

**BOROUGH OF MENDHAM
MEETING OF THE MAYOR AND COUNCIL**

**August 11, 2020
MINUTES**

CALL TO ORDER

Mayor Christine Serrano-Glassner called the August 11, 2020 Regular Meeting of the Mayor and Council to order at 8:00 p.m. in the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

MOMENT OF SILENCE AND FLAG SALUTE

Mayor Serrano-Glassner led a moment of silence and then proceeded with the Pledge of Allegiance.

MAYOR'S OPENING STATEMENT

Mayor Serrano-Glassner read the following statement:

Notice of this rescheduled meeting of the Mayor and Council of the Borough of Mendham was published in the Daily Record and the Star Ledger, posted in the Phoenix House, and was filed in the Office of the Borough Clerk in accordance with the Open Public Meetings Act.

ROLL CALL

The following officials were present:

Mayor Christine Serrano-Glassner
Council Member Steven Andrew
Council Member John Andrews
Council Member James Kelly
Council Member Mary Sue Martin [via video conferencing]
Council Member Brennan Reilly

Council President Brad Badal was absent.

Also present were:

Joyce Bushman, Borough Administrator
Fred Semrau, Esq., Borough Attorney [via video conferencing]
Susan Sharpe, Esq., Borough Attorney [via video conferencing]
Robin R. Kline, Borough Clerk

CONSENT AGENDA ITEMS

Items on the Consent Agenda are considered routine and will be acted upon by the Borough Council by a single vote unless a member of the Governing Body requests that an item be removed and considered separately.

1. Approval of Minutes: July 27, 2020 Regular and Closed Session Meeting

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

ORDINANCE(S) FOR INTRODUCTION

None.

ORDINANCE(S) FOR PUBLIC HEARING/ADOPTION

#09-2020 AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 215, ZONING, OF THE BOROUGH CODE TO ESTABLISH AN EAST BUSINESS AFFORDABLE HOUSING ZONE TO INCLUDE IN ADDITION TO THE EXISTING RETAIL USES A LIMITED PORTION OF THE ZONE TO PERMIT RESIDENTIAL USE

Mayor Serrano-Glassner stated that a legal notice was published indicating that Ordinance #09-2020 was introduced and passed on first reading at the July 15, 2020 meeting and further indicated that the second reading and public hearing would be held on August 11, 2020 at 8:00 p.m. for consideration of final adoption. Copies of this Ordinance were made available to the general public and posted in accordance with the law.

Before opening the public hearing, Mayor Serrano-Glassner reminded the general public that information on the Borough's Housing Element and Fair Share Plan has been posted on the Borough's website (www.mendhamnj.org) under the page link "COAH-Affordable Housing."

Mayor Serrano-Glassner introduced Mr. Semrau, the Borough's attorney, and Ms. Caldwell, the Borough's planner, who provided a presentation on the state's constitutional mandate to provide affordable housing and Mendham Borough's 3rd Round Plan for Affordable Housing.

Mr. Semrau provided an overview of Mendham Borough’s affordable housing obligation for the 3rd Round cycle, a 25-year period beginning in year 2000 and ending in year 2025. He advised that the Court determined the Borough had an obligation to provide 152 affordable residential units. To meet 152 affordable units, Mr. Semrau further advised that, in accordance with court-mandated 20% set aside (for every five new market units built, one unit must be affordable), 750 overall new units would be needed to be constructed.

Mr. Semrau stated that the primary goal of Borough officials in meeting the affordable housing obligation was to maintain the overall character of the community. Additional goals were set to maintain local zoning, avoid development of vacant land, and avoid pocket developments and high-density development. Mr. Semrau further stated that Borough officials were also opposed to providing any financial incentives to prospective developers and confirmed that the Court settlement includes no financial concessions.

Continuing his presentation, Mr. Semrau mentioned that the “centerpiece” of the settlement concerns the rezoning of V-Fee Realty LLC’s Kings Shopping Center. A total of 75 new rental units will provide 15 affordable units. Ninety percent (90%) of the units are one and two bedrooms and seven of the 15 affordable units will be initially offered with a veteran preference. Further, the residential units must be situated on the north-easterly portion of the site with no additional traffic egress and ingress to site. The Kings Shopping Center site was selected since it was an existing commercial site. The settlement also provides that the Borough will not be responsible to provide municipal services for the maintenance of existing parking, or sanitation and recycling collection.

Mr. Semrau advised that the rezoning of the Kings Shopping Center and action of the Governing Body does not provide approval for the development of the site and further advised that property developer would be required to file an application with the Planning Board. Such application would be subject to public notice, public hearing, and land use and design standards as set forth in the Borough Code.

Ms. Caldwell provided an overview of the land use set-back requirements for the East Business-Affordable Housing Zone (EB-AF Zone) established by Ordinance #09-2020. The rezoning would allow a maximum of 75 residential units to be built on a minimum lot size of 3 acres. Maximum building height is 4 stories over parking/60 feet. Twenty percent (20%) of the units must be affordable and residential parking must meet state-mandated residential site improvement standards.

In closing the presentation, Mr. Semrau complimented Mayor Serrano-Glassner for attending the hearings and settlement meetings and further complimented the Mayor and Council for their diligence and hard work throughout the court process. Lastly, he confirmed that the Borough’s settlement with the Fair Share Housing Center would protect the municipality from builder’s remedy lawsuits through the year 2025.

A full copy of the *Mendham Borough 3rd Round Plan for Affordable Housing Presentation* follows:

<p style="text-align: center;">MENDHAM BOROUGH 3RD ROUND PLAN AFFORDABLE HOUSING PRESENTATION</p>	<p style="text-align: center;">3RD ROUND CYCLE 2000 – 2025</p> <table border="0"> <tr> <td>NUMBER OF AFFORDABLE UNITS BUILT SINCE 2000</td> <td style="text-align: right;">3</td> </tr> <tr> <td>OBLIGATION PER COURT DETERMINATION</td> <td style="text-align: right;">152</td> </tr> <tr> <td>SHORT FALL</td> <td style="text-align: right;">149</td> </tr> </table> <p>150 X 5 MARKET UNITS PER AFFORDABLE UNITS = 750 NEW MARKET UNITS 150 AFFORDABLE</p>	NUMBER OF AFFORDABLE UNITS BUILT SINCE 2000	3	OBLIGATION PER COURT DETERMINATION	152	SHORT FALL	149
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<p style="text-align: center;">GOALS OF THE BOROUGH:</p> <ul style="list-style-type: none"> • AVOID POCKET DEVELOPMENTS – I.E., 4 CONDOS ON ONE RESIDENTIAL LOT, HIGHRISE HIGH DENSITY DEVELOPMENT • AVOID DEVELOPMENT OF VACANT LAND WEDGED BEHIND RESIDENTIAL DEVELOPMENT • MAINTAIN OVERALL CHARACTER OF THE COMMUNITY • NO FINANCIAL INCENTIVES • NO WAIVERS OF HEALTH AND SAFETY ORDINANCES • MINIMIZE NUMBER OF UNITS • OBTAIN COURT APPROVAL • MAINTAIN LOCAL ZONING 	<p style="text-align: center;">SETTLEMENT</p> <p style="text-align: center;">V-FEE – KINGS SHOPPING CENTER 75 TOTAL UNITS</p> <table border="0"> <tr> <td>58</td> <td>1 & 2 BEDROOM</td> </tr> <tr> <td>2</td> <td>3 BEDROOM</td> </tr> </table> <p style="text-align: center;">15 AFFORDABLE UNITS (5 ONE-BEDROOM) (5 TWO-BEDROOM) (5 THREE-BEDROOM)</p> <p style="text-align: center;">90% OF THE UNITS ARE ONE AND TWO BEDROOMS “BOOKENDERS” – STARTING OUT OR DOWNSIZING</p>	58	1 & 2 BEDROOM	2	3 BEDROOM		
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<p style="text-align: center;">KEY TERMS OF THE SETTLEMENT</p> <ul style="list-style-type: none"> • NO FINANCIAL INCENTIVES (RE: PILOT OR CONTRIBUTION) • NO WAIVER OF DEVELOPMENT REQUIREMENTS (I.E. WETLANDS, TRAFFIC, FIRE, ETC.) • NO ADDITIONAL DEVELOPMENT OR USES PERMITTED PER THIS REZONING • 7 OF 15 AFFORDABLE UNITS WILL BE INITIALLY EXCLUSIVELY OFFERED TO VETERANS • NO ADDITIONAL TRAFFIC EGRESS AND INGRESS TO THE SITE • THE RESIDENTIAL UNITS MUST BE LOCATED ON THE NORTHERLY SIDE OF THE SITE (NEAR MENDHAM LUMBAR) 	<p style="text-align: center;">OTHER MUNICIPALITIES' OBLIGATIONS/SETTLEMENTS:</p> <table border="1"> <thead> <tr> <th>TOWN</th> <th>CALCULATION OF OBLIGATION BY COURT MASTER</th> <th>SETTLEMENT APPROVED BY COURT</th> <th>PERCENTAGE OF COURT OBLIGATION</th> </tr> </thead> <tbody> <tr> <td>CHESTER BOROUGH</td> <td>111</td> <td>66</td> <td>59%</td> </tr> <tr> <td>HARDING</td> <td>177</td> <td>56</td> <td>32%</td> </tr> <tr> <td>LONG HILL</td> <td>220</td> <td>130</td> <td>59%</td> </tr> <tr> <td>MORRIS TOWNSHIP</td> <td>767</td> <td>400</td> <td>52%</td> </tr> <tr> <td>CHATHAM TOWNSHIP</td> <td>387</td> <td>228</td> <td>58%</td> </tr> <tr> <td>ROXBURY</td> <td>841</td> <td>841</td> <td>100%</td> </tr> <tr> <td>FLORHAM PARK</td> <td>824</td> <td>624</td> <td>75%</td> </tr> <tr> <td>MENDHAM</td> <td>152</td> <td>15</td> <td>9.8%</td> </tr> </tbody> </table>	TOWN	CALCULATION OF OBLIGATION BY COURT MASTER	SETTLEMENT APPROVED BY COURT	PERCENTAGE OF COURT OBLIGATION	CHESTER BOROUGH	111	66	59%	HARDING	177	56	32%	LONG HILL	220	130	59%	MORRIS TOWNSHIP	767	400	52%	CHATHAM TOWNSHIP	387	228	58%	ROXBURY	841	841	100%	FLORHAM PARK	824	624	75%	MENDHAM	152	15	9.8%
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<p style="text-align: center;">WHERE WE ARE IN THIS PROCESS</p> <p>As a result of the settlement, the Borough's obligation is to rezone a portion of the shopping center property to include as a permitted use, the 75 residential units.</p> <p>The Zoning Ordinance and the action of the Governing Body is not an approval of the site for such development.</p> <p>This site will be subject to an application process, public notice, public hearing, traffic, environmental, wetlands and all other pertinent review and standards set forth by the Borough Code.</p>	<p style="text-align: center;">East Business Zone – Affordable Housing (EB-AH Zone)</p> <p>Multi-Family Dwellings – Maximum 75 units Minimum Lot Size: 3 acres 20% of Units Built Must Be Affordable Minimum Lot Width: 200 feet Minimum Front Yard: 700 feet to Main Street (Multi-Family behind Shopping Center) Minimum Side Yard: 50 feet Minimum Rear Yard: 50 feet Minimum Recreation Area: 5,000 square feet Maximum Building Height 4 stories over parking / 60 feet Residential Parking Must Meet Residential Site Improvement Standards (State Mandated Parking Requirements for Residential Uses)</p>																																				
<p style="text-align: center;">WHAT IS ACCOMPLISHED?</p> <ul style="list-style-type: none"> • The Borough will receive its compliance and immunity from the builder's remedy suit • Essentially, one location in the entire Borough is impacted and it is an existing commercial property • The Borough will make application for compliance designation with respect to Affordable Housing before the Court • There is no new development or any other change in use of properties or financial concessions 																																					

Council Member John Andrews commented that the owner of Mendham Plywood & Building Products, Herb Schilling, provided him with a letter setting forth some of his concerns and suggestions on the rezoning of the Kings Shopping Center. The letter has been forwarded to the Borough Clerk for file retention in this matter.

Public Hearing

Mayor Serrano-Glassner opened the public hearing and invited any interested person the opportunity to be heard on this ordinance.

Tom Tishman, 64 Dean Road, inquired about improvements to be made to the ingress and egress of the Kings Shopping Center and questioned the allowed building height of four stories and impacts on fire department.

Mayor Serrano-Glassner reminded Mr. Tishman and the general public that tonight's public hearing is solely to provide comments concerning the zoning ordinance, which rezones the East Business-Affordable Housing Zone (EB-AF Zone). Once the property has been rezoned, she stated that the property developer would be obligated to submit a formal application with the Mendham Borough Planning Board for its review and approval. The Planning Board would then hold its public hearing based on the submitted application and site plan.

Mr. Semrau further confirmed that the terms of the settlement agreement with respect to rezoning the site does not allow any additional ingress or egress to or from the site.

Pricilla Beck, 16 Coventry Road, questioned whether the minimum lot size of 3 acres could be increased to 4 acres to decrease the allowed building height to accommodate development of the 75 residential units. She also inquired about the 250' required setback that is in place for the telecommunication tower and whether the rezoning included this setback in addition to the 500' setback from Main Street.

Karen Connolly, 22 Dean Road, thanked the Mayor and Council for their efforts in satisfying the court-mandated affordable housing obligation with minimal impact to the community and thanked Mr. Semrau and Ms. Caldwell for their informative presentation. She then inquired whether a developer would be able to develop the property in some other way in the future.

Mr. Semrau responded that under the terms of the settlement, a developer could only develop the Kings Shopping Center property pursuant to the rezoning standards referenced in Ordinance #09-2020.

Ms. Caldwell added that the rezoning of the Kings Shopping Center property is very specific and restricted to the development of the 75 residential units to meet the affordable housing obligation.

Frank Zupa, 23 Dean Road, expressed concern regarding the allowed building height of 4 stories over parking and questioned the aesthetics and screening of the building's visibility.

Mayor Serrano-Glassner responded that, as part of the settlement, the property developer repeatedly sought to develop the westerly portion of the property; however, Borough officials and professionals remained steadfast in ensuring that development is restricted to the eastly portion of the property to minimize impacts on adjacent residential properties and neighborhoods.

Herbert Schilling, property owner of Mendham Plywood & Building Products, expressed concern regarding the loss of retail use in lieu of residential use on the site and inquired if the zoning ordinance could allow for a mixed use consisting of both retail and residential. He further commented that his business is an actively operating commercial business with dumpsters and loading areas that would face the 75-unit residential development.

Fiona MacAskill, 20 Cold Hill Road, inquired about the impacts a 60' building height would have on the fire department and needed firefighting apparatus and equipment. She further expressed her concern about the building's visibility over the tree line, as well as impacts to traffic and environmentally sensitive wetlands.

Mayor Serrano-Glassner responded that the actions to be taken in the rezoning of the East Business-Affordable Housing Zone (EB-AF Zone) was brought by the Fair Share Housing Center through the Court and asked Mr. Semrau to briefly talk about possible consequences for not complying with the affordable housing mandate.

Mr. Semrau advised that the property developer could file a builder's remedy lawsuit, which is a legal action taken by a property developer to force a municipality to permit construction of higher density multi-family housing and complexes. In such cases, he said, traffic impacts and environmental constraints are often waived to meet the affordable housing obligation. Mr. Semrau further advised that the Borough's settlement with the Fair Share Housing Center would protect the municipality from a builder's remedy lawsuit through the year 2025.

Frank Zupa, 23 Dean Road, questioned if additional screening requirements could be included in the zoning ordinance with respect to building height.

Ms. Caldwell responded that the zoning ordinance includes a reference to §215-27, which states that impacts on adjoining residential zones shall apply. In addition, she mentioned that specific screening and buffers with respect to the visibility of the building height would be addressed by the Planning Board as part of the site plan review.

Mr. Semrau added that the Borough would lose the right to give the Planning Board some discretion in hearing the public's concerns, such as those raised by Mr. Zupa, if the zoning ordinance was overly specific.

Fiona MacAskill, 20 Cold Hill Road, inquired about the Planning Board process with respect to the property development.

Ms. Caldwell confirmed that the property developer would be required to file an application with the Planning Board, which then would be subject to land use and design standards as set forth in the Borough Code and would include a public hearing.

Seeing and hearing no one else wishing to speak or comment, Mayor Serrano-Glassner closed the public hearing.

There was no further Council discussion.

Mr. Semrau advised that Ordinance #09-2020 would not be in effect until August 27th to allow comments from the Planning Board.

Ms. Caldwell further confirmed that as the Borough Planner, she proposed the zoning ordinance is consistent with Mendham Borough's Master Plan and Housing Element and Fair Share Plan.

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

RESOLUTIONS

#117-2020 RESOLUTION AUTHORIZING THE HIRING OF A PART-TIME ADMINISTRATIVE INTERN

There was no Council discussion.

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

#118-2020 RESOLUTION AUTHORIZING THE APPOINTMENT OF A TAX COLLECTOR

There was no Council discussion.

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

#119-2020 RESOLUTION RENEWING MEMBERSHIP IN THE MORRIS COUNTY MUNICIPAL JOINT INSURANCE FUND

There was no Council discussion.

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

#120-2020 RESOLUTION AUTHORIZING THE PURCHASE OF A NEW AMBULANCE THROUGH THE HOUSTON-GALVESTON AREA COUNCIL PROGRAM

There was no Council discussion.

Motion to Approve: Council Member Andrew
Second: Council Member Reilly
Ayes: Andrew, Kelly, Reilly, Martin
Recusal: Andrews

#121-2020 RESOLUTION AUTHORIZING THE PURCHASE OF A 2019 CATERPILLAR 930M WHEEL LOADER

There was no Council discussion.

Motion to Approve: Council Member Andrew
Second: Council Member Andrews
Ayes: Andrew, Andrews, Kelly, Reilly, Martin
Nays: None

ADMINISTRATOR’S REPORT

Ms. Bushman provided her Administrator’s Report dated August 11, 2020. She thanked the OEM volunteers and DPW crews for their efforts after the storm and subsequent power outage.

COUNCIL COMMITTEE REPORTS

Finance [Standing Committee of the Council]

Council President Badal was absent.

Board of Health

Council Member Andrew reported that the Bernards Township Health Department continues to monitor and report on COVID-19 cases in Mendham Borough. A total of 81 COVID-ID cases have been reported to date in Mendham Borough.

Recreation and Parks [Standing Committee of the Council]

Council Member Andrew reported that the Recreation Committee will be meeting on August 20th and had nothing new to report.

Board of Education

Council Member Andrew reported that schools in the Mendham Borough School District will open on August 26th.

Public Safety [Standing Committee of the Council]

Council Member Andrews thanked Police Chief Camoia and OEM Coordinator Gary Lynch for their efforts post Storm Isais and throughout the 5-day power outage. He further reported that the Fire Department responded to 30 calls over the 5-day power outage period.

Council Member Andrews also reported that a free Narcan community training program was held with the Morris County Sheriff’s office on August 10th at the Mendham Firehouse. Narcan is an antidote that reverses an opioid overdose. He mentioned that 45 lives have been saved throughout Morris County over the past three years since the Morris County Sheriff’s office has rolled out the Narcan program.

Lastly, Council Member Andrews reported that the police chief’s SUV vehicle has been delivered and the new patrol vehicle is expected to be delivered soon. On behalf of the Mendham First Aid Squad, he thanked the Mayor and Council for approving the purchase of a new ambulance.

Personnel [Standing Committee of the Council]

Council Member Martin reported that a part-time interim tax collector has been hired.

Public Works and Utilities [Standing Committee of the Council]

Council Member Kelly thanked the DPW crews for their immediate cleanup efforts after the storm and further reported that curbside brush pickup is on-going Borough-wide.

Land Use [Standing Committee of the Council] and ECOSST Committee

Council Member Reilly had nothing new to report.

ATTORNEY’S ITEMS

Mr. Semrau thanked the Mayor and Council for their hard work and efforts concerning affordable housing mandates and for the very successful outcome in balancing compliance with protecting the interests of the borough.

MAYOR'S ITEMS

Mayor Serrano-Glassner opened her report by expressing her appreciation to the many residents who provided kind words and thanks for keeping them well-informed of the status of utility crews in restoring power throughout town, and also expressed her thanks to the Mendham Borough OEM team and the borough's workforce for their efforts during last week's storm and power outage. She further reported that there were 26 damage points town-wide from downed trees and reported that the Garabrant Center was opened to the community as a charging center for the first time.

Lastly, Mayor Serrano-Glassner advised that the Borough's OEM team will evaluate take-aways from the storm response to improve managing future storm events and further advised that she will be meeting with legislative representatives to continue advocacy efforts on behalf of the borough with respect to addressing needed infrastructure upgrades by JCP&L to minimize power outages.

PUBLIC COMMENT – AUDIENCE PARTICIPATION

Mayor Serrano-Glassner opened the public comment portion of the meeting.

Fiona MacAskill, 20 Cold Hill Road, thanked Mayor Serrano-Glassner for their efforts in keeping the residents updated during the storm and power outage.

Seeing and hearing no one wishing to speak, Mayor Serrano-Glassner closed the public comment portion of the meeting.

APPROVAL OF VOUCHERS

Bills List prepared by the Chief Financial Officer dated August 11, 2020.

Resolution #059-2020, passed at the March 18, 2020 Special Meeting, provided the Borough Administrator authorization to approve vouchers subject to the availability of funds.

CLOSED SESSION

None.

ADJOURNMENT

Having no further business to conduct, Mayor Serrano-Glassner asked for a motion to adjourn. Council Member Andrew made a motion to adjourn, seconded by Council President Badal. Upon a voice vote, the motion was passed unanimously.

Meeting adjourned at 9:27 p.m.

The next meeting of the Mendham Borough Mayor and Council will be held on August 11, 2020, 8:00PM, the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully Submitted:

Robin R. Kline

Robin R. Kline, MAS, RMC, CMR
Borough Clerk
BOROUGH OF MENDHAM