

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

**CALL TO ORDER**

Mayor Henry called the May 16, 2016 meeting of the Mayor and Council to order at 8:05PM 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 *Daily Record* and was posted on the Phoenix House bulletin board in accordance with the Open Public Meetings Act.

**ATTENDANCE**

Present: Mayor Neil Henry  
Councilman John Andrews  
Councilman Brad Badal  
Councilwoman Veronica Daly  
Councilman David Sharkey  
Councilman Stanley Witczak  
Council President John Andrus

Also present: Fred Semrau, Borough Attorney  
Margot Kaye, Borough Clerk

Excused: Richard Merkt, Borough Administrator

**CONSENT AGENDA**

Minutes of the regular meeting of 5/2/16  
Minutes of the executive session of 5/2/16  
Road Closure Approval: Hoffman Road Block Party – 6/25/16 (Rain date 6/26/16)

Motion to approve Consent Agenda  
First: Councilwoman Daly  
Second: Councilman Andrews  
Discussion: None  
Roll Call – the vote was as follows:  
In favor: Andrews, Badal, Daly, Sharkey, Witczak, Andrus  
Opposed: None  
Abstain: Witczak (executive session minutes only)  
Absent: None

**PROCLAMATION**

Mayor Henry proclaimed the week of May 15-21, 2016 to be *Emergency Medical Services Week* and thanked Sal Bracco, Captain, and Jim Hendren, President, as well as all the Mendham First Aid Squad Members for their volunteerism and service to the Borough.

**DISCUSSION**

**SCC – Developers Agreement**

Paul Ferriero, Borough Engineer, stated that the Sisters of Christian Charity have asked to begin work on the site without all required DEP approvals in place. He explained that the WWMP and NJPDES have been approved and that the TWA is still outstanding. Mr. Ferriero further advised that the DEP has deemed the TWA complete and that adoption is expected within 90 days. He recommended that the Council allow the site work to begin as adoption is nearly certain. Mr. Semrau added that the Developer's Agreement contains checks and balances to ensure compliance and that the Sisters have agreed to its terms.

Res. #89-16 Signature Authorization – Sisters of Christian Charity Developer's Agreement  
Motion to approve: Councilman Witczak  
Second: Councilman Badal  
Discussion: None  
In favor: Andrews, Badal, Daly, Sharkey, Witczak, Andrus  
Opposed: None

Abstain: None  
Absent: None

Sister Mary Edward thanked the Mayor and Council for their consideration.

### **Establishment of Class III Special Officers in Schools**

Mayor Henry reiterated Montville's request to support legislation that would create a Class III officer position for use in schools and asked the Council to comment. Councilman Andrus pointed out that a current officer cannot be replaced and questioned whether a school is able to hire a Class III officer after an existing contract has expired. Mr. Semrau agreed to obtain clarification as to who maintains control over hiring, i.e., the school or the Police Department. Councilman Badal sought clarity on the scope of authority for the position and Councilman Witczak confirmed that it would extend within 100 feet of school property.

### **Facility Use Request – Garabrant Center: Relay for Life Fundraiser**

Mayor Henry explained that an application was filed for use of the Garabrant Center to host a middle-school-aged dance to benefit Relay for Life. After discussion, there was consensus that the use is not permitted under the ordinance.

### **Pilgrimage to Blue Army of Fatima Shrine**

The Mayor and Council had no concerns regarding this annual event which requires no permits and no police presence. There was consensus that the pilgrimage raises awareness and does not adversely impact the Borough.

**ORDINANCE INTRODUCTION:** None

### **ORDINANCE ADOPTION:**

#### **#01-16**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, "ZONING" TO ESTABLISH A DEFINITION FOR OUTDOOR DINING IN ARTICLE I, "TERMINOLOGY", SECTION 215-1B AND TO ESTABLISH OUTDOOR DINING AS A CONDITIONAL USE AND TO PROVIDE STANDARDS FOR SAME IN ARTICLE VI "HISTORIC BUSINESS ZONE" AND ARTICLE VIII, "EAST BUSINESS ZONE"**

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

#### **#01-16**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, "ZONING" TO ESTABLISH A DEFINITION FOR OUTDOOR DINING IN ARTICLE I, "TERMINOLOGY", SECTION 215-1B AND TO ESTABLISH OUTDOOR DINING AS A CONDITIONAL USE AND TO PROVIDE STANDARDS FOR SAME IN ARTICLE VI "HISTORIC BUSINESS ZONE" AND ARTICLE VIII, "EAST BUSINESS ZONE"**

Was published in full in the Observer Tribune.

Mayor Henry opened the public hearing for comment.

Mr. Bob Marino, Florie Farm Road, expressed his appreciation to Councilmen Andrews and Andrus for incorporating public comments and opined that the final ordinance is tailored toward the needs of the Borough. He further requested clarification regarding minimum clearance in the Village Shopping Center. Councilman Andrus confirmed that the shopping center falls under the definition in terms of public right-of-way.

Mr. Charles Topping, Aberdeen Drive, offered his gratitude to Councilmen Andrews and Andrus for the final ordinance and inquired whether provisions for space heaters had been considered. Councilman Andrus stated that the ordinance will be revisited from time to time as issues arise and Mr. Semrau suggested that space heaters be added to the sections that pertain to site plan approval drawings. After discussion, Mr. Semrau was authorized to make those changes to the ordinance.

Councilman Witczak expressed concern regarding amplified sound and Mr. Semrau confirmed that the ordinance offers protection should any sound travel offsite. Councilman Andrews added that the Zoning Officer is responsible for enforcement.

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

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

**#01-16**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 215, "ZONING" TO ESTABLISH A DEFINITION FOR OUTDOOR DINING IN ARTICLE I, "TERMINOLOGY", SECTION 215-1B AND TO ESTABLISH OUTDOOR DINING AS A CONDITIONAL USE AND TO PROVIDE STANDARDS FOR SAME IN ARTICLE VI "HISTORIC BUSINESS ZONE" AND ARTICLE VIII, "EAST BUSINESS ZONE"**

Be passed and adopted, as amended, 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 adopt Ordinance #01-16 was made by Councilman Andrews

Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Ordinance #01-16 was adopted.

**ACTIONS TAKEN**

Res. #83-16 2016 Salaries

Motion to approve: Councilman Andrus

Second: Councilman Andrews

Discussion: Councilman Andrews thanked Mr. Merkt and Ms. Giordano for their hard work on the allocation of funds. There was consensus that their work resulted in a much smoother process and more timely completion than in previous years.

In favor: Andrews, Badal, Daly, Sharkey, Andrus

Opposed: None

Abstain: Witczak (recusal)

Absent: None

Res. #84-16 2016 Salaries

Motion to approve: Councilman Sharkey

Second: Councilman Badal

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Daly, Sharkey, Witczak

Opposed: None

Abstain: Andrus (recusal)

Absent: None

Res. #85-16 Zoning Officer Appointment (P/T): Neil Schetelick

Motion to approve: Councilman Witczak

Second: Councilman Badal

Discussion: Councilman Andrews stated that the new Zoning Officer will be an asset to the Borough.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #86-16 Procurement Card Authorization

Motion to approve: Councilman Badal

Second: Councilman Sharkey

Discussion: Mayor Henry stated that procurement cards are beneficial from an accounting perspective and they eliminate reimbursement to employees. Most importantly, he added, they are included under the state's best practices.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #87-16 GovDeals Action – DPW Vehicles

Motion to approve: Councilman Witczak

Second: Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None  
Abstain: None  
Absent: None

Res. #88-16 Monitoring Well Testing Contract Award: New Jersey Analytical Laboratories

Motion to approve: Councilman Witczak

Second: Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

### **ADMINISTRATOR REPORT**

The Administrator's report was distributed to the Mayor and Council previously. Mr. Merkt was excused and there were no additional comments.

### **COUNCIL REPORTS, OLD & NEW BUSINESS**

Councilman Andrews – The new Zoning Officer is starting on June 1<sup>st</sup> and will be focusing particularly on rental inspections.

Councilman Badal – no report.

Councilwoman Daly – The next Public Safety Committee meeting will be June 15, 2016. The Police Department open house was held on May 15, 2016 to celebrate the completion of the accreditation process.

Chief Libertino explained that the process took three (3) years and that the Borough was rewarded with high marks and no faults identified. He recognized Officer Gobbi, Detective Irons and Superintendent O'Brien for their contributions to this accomplishment.

Councilman Sharkey – DPW handed out 1000-1200 seedlings last week. The remaining will be donated to the veterans' hospital in Lyons.

Councilman Witczak – Storm drain refurbishing continues and pothole repairs are beginning. Street sweeping has been delayed until next week. Tennis court repairs and tree trimming to start soon.

Councilman Andrus – Mr. Merkt will be reviewing tenured positions to ascertain those required to receive an annual salary increase and those that are not. He will further confirm the hours worked vs. salary to calculate actual hourly rates.

Mayor Henry noted that employment equal to 30 hours/week or more triggers the insurance requirement under Obamacare.

### **ATTORNEY ITEMS**

Mr. Semrau indicated that he has one (1) item for discussion during executive session.

### **MAYOR'S ITEMS**

The Borough has received a certificate of appreciation from the MASH Board of Trustees for continued support of funding for the MASH Transportation Service. Ross Haber has addressed the questions posed during the June 4<sup>th</sup> joint public meeting with the BOE. The second joint meeting will be scheduled in June.

### **PUBLIC COMMENT**

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

Mr. Charles Topping, Aberdeen Drive, asked what the Zoning Officer's schedule will be. Councilman Andrews stated that it is still to be determined.

Mr. Bob Marino, Florie Farm Road, requested clarification regarding possible action to be taken at the next joint public meeting with the BOE. Mayor Henry stated his intent to have the issue put up for a vote to determine whether the Borough will be part of the process going forward. He further stated his desire to have the Borough and the BOE assume a leadership role among the communities within the region and have a significant impact on what is ultimately decided. Mr. Marino reiterated that the Council and BOE are voting on whether the constituents will be given a voice to determine participation.

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

**APPROVAL OF VOUCHERS**

Minute Book Attachment Bill Lists dated May 16, 2016

Motion to approve: Councilwoman Daly

Second: Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**EXECUTIVE SESSION:**

Councilman Witczak opted to recuse from executive session and left the premises.

Res. #90-16 Executive Session: Attorney/Client Privilege

Motion to approve: Councilman Badal

Second: Councilwoman Daly

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Badal, Daly, Sharkey, Andrus

Opposed: None

Abstain: None

Absent: None

The Mayor and Council adjourned to executive session at 9:26PM.

The Mayor and Council returned to open session at 9:54PM.

**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 9:55PM next to convene at a regular meeting on June 6, 2016 at 8PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

*Margot G. Kaye*

Margot G. Kaye, RMC  
Borough Clerk