

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

October 4, 2018

CALL TO ORDER

Mayor Henry called the October 4, 2018 Regular Meeting of the Mayor and Council to order at 7:05 p.m. in the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

INVOCATION AND FLAG SALUTE

Mayor Henry led a moment of silence and then proceeded with the Pledge of Allegiance.

OPENING STATEMENT

Adequate notice of this meeting of the Mayor and Council of the Borough of Mendham was published in the *Daily Record* and *Observer Tribune*, and was posted on the Phoenix House bulletin board in accordance with the Open Public Meetings Act.

ROLL CALL

PRESENT:

Mayor Neil Henry
Councilman John Andrews
Councilwoman Christine Serrano-Glassner
Councilman David Sharkey
Councilman Stanley Witzak

ABSENT:

Councilman Brad Badal
Council President John Andrus

Also present were:

Fred Semrau, Esquire
Susan Sharpe, Esquire
Robert Rossmeissl, Esquire
Joyce Bushman, Borough Administrator
Mimi M. Marlor, RMC, Borough Clerk
Jessica Caldwell, Planner

EXECUTIVE SESSION

169-2018 A Resolution Providing for an Executive Session not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act N.J.S.A. 10:4-12b(7)

Motion to approve: Councilman Andrews

Second: Councilwoman Glassner

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witzak

Opposed: None

Abstain: None

Absent: Badal, Andrus

Mayor Henry announced that the Council will be entering an Executive Session. The public will be excluded from this portion of the meeting to permit them to consider matters appropriate for discussion in such a session.

At 7:06 pm the Council cleared the Garabrant Center for the Executive Session

At 7:58 the Mayor announced the Executive Session has concluded and they would take a short 5-10 minute recess

At 8:06 pm the Council resumed the regular meeting

Sue Sharpe left the meeting at the end of the Executive Session

Mayor Henry stated that they were back on the record and no formal action will be taken.

Mayor Henry asked the audience to join him in another moment of silence and then led the group in the flag salute.

CONSENT AGENDA

1. Minutes – Regular Meeting of September 6, 2018
Executive Session of September 6, 2018
Regular Meeting of September 20, 2018

Motion to approve: Councilman Sharkey

Second: Councilwoman Glassner

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: Witczak (for Regular and Executive Session minutes of September 6, 2018)

Absent: Badal, Andrus

DISCUSSION ITEMS

None

ACTION TAKEN – ORDINANCE 08-2018

08-2018 Ordinance of the Borough of Mendham, County of Morris, and State of New Jersey, Amending Section 206-58, Schedule XVI: Speed Limits of the Borough Code to Lower the Speed Limit on Certain Roads

*Introduction/No Public Input/Published in the Daily Record 9/25/2018
2nd Reading/Public Hearing/Final Adoption 10/04/2018*

Mayor Henry opened the Public Hearing for Ordinance 08-2018.
Seeing no one wishing to comment he closed the Public Hearing

Motion to Adopt Ordinance 08-2018: Councilman Andrews

Second: Councilwoman Glassner

Discussion: None

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

09-2018 Ordinance of the Borough of Mendham, County of Morris, State of New Jersey, to Amend Chapter 4 of the Borough Code Entitled Administrative Organization, Article II Council, By Establishing Section 4-13 Entitled "Selection of Labor Day Parade Grand Marshall"

*Introduction/No Public Input/Published in the Daily Record 10/04/2018
2nd Reading/Public Hearing/Final Adoption 10/18/2018*

Mayor Henry stated that there will be no there will be no public input on introduction of Ordinance 09-2018. The Introduction summary will be published in the Daily Record 10/09/2018 and 2nd reading, public hearing and final adoption will be considered on 10/18/2018. Full copies of the Ordinance will be posted on the Borough website, on the bulletin board at the Township building, and available at no cost in the office of the Municipal Clerk between the hours of 9:00am and 4:00pm, Monday through Friday.

Motion to Introduce Ordinance 09-2018: Councilman Andrews

Second: Councilwoman Glassner

Discussion: Mayor Henry reviewed the comments that he had received and that have been incorporated into the document presented for Introduction consideration. Discussion ensued and for the record, Attorney Semrau stated the additional changes that they would be voting on for Introduction.

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

ACTIONS TAKEN – OTHER RESOLUTIONS

161-2018 Resolution of the Borough of Mendham, County of Morris and State of New Jersey Authorizing an Amendment to the Borough's Personnel Policy and Procedure Manual

Mayor Henry noted that this resolution was tabled at the meeting of September 20, 2018 for additional clarification and he asked Robert Rossmeissl, Esquire from the Borough Attorney's office to review the attached memo of explanation that was delivered to each Council member in their packet. The memo is attached hereto and made part of these minutes. Attorney Rossmeissl explained the Resolution in detail and fielded questions. When complete Mayor Henry asked for a motion to remove it from the table and reconsider for approval.

Motion to approve: Councilman Andrews

Second: Councilman Sharkey

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

164-2018 Authorizing Refund of Overpayment of Property Tax

Motion to approve: Councilman Witczak

Second: Councilman Sharkey

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

165-2018 Resolution of the Borough of Mendham, County of Morris, and the State of New Jersey, Appointing Phillip J. Tobaygo as Interim Plumbing Sub-Code Official/ Inspector

Motion to approve: Councilwoman Glassner

Second: Councilman Witczak

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

166-2018 Resolution to Authorize an On-Premise 50/50 Raffle for the Hickory Tree Chorus

Motion to approve: Councilman Sharkey

Second: Councilwoman Glassner

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

167-2018 Resolution Authorizing the Return of a Cash Bond

Motion to approve: Councilman Witczak

Second: Councilman Andrews

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

168-2018 Resolution to Hire a Class III Officer with the Mendham Borough Police Department

Motion to approve: Councilman Andrews

Second: Councilwoman Glassner

Roll Call:

In favor: Andrews, Glassner, Sharkey, Witczak

Opposed: None

Recusal: None

Absent: Badal, Andrus

ADMINISTRATOR'S REPORT

Administrator Bushman presented an applicant update on the Farmland Preservation application from Mr. Rowe. She reported they have worked through the exception issues and the next step will be a meeting with Open Space and Mr. Rowe. Mayor Henry thanked Administrator Bushman and Chief Camoia for their attendance at a meeting at the High School. Administrator Bushman stated the High School meeting with the residents was very positive and everyone gained some perspective on the new lights and night games. Mayor Henry asked if the CDBG Grant application is on target for submission and the Administrator confirmed that it was. Hearing no other questions or comments the Mayor moved on.

COUNCIL REPORTS, OLD & NEW BUSINESS

Public Works and Utilities Committee

Councilman Badal was absent this evening.

Personnel Committee and Local Economic Development Committee

Councilwoman Glassner reported that she had nothing to report on Personnel and the Economic Ad-hoc Committee will reconvene soon to review the first draft on the market profile. Councilwoman Glassner concluded her report.

Public Safety Committee

Councilman Andrews stated that the Police Department participated in the drugged/drivers event sponsored by Maplecrest Ford. He noted response was great and they would like to bring it back at prom time in the spring. The golf event was very successful. He reported the Police Department is looking into traffic concerns and speed on Lake Drive. They are also proposing a pedestrian cross walk on the West side of town. He announced the Crosswalk Blitz is on October 18, 2018. In conclusion, he welcomed Michael Boll to the Police department as a Class III officer. Councilman Andrews had nothing else and concluded his report.

Land Use Committee and Environmental Commission

Councilman Sharkey stated that he would like to continue the discussion of combining the Open Space and Environmental Commission with guidance. Attorney Semrau stated that he had distributed a memo recently, indicating that Andover had accomplished combining those committees. He anticipated that Mendham could proceed. Councilman Sharkey thanked Attorney Semrau and concluded his report.

Recreation Committee

Councilman Witczak stated he had nothing new to report and concluded his remarks.

Finance Committee

Council President Andrus was absent this evening.

ATTORNEY ITEMS

Attorney Semrau stated he had no additional comments this evening. He noted he addressed the litigation issue during the Executive Session.

MAYOR'S ITEMS

He stated he had no additional comments other than those he made during the Administrator's report.

PUBLIC COMMENT

Mayor Henry opened the meeting to the public for comments.

Chief Camoia publically thanked all of the attendees and the coordinator Steve McLaud for all their efforts at the 10th Anniversary of the Harvest Hustle Event on September 29th.

Seeing no one else wishing to be heard, Mayor Henry asked for a motion to close the public session.

Motion by Councilman Sharkey
Seconded by Councilwoman Glassner
All in favor

APPROVAL OF VOUCHERS

Bill Lists dated October 4, 2018.
Motion to approve: Councilman Sharkey
Second: Councilwoman Glassner
Roll Call:
In favor: Andrews, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: Badal, Andrus

ADJOURNMENT

The Mayor asked for a motion to adjourn. There being no other business to be conducted, on a motion duly made by Councilman Andrews, seconded by Councilman Sharkey, and unanimously carried by a voice vote, the meeting was adjourned at 8:45 pm.

The next Regular Meeting of the Mayor and Council will convene on October 18, 2018 at 8:00 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

Respectfully Submitted:

Mimi M. Marlor, RMC, CMR
Borough Clerk
BOROUGH OF MENDHAM

Attachment "A" - Minutes of October 4, 2018

FRED SEMRAU
DAWN M. SULLIVAN*
SUSAN C. SHARPE*
ROBERT ROSSMEISSL
EDWARD R. PASTERNAK
*SENIOR ASSOCIATE

DORSEY & SEMRAU

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OF COUNSEL:
JOHN H. DORSEY, RET.
JOHN P. JANSEN

Memorandum
Privileged and Confidential

To: Mayor Henry and Borough Council

From: Fred Semrau, Esq.
Rob Rossmelssl, Esq.

Date: October 2, 2018

Re: Municipal Excess Liability Joint Insurance Fund Risk Management Compliance

Dear Mayor Henry and Council:

At the most recent Council meeting, questions arose concerning a Resolution to amend the Borough's Policy and Procedure Manual that would bring the Manual into compliance with the Best Practices prescribed by the Municipal Excess Liability Joint Insurance Fund (JIF). As you are aware, the JIF requires that in order to obtain a favorable deductible, the Borough must comply with JIF Best Practices. And in order to continue to comply, the Borough must pass a Resolution making four amendments to its Policy and Procedure Manual.

The questions that arose regarding this Resolution mainly concern Subpart #4, which states that: "Employees not exempt from the Federal Fair Labor Standards Act will receive overtime compensation for hours worked in excess of forty in a weekly period at the rate of one and one-half times the regular rate of pay. Employees may choose overtime compensation in the form of overtime pay or compensating time off."

Council members expressed concern about how significantly the above provision would impact the Borough's payroll. For purposes of clarification, it should be noted that the current income threshold for exemption to Fair Labor Standards Act's (FLSA) minimum wage and overtime pay protections is \$455 per week. This means, effectively, that any employee of Mendham Borough earning more than \$23,680 annually is not entitled to protection under the FLSA. It is only those employees making less than this amount, approximately \$11.38 in a 40-hour-per-week job, who would be entitled to FLSA protection and who, accordingly, would be entitled to overtime compensation for time worked beyond 40 hours per week. Hopefully this addresses the Council's concerns.

We ask that you please let us know if we can be of further assistance. In the meantime, if you have any questions, please do not hesitate to contact either one of us.

Encl.

cc: Joyce Bushman, Borough Administrator
Mimi Marlor, Borough Clerk (for distribution)

Back up Res-161-2018