

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

CALL TO ORDER

Mayor Henry called the May 3, 2010 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 David Murphy
Councilman Stephen Carr
Councilman Louis Garubo
Councilman Brad Badal
Councilman Stanley Witczak
Councilman John Andrus

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

Absent: None

CONSENT AGENDA:

Approval of minutes of the Regular Meeting of April 5, 2010
Approval of minutes of the Regular Meeting of April 19, 2010
Approval of minutes of the Executive Session Meeting of April 19, 2010
Res. #74-10 Refund Housing Trust-B2201/L4-Thomas/DeMaria
Res. #75-10 Cancel Outstanding Checks-Excess 1 Year
Res. #76-10 Emergency Temporary Appropriations Current Budget
Res. #77-10 Emergency Temporary Appropriations Sewer Budget
Res. #78-10 Release Cash Bond- Block 801, Lots 12, 12.01 and 13

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 Witczak
Seconded by Councilman Murphy

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Discussion: Special Public Comments – Local Board of Education Budget

Mayor Henry noted that he will open the meeting to public comments at this time. This public comment session will be limited to remarks on either of the failed local Mendham Borough school budget or the West Morris High School budget.

There will also be the standard public comments portion toward the end of the meeting.

Mayor Henry read a prepared statement briefly outlining the procedure followed when a school budget is defeated by the public. He stressed that the role of the Council is limited in making recommendation on a dollar figure and focus areas for reducing the budget. It will be up to the Board of Education as to whether or not to accept these recommendations. Either way, a resolution outlining the Borough's recommendations or a failure to agree must be prepared and circulated by May 19th, 2010.

Special Public Comments – Local Board of Education Budget: (Cont'd.)

Mayor Henry further noted that the West Morris High School budget reduction recommendations need the agreement of all 5 municipalities that are in the sending district. If they cannot reach an unanimous decision then the budget is sent to Trenton with a resolution outlining their failure to agree. Trenton will review and decide or return the budget to the 5 towns for continuing their negotiations.

Mayor Henry opened the public hearing for comments on the budget for the local school or West Morris High School budget. He further noted that there will be no comments made by him or any council member due to the ongoing negotiations.

Alejandro Ruiz Cano, 54 Essex Drive, requested the Council hold the same standards to their budget as they are requesting from the schools. He shared historical percentages of increase in taxes between local government and the schools. He suggested a raise freeze for Borough employees.

Carmela Marucci, 66 Cold Hill Road, supported the Mandarin language program and stressed the importance of this language for the future.

Wayne LeBlond, 6 Phoenix Drive, shared his beliefs that the budget failed not for the total money to be spent but for where it will be spent. He fully supported the local school and considered the Mandarin language program a plus. He commented that having the children in extra-curriculum activities was far better than having them on the internet during their spare time. He concluded he would like to see these programs back in the budget and cut made at in the Administration overhead.

Sharon Corbett, 145 Talmage Road, commented that she would like to see the Borough and Township merge the local schools resulting in a cost savings especially in the consolidation of the administrative areas.

Barbara Stanton, 15 Drake Road, asked the Council to become pro-active and consider the option of a merger of the Superintendent positions. She also noted that the Borough is in the 16th Legislative District-Somerset County and the Township is in the 25th Legislative District-Morris County. She encouraged the Council to be pro-active in working to have the Borough made part of the 25th Legislative District. Ms. Stanton expressed her opinion that the time to discuss salaries of administrative staff is at the Board of Education meetings not hiring.

Mayor Henry commented on the 2010 Census and Districting noting Ms. Stanton's good points. He noted that he has made some contacts and will push to have the Borough re-districted to the 25th.

Ms Stanton requested the Council to keep the budget as it is and felt the Board of Education did a good job and cut to the bare bone. She felt that the school could not afford to lose teachers and which would ultimately cost more. A future goal should be for the school to generate revenue with a cash return.

Jim Stanton, 13 Deerfield Road, (no relation to Barbara Stanton) as about the next step in the process and how the public will be informed. Atty. Semrau responded that the vote and resolution will be done in public. The amount and line items proposed reductions will be part of the resolution. The Board of Education has the right to appeal. A salary freeze in lieu of additional cuts in the staff and communication with the unions was discussed. Mayor Henry noted that when suggested monetary cuts are made and not supported by the unions, that amount would be cut from other line items.

Tim Reilly, 12 Gunther Street, commented on the Board of Education meetings with regard to the budget. He said despite public comments, no changes were made. No coherent responses were given to the public.

Claire Kerr, 35 Gunther Street, expressed her concern over the administrative costs and not teacher salaries. She cautioned about the number of upcoming retirements and Governor Christie's 2.5% Cap. She would like to see more 'shared services' and the Borough and the Township merge the local schools.

Jeff Johnson, 7 Loryn Lane, commented on how good the schools are and the high voter turnout. He felt that the mailing from the Board of Education that was received late, due to the Chester post office, impacted the vote on the budget.

Special Public Comments – Local Board of Education Budget: (Cont'd.)

He suggested that the Council exercise leadership and good judgment and separate what this town needs from others. He requested that consideration of the community come first before making further cuts.

Sharon Masiello, 10 Valley Way, asked the Council not to disregard what the voters voted for.

Carla McEnroe, 14 Heather Hill Way, expressed her feelings that the anger with regard to the budget was misdirected. She felt that the good schools have increased the property values in the Borough. In her opinion, the Board of Education needed additional time to review the budget and make cuts across the board after the State held back funding. They did a good job in the short time they had after State notification of funding cuts. She continued that the School Board has heard the voters and will keep it in mind when the present employment contracts expire.

The public hearing was closed.

There was a break and the recording equipment was turned off.

2010 Budget Introduction:

**ORDINANCE #3-10 Tabled @ 4/19/10 Mtg.
CALENDAR YEAR 2010**

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

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

ORDINANCE #3-10

CALENDAR YEAR 2010

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

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 **May 17, 2010** 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 introduce Ordinance #3-10 was made by Councilman Andrus
Second by Councilman Badal

Discussion: None

Roll Call: Cm Murphy, Cm Carr, Cm Garubo, Cm Badal, Cm Witczak, Cm Andrus

RESOLUTION #68-10 2010 Budget Introduction Public Hearing May 17, 2010

Resolution was read aloud by the Clerk.

(A copy of Resolution #68-10 is attached to these minutes)

Motion to approve Resolution #68-10 was made by Councilman Badal

Second by Councilman Garubo

Discussion: Councilman Andrus reported that this budget process took long term analysis. Maintaining no increase in taxes, looking at recent low interest rates, incurring no additional debt were all considerations. Maintaining fiscal responsibility and the Borough plan for budgeting for upcoming capital projects is not easy. The budget was tabled from the prior meeting in order review and make minor revisions. Councilman Andrus noted that increases in health benefits and pension are not optional and an increase in approximately \$199,000 from 2009 included no contractual salaries.

Councilman Andrus outlined upcoming capital expenditures and explained the Borough's conservative approach to completing these projects.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

RESOLUTION #73-10 Tabled @ 4/19/10 Mtg.

**RESOLUTION AUTHORIZING PARTICIPATION IN SELF-EXAMINATION
PROGRAM OF THE MUNICIPAL BUDGET FOR THE 2010 BUDGET YEAR**

(A copy of Resolution #73-10 is attached to these minutes)

Motion to approve Resolution #73-10 was made by Councilman Andrus

Second by Councilman Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE INTRODUCTION:

ORDINANCE #4-10- Tabled @ 4/19/10 Mtg.

**ORDINANCE PROVIDING FOR VARIOUS SANITARY SEWERAGE
IMPROVEMENTS OR PURPOSES TO BE UNDERTAKEN BY THE
BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW
JERSEY, AND APPROPRIATING \$171,000 THEREFOR FROM THE
SEWER CAPITAL IMPROVEMENT FUND OF THE BOROUGH**

(A copy of Ordinance #4-10 is attached to these minutes)

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 **May 17, 2010** 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 the introduction of Ordinance #4-10 was made by Councilman Witczak

Second by Councilman Badal

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE #5-10 - Tabled @ 4/19/10 Mtg.

**ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS OR
PURPOSES TO BE UNDERTAKEN IN AND BY THE BOROUGH
OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY,
AND APPROPRIATING \$527,500 THEREFOR FROM VARIOUS
FUNDS OF THE BOROUGH**

(A copy of Ordinance #5-10 is attached to these minutes)

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 **May 17, 2010** 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 the introduction of Ordinance #5-10 was made by Councilman Murphy

Second by Councilman Andrus

Discussion: None

ORDINANCE #5-10: (Cont'd.)

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE #7-10

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT A PORTION OF CHAPTER 168, SEWERS, ARTICLE IV, LIMITATIONS ON SEWER CONNECTIONS, SECTION 168-47, LIMITATIONS ON CONNECTIONS TO SYSTEM, AND A PORTION OF CHAPTER 102, FEES, OF THE CODE OF THE BOROUGH OF MENDHAM WITH REGARDS TO ESTABLISHING AN ESCROW FOR WAIVER APPLICATIONS

(A copy of Ordinance #7-10 is attached to these minutes)

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 **May 17, 2010** 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 the introduction of Ordinance #7-10 was made by Councilman Murphy Second by Councilman Andrus

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #6-10

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 102, FEES, OF THE CODE OF THE BOROUGH OF MENDHAM WITH REGARD TO FEES FOR CERTIFIED COPIES

Was published in full in the Observer Tribune

Mayor Henry opened the public hearing.

No one wished to be heard, the public hearing was closed.

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

ORDINANCE #6-10

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 102, FEES, OF THE CODE OF THE BOROUGH OF MENDHAM WITH REGARD TO FEES FOR CERTIFIED COPIES

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.

Motion to approve the adoption of Ordinance #6-10 was made by Councilman Garubo
Second by Councilman Carr

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ACTIONS TO BE TAKEN:

Res. #79-10 Sanitary Sewer App B801/L20-Anne Lee

(A copy of Resolution #79-10 is attached to these minutes)

Motion to approve Resolution #79-10 was made by Councilman Andrus

Second by Councilman Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #80-10 Contract Award New Jersey Analytical Laboratories, LLC- Sampling/Testing Monitoring Wells

(A copy of Resolution #80-10 is attached to these minutes)

Motion to approve Resolution #80-10 was made by Councilman Badal

Second by Councilman Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ADMINISTRATOR REPORT:

Administrator Sandman reported accepting proposals to prepare the land at 34B East Main Street for utilization as a park and the arrival of the furniture for the Phoenix House garden from the Garden Club. The bench, plaque and stone donated by resident Thomas Day in memory of Mr. Raymond are ready. Ms. Sandman and Councilman Murphy will meet to discuss a date and time.

Ms. Sandman shared with the Council that resident Charles Topping has given the Borough a bean pot and candy jar with historical significance from Ms. Wilma Sagurton.

Ms. Sandman commented on an incident involving the new animal control service and the positive results. She also reported on the completion and approval from the USDA on the renovation kitchen project at the MASH.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Carr reported on the progress of the sign ordinance with regard to Mendham businesses. He reported that ordinances from other towns were reviewed. Issues and concerns with regard to temporary signs at the Kings Shopping Center were addressed and concluded that the Borough ordinance did not need to be amended.

The banning of temporary signs of contractors and landscapers on private property was mentioned and discussed briefly. The negative impact to small businesses that rely on temporary signs for future work in a competitive business arena was addressed.

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

The procedure of removing signs from public property and the Borough Zoning Officer involvement in signs on private property was discussed.

Councilman Badal recommended no posting of contractor signs with Councilman Carr responding that his committee will review this recommendation.

Councilman Murphy announced the meeting of the public safety committee next Monday. He reported that the annual fishing derby was a successful group community event.

Councilman Badal reported receiving employee evaluations and a personnel committee meeting to be held next week.

ATTORNEY ITEMS:

Atty. Semrau reported that the occupancy (stacking) ordinance has been reviewed by him with Mayor Henry adding that it is close to completion and is moving forward.

Atty. Semrau continued to report on the success of the revaluation of the Borough and noted the upcoming deadline for tax appeals of May 1st, 2010.

There was a brief discussion with regard to advertising for sponsors of events and support for the creation of guidelines, standards and rules. The Borough does not promote advertising at their events or on Borough property.

MAYOR'S ITEMS:

The Mayor reported on the Borough's responsibility and safety issues for the paving the parking lot at the MASH (Mendham Area Senior Housing), meeting held by the DCA (Department of Community Affairs) on budgets and legislation for November of next year reducing the CAP and noted his intention to continue monthly meeting with the Mayor of Mendham Township. Mayor Henry requested Administrator Sandman to contact Mendham Township Administrator Steve Mountain to set up the next Mayors' meeting.

PUBLIC COMMENT:

Paul Ritger, 14 Gunther Street, suggested friendly contact with the owners of the business signs posted in the Borough requesting their removal. He felt banning them completely was extreme since in these economic times they are trying to get business.

Councilman Murphy responded that calls have been made to the owners of the business signs resulting in no response. He continued that these signs hurt the townscape.

Gloria Clausen, 4 Demarest Drive, thanked the schools for the education our children receive. She suggested additional shared services between the Borough and the Township. She was a teacher in the Borough school for many years. The lean budget, reduced State aid, and short period of time to make changes based on these factors aided in the public defeat of the budget. She commented that the administration and board of education did a good job with the budget considering all the cuts. She continued that the teachers work for the community and each district is not the same and should not be treated as any other district in the State.

Alejandro Ruiz Cano, 54 Essex Drive, Alejandro Ruiz Cano, 54 Essex Drive, commented again that the Borough's budget would also have been defeated if it was presented to the public for a vote.

Ivan Barth, 99 Dean Road, suggested keeping Borough debt down and supported shared services.

Paul Ritger, 14 Gunther Street, commented that he would not change his vote whether he received the school newsletter in time or not. He further commented that over the years the population has not increase significantly but the number of administrative staff at the local schools has become top heavy. He feels the taxes are too high in the Borough.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated May 3, 2010
Motion to approve was made by Councilman Andrus
Second by Councilman Murphy
Discussion: None
Roll Call - the vote was unanimous as follows:
In favor: Garubo, Badal, Witzak, Andrus, Murphy, Carr
Opposed: None
Abstain: None
Absent: None

EXECUTIVE SESSION:

Res. #81-10 (Rev.) Negotiations/Atty-Client Privilege
(A copy of Resolution #81-10 is attached to these minutes)
Motion to approve this resolution was made by Councilman Murphy
Second by Councilman Carr
Discussion: None
Roll Call - the vote was as follows:
In favor: Badal, Witzak, Andrus, Murphy, Carr, Garubo
Opposed: None
Abstain: None
Absent: None

Motion to return to open session was duly made, seconded and unanimously carried by a voice vote.

This executive session ended at approximately 10:50PM.

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 10:55P.M. next to convene at the Regular Meeting on May17, 2010 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk