages, was introduced:

**RESOLUTION
BOROUGH OF MENDHAM
PLANNING BOARD**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Planning Consultant services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500; and

WHEREAS, Banisch Associates, Inc. has submitted a proposal indicating that they will provide planning services for 2013 an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Banisch Associates, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Banisch Associates, Inc. and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Charles T. McGroarty, PP/AICP of the firm Banisch Associates, Inc. to serve as Planning Consultant for 2013, at a total cost not to exceed \$12,500 such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2013 (PB & HPC); and escrows as required, and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

5. This Resolution shall take effect as provided herein.

Councilman Sharkey made a motion to approve the resolution. Mr. Gertler seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh, Kraft
 Opposed: None
 Abstentions: None

The motion carried. The resolution was approved. Mr. McGroarty was appointed planner. Ms. Callahan will make the appropriate public notification.

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Appointment of Engineer: The following resolution, provided to the members in their pre-meeting package, was introduced:

**RESOLUTION
 BOROUGH OF MENDHAM
 PLANNING BOARD**

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Consulting Engineer services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and,

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500; and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has submitted a proposal indicating that they will provide engineering services for 2013 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated to serve as Consulting Engineer for the year 2013, at a total cost not to exceed \$7,000 such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2013: and escrows as required; and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Entity Disclosure Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

5. This Resolution shall take effect as provided herein.

Mr. Cascais made a motion to approve the resolution. Mr. Bradley seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Sharkey, Cavanaugh, Kraft

Opposed: None

Abstentions: None

The motion carried. The resolution was approved. Mr. Ferriero was appointed Engineer. Ms. Callahan will make the appropriate public notification.

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MINUTES

On motion made by Mr. Cascais, seconded by Mr. Gertler and carried, the minutes of the regular meeting of December 9, 2012 were approved with an editorial change.

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PUBLIC COMMENT

Chair opened the meeting to questions and comments on items not included in the agenda. There being none, the public comment session was closed.

TRC UPDATES (For information only)

Ms. Callahan and Mr. Henry, Esq. reviewed the TRC agenda for January 21.

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DISCUSSION

Tree Ordinance: Based on the discussion at the December 9, 2012 regular meeting of the Board, Chair Kraft and Ms. Callahan had provided the following draft letter to the Board for review:

TO: Mayor and Borough Council
FROM: Mendham Borough Planning Board
DATE: January 15, 2013
REFERENCE: TREE CONSERVATION

The December 10 meeting of the Planning Board was devoted entirely to a discussion of whether or not to recommend a tree ordinance that would regulate the cutting of trees on private property. In general the Board came to the conclusion that regulating trees on private property is difficult and likely to be expensive. There was also a concern that the Borough could face potential liability if a tree cutting permit were denied, and subsequently that tree fell and caused damage and/or injury.

The Board universally feels that a proactive education program should be established. It is recommended that the program start with the elementary schools and be coupled with

web site and newsletter articles that advocate for the saving of existing trees and the planting of new trees.

The final conclusion is that there will be no recommendation for a tree ordinance, but rather the Board is requesting that the Borough Council consider implementing the following:

1. The Borough Council establish and fund an annual Arbor Day program at the elementary school level that educates as to the value of trees and strongly promotes the preservation of trees on private property as well as the planting of new and replacement trees on private property
2. The Borough web site have a prominent article developed jointly with the Shade Tree Commission and the Environmental Commission that offers free advice on the selection of and proper placement of trees on private property
3. The Mendham Messenger have regular articles on tree preservation and opportunities for the purchase and planting of trees on private property
4. The Shade Tree Commission and the Environmental Commission develop a program that will offer to Borough residents a selection of trees for purchase that are suitable for planting on residential lots in this region and assistance in planting those trees.
5. The Borough enhance its current tree replacement program with additional annual tree planting and explore with property owners the potential placement of trees along the streetscape where the right of way does not support their growth.
6. The Shade Tree Commission undertake a study of Borough trees of significant historic value that should be preserved and maintained at a high level.
7. The Borough actively pursue any grants related to the purchase, planting and/or education dealing with trees.
8. That these programs be established with continuing funding to insure that residents know the value of trees, understand what trees are best suited to Mendham properties and have opportunities to purchase in the context of an established Borough program.

Councilman Sharkey stated that the letter was a positive step. He recommended that the size of the Shade Tree Commission be increased so that the awareness of trees can be increased. Board questioned whether the Shade Tree Commission and the Environmental Commission could be combined. Ms. Sandman stated that the Shade Tree Commission was kept small until the work required was determined. She is looking toward Arbor Day and joint effort with the Environmental Commission.

Mr. Cascais made a motion to approve the letter for forwarding to the Borough Council. Councilman Sharkey seconded. All members being in favor the motion carried. Ms. Callahan will send the letter to the Borough Council.

OTHER BUSINESS

National Register: Ms. Callahan reported that there will be a public meeting held by the State Department of Historic Preservation at the Garabrant Center on Thursday, February 21 at 7:30 p.m. At that time the State will make a presentation and address any resident questions. The Borough's application will be on the agenda for the State Historic Preservation Review Board on March 12.

ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:25 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, February 11, 2013 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

