

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

CALL TO ORDER

Mayor Henry called the February 6, 2017 meeting of the Mayor and Council to order at 8:02PM in the Garabrant Center, 4 Wilson Street, Mendham, New Jersey.

INVOCATION AND FLAG SALUTE

Mayor Henry led a moment of silent 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 John Andrews
Councilman John Andrus
Councilman Brad Badal
Councilwoman Christine Glassner
Councilman David Sharkey
Council President Stanley Witczak

Also present: Dawn Sullivan for Fred Semrau, Borough Attorney
Richard Merkt, Borough Administrator
Margot Kaye, Borough Clerk

CONSENT AGENDA

Minutes of the special meeting of 12/15/16
Minutes of the regular meeting of 1/16/17
Mendham Hose Company Appointment – Michael P. DiMaio, Junior Member

Motion to approve Consent Agenda

First: Councilman Witczak

Second: Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

DISCUSSION

Mountain Valley Park Dam

Mr. Merkt explained the NJDEP's demand that the Borough repair/remediate the dam and estimated the cost to be \$500-900K depending on the amount of contamination, if any. He further indicated that if the Borough fails to make the required repairs, the DEP is authorized to remove the dam at the Borough's expense of approximately \$250K. Mayor Henry summarized the issues for consideration:

1. Should the Borough remediate the dam or remove it?
2. If remediation is decided, should Open Space funds be used to complete the project?

Ms. Sullivan reiterated Mr. Semrau's legal opinion that since the property is listed on the Open Space inventory, it qualifies for maintenance as provided by Borough ordinance.

Councilman Andrus stated that it is OSAC's position that the OS fund was established for the acquisition of properties and the maintenance of those properties only. However, should OS money be used for the project, he requested that the fund not be depleted completely and offered a potential hybrid formula to be explored by the Finance Committee.

Mayor Henry opened the floor to questions/comments from the public.

George Connolly, OSAC Chair, read the Open Space public question on the 1998 General Election ballot and opined that the intent was for funds to be used for maintenance of acquired properties only. He added that the Mountain Valley Park property was donated to the Borough and is therefore ineligible. Mr. Connolly stressed that funding must be readily available for properties that may become available in the future. Ms. Kaye agreed to distribute a copy of the Open Space inventory to the Mayor and Council.

Laurie Felber, Acting Environmental Commission Chair, stated the EC's position that despite the beauty and recreational benefits of the dam, the Raritan Headwaters Association recommends removal of dams as the sediment buildup is detrimental to fish and plant life downstream. She added that grant opportunities exist for dam removal.

Former Mayor Richard Kraft, Essex Drive, suggested that existing OS funds be used for the remediation as the state has considered taking municipal money that is not being used. He recommended the adoption of an ordinance that authorizes future expenditures (funding source to be determined) and opined that the Open Space tax should not be increased.

Charles Topping, Aberdeen Drive, stated that OS funds should not be used for dam maintenance and suggested that the money be raised through alternate means, e.g., private donations.

Richard Cotter, Mendham Township Environmental Commission Chair, stated that New Jersey has removed twenty-one (21) dams in the last ten (10) years and cautioned that the Borough-owned dam could become a liability. Should the Borough opt to rebuild, Mr. Cotter recommended that an underwater release dam be considered.

Peter Barry, Townsend Road, stated that alternate funding is available and offered to share his ideas with the Mayor and Council.

Mr. Connolly added that OS funds may also be used for the preservation of historic properties such as the Phoenix House and indicated that the OSAC would prefer the money be used for that purpose.

Hearing no further comments, Mayor Henry closed the public portion of the meeting.

Mayor Henry polled the Council regarding next steps. There was consensus on the following points:

- An amount not to exceed \$15K is approved to conduct sediment sampling to determine the full scope of the project.
- That amount is to be appropriated from Open Space unless another source is identified.
- The Finance Committee shall look at the possibility of a hybrid formula for future project expenses.

Interim Certified Public Works Manager

Mayor Henry discussed the CPWM interview process and identified Councilwoman Glassner and Councilmen Andrews and Badal as the hiring committee. He requested that the committee select one or two final candidates for full Council review.

Mr. Merkt opined that the hiring process may be lengthy due to the number of qualified candidates. He indicated his support for a proposal from the Canning Group to provide an interim CPWM (a retired DPW Superintendent) and stated that an interim appointment makes sense from an economic standpoint, i.e., there is a placement fee and an hourly rate with no penalty for early termination. Mayor Henry added that the appointment would allow for a thorough interview process with no time pressures or restraints.

Labor Day 2017 – Grand Marshal (following Executive Session)

The Mayor and Council briefly discussed the criteria for Grand Marshal selection and a number of potential candidates were proposed. Mayor Henry indicated that candidate selection will be discussed further at the February 21, 2017 meeting.

ORDINANCE INTRODUCTION

ORDINANCE #02-17

ORDINANCE PROVIDING FOR THE ACQUISITION OF A NEW UV SYSTEM FOR USE BY THE SEWER UTILITY OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AND APPROPRIATING \$67,800 THEREFOR FROM THE SEWER CAPITAL IMPROVEMENT FUND OF THE BOROUGH

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

ORDINANCE #02-17

ORDINANCE PROVIDING FOR THE ACQUISITION OF A NEW UV SYSTEM FOR USE BY THE SEWER UTILITY OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AND APPROPRIATING \$67,800 THEREFOR FROM THE SEWER CAPITAL IMPROVEMENT FUND OF THE BOROUGH

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 February 21, 2017 at 8:00PM 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 introduce Ordinance #02-17 was made by Councilman Andrus
Seconded by Councilwoman Glassner

Discussion: Councilman Andrus stated that \$42K had been allocated in 2016 to purchase the UV system which was insufficient based on the bids received. Accordingly, \$25K has been added in 2017 since the expenditure is inevitable.

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

ORDINANCE ADOPTION

ORDINANCE #01-17

ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING AN ELECTRIC AND/OR NATURAL GAS AGGREGATION PROGRAM

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

ORDINANCE #01-17

ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING AN ELECTRIC AND/OR NATURAL GAS AGGREGATION PROGRAM

Was published in full in the Observer Tribune.

Mayor Henry opened the public hearing.

Mr. Merkt summarized the energy aggregation proposal and stated the benefits of same. He confirmed that residents are free to opt out at any time and that there are no associated costs or benefits for the government.

Mayor Henry welcomed Wendy Molner and Lisa Hibbs from Concord Engineering and invited Ms. Hibbs to address the public. Ms. Hibbs presented the various programs and indicated an average savings of 10-15%. She reiterated that the state selects the utility provider and rate annually and explained that there are opportunities for them to bid and provide service at a lower rate. Ms. Hibbs confirmed that the program ends if state rates go below the cooperative price and that billing information and requirements remain the same throughout the program.

Ms. Hibbs detailed the enrollment process which includes the adoption of the ordinance and subsequent resolution. She stressed that resident outreach is a large component of the program and listed mailings, meetings, call centers and online presence as key resources for educating the public and responding to inquiries.

Ms. Hibbs reinforced that members of the cooperative take advantage of one (1) flat rate for the duration of the contract term at the same or lower rate as the state provider. She added that there is no predatory contracting and that residents can opt in and out freely. Ms. Hibbs confirmed that electric service will still be delivered by the current utility provider and that BPU Title 14 ensures consumer protections.

Mayor Henry opened the floor to comments/questions from the public.

Mr. Kraft requested clarification regarding the delivery and cost-sharing of service in a condominium community and expressed his support for Borough participation.

Hearing no further comments, Mayor Henry closed the public portion of the hearing.

(Fred Semrau, Borough Attorney, arrived at the meeting at 9:21PM.)

Discussion among the Council confirmed the following:

- Contracts can be of varying durations as selected by the municipality
- Municipal usage, e.g., buildings and street lights, is eligible for same benefits as residents
- Businesses are not encouraged to opt in
- Those with energy-saving measures already in place, e.g., solar panels, will not automatically be included in the program
- There are several ways to opt out including postcard mailing, call center and in-person

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

ORDINANCE #01-17

ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING AN ELECTRIC AND/OR NATURAL GAS AGGREGATION PROGRAM

Be passed and adopted on this 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 adopt Ordinance #01-17 was made by Councilman Badal
Seconded by Councilman Witczak

Discussion: None

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Ordinance #01-17 was adopted.

ACTIONS TAKEN

Res. #26-17 NJDEP TWA Approval – Roxiticus Golf Club

Motion to approve: Councilman Witczak

Second: Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Res. #38-16 PSA – Stormwater Compliance Solutions, LLC

Motion to approve: Councilman Badal

Second: Councilman Witczak

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Res. #39-17 PSA – The Canning Group, LLC

Motion to approve: Councilman Andrus

Second: Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Res. #40-17 Interim CPWM Appointment – Robert J. Venezia

Motion to approve: Councilman Badal

Second: Councilman Andrews

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Res. #41-17 DPW Appointment – Brendan Wood
Motion to approve: Councilman Sharkey
Second: Councilman Badal
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #42-17 2017 Morris County Adaptive Recreation Program (McARP)
Motion to approve: Councilman Andrus
Second: Councilman Sharkey
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #43-17 Contract Award: Eurofins QC, Inc. – Bioassay Testing
Motion to approve: Councilman Badal
Second: Councilwoman Glassner
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

ADMINISTRATOR REPORT

Mr. Merkt announced that Sergeant Camoia officially assumed his duties as Officer in Charge on February 1, 2017 and that scheduled meetings continue. He also indicated that handsets can be added to the new telephone system once the installation is complete and fully functional.

COUNCIL REPORTS, OLD & NEW BUSINESS

Councilman Andrews – The Fire Official has fined Daytop \$1K per false alarm for the two (2) incidents in 2017. These fines are levied under state regulations and separate from Borough sanctions. Sergeant Camoia was officially welcomed as Officer in Charge.

Councilman Andrus – Mr. Merkt will arrange a meeting with the Finance Committee and Susan Giordano, CFO, to discuss capital expenditures. Based on Michael Kelly's How to Select a Police Chief, the following parameters are advised:

- Establish basic requirements, e.g., length of service, education, etc.
- Make the process clear
- Identify Borough-specific needs
- Define essential qualities
- Do not use a strictly quantitative approach
- Acknowledge that consultants can be valuable but are not completely objective
- Utilize a multi-pronged approach comprised of testing and interview components
- Recognize that responsibility cannot be delegated outside the Mayor and Council

Councilman Badal added that a special meeting may be required to refine the police promotion process.

Councilman Badal – no report.

Councilwoman Glassner – The Personnel Committee is moving forward with the CPWM hiring process.

Councilman Sharkey – Verizon is proposing to install sixteen (16) cell nodes in poor service areas within the Borough. The Land Use Committee is requiring that those locations be identified for Council approval. Affected residents will also be notified.

Councilman Witczak – no report.

ATTORNEY ITEMS

Mr. Semrau requested an Executive Session under Attorney/Client Privilege.

Ms. Sullivan - no report.

MAYOR'S ITEMS

Two (2) Borough residents have volunteered for appointments to the Board of Health, Board of Adjustment and Planning Board. Mayor Henry and Mr. Merkt will hold bi-monthly meetings prior to each Council meeting in order to strengthen communication. Sergeant Camoia investigated an allegation of a homeless family in the library but the complaint was unfounded.

PUBLIC COMMENT

Mayor Henry opened the floor to comments/questions from the public. Hearing none, Mayor Henry closed the public portion of the meeting.

APPROVAL OF VOUCHERS

Minute Book Attachment Bill Lists dated February 6, 2017

Motion to approve:

Second:

Discussion: Mayor Henry stated that there are no vouchers requiring approval due to a computer issue that is currently being addressed. Pending vouchers will be approved at the February 21, 2017 meeting of the Mayor and Council.

Roll Call – the vote was as follows:

In favor:

Opposed:

Abstain:

Absent:

EXECUTIVE SESSION

Res. #44-17 Attorney/Client Privilege

Motion to approve: Councilman Andrus

Second: Councilman Witczak

Discussion: Mayor Henry stated that action may or may not be taken upon return to open session.

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak

Opposed: None

Abstain: None

Absent: None

Mayor and Council entered into executive session at 10:07PM.

Mayor and Council returned to open session at 10:57PM.

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 11:07PM next to convene at a regular meeting on February 21, 2017 at 8PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Margot G. Kaye

Margot G. Kaye, RMC
Borough Clerk